

K. Parthipan v Divisional Secretariat Vavuniya

RTIC Appeal (Documentary Proceeding)/[1081]/[2019]- Order adopted as part of the formal meeting of the Commission on 18/06/2019.

Order under Section 32 (1) of the Right to Information Act, No. 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

Chairperson: Mr. Mahinda Gammampila
Commission Member: Ms. Kishali Pinto-Jayawardena
Commission Member: Mr. S.G. Punchihewa
Commission Member: Dr. Selvy Thiruchandran
Commission Member: Justice Rohini Walgama

Appellant: K. Parthipan
Notice issued to: Divisional Secretariat Vavuniya

RTI Request filed on	08/08/2018
IO responded on	15/10/2018
First Appeal to DO filed on	10/10/2018
DO responded on	No response
Appeal to RTIC filed on	19.11.2018

Brief Factual Background:

The Appellant by information request dated 03.10.2018 requested the following information.

- 1. Soft copy of all names of the Allottees selected for the award of permits under Land Development Ordinance in the Division of Vavuniya Divisional Secretariat, from the period of 1/1/2011 to 31/12/2017. The details shall consist of the names of allottees, permit numbers, extent of the land covered by the permit etc.*
- 2. In cases where the lands are surveyed, plan and tenement list related to the lands*
- 3. In cases where the lands are not yet surveyed, the rough sketch drawn by relevant colonization officer or any other person for the purpose to maintain records*

The IO by letter dated 15/10/2018 responded as follows.

- Regarding item number 1- since the data requested is very long, and the details haven't been fully computerized nor are there sufficient human resources with our heavy work load a longer time period is requested to provide the information.*
- Regarding item number 2- the requested plans can be obtained from the Survey Department on the payment of a fee*
- Regarding item number 3- the requested information regarding land not yet surveyed is not maintained in our possession, custody or control.*

Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 10/10/2018. As the DO failed to respond within the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 19.11.2018.

Matters Arising During the Course of the Hearing:

The PA failed to tender written submissions.

Order:

In relation to item number 1 of the information request, the Commission held that sufficient time had lapsed since the filing of the information request on 08/08/2018 for the PA to provide the information in its “possession, custody or control” as stated in Section 3 of the RTI Act. Therefore the PA is directed to provide the information requested within one month of the receipt of the order.

In relation to item 2 of the information request, the PA’s attention is drawn to the fact that, since the IO is aware of the PA in whose possession, custody or control the information is, the IO has a duty to forward the said information request in terms of Regulation 4 (6) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017), to the correct PA, namely the Survey Department.

Regulation 4 (6) states that,

If the request relates to information which the Information Officer is aware is held by another Public Authority, the Information Officer shall duly in written format transfer the request to the concerned Public Authority and inform the citizen making the request accordingly within 7 days from the date of receipt of the request.

In relation to item number 3 of the information request, the decision of the PA is upheld.

The PA’s attention is further drawn to Section 31(3) of the RTI Act which states that,

The decision on any appeal preferred under subsection (1), shall be made by the designated officer within three weeks of the receipt of the appeal and shall include the reasons for the said decision including specific grounds for the same.

The DO has thereby failed to comply with the aforementioned timeframes, thereby violating the provisions of the RTI Act. Repeated violations by Public Authorities of the duty to act strictly in accordance with the RTI Act will result in recommendations for disciplinary action to be taken against responsible officers.

Order is conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

The Appeal is concluded.
