

**W.R. Silva, P.H. Wijitha, P.H. Malani and Hilda Balasuriya**  
**v Pradeshiya Sabha, Balapitiya**

RTIC Appeal (In – person)/179/2018 (*Order adopted as part of a formal meeting of the Commission on 22.05.2018*)

*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 Members:** Kishali Pinto-Jayawardena

S.G. Punchihewa

Dr. Selvy Thiruchandran

Justice Rohini Walgama

**Present:** Director-General Mr. Piyathissa Ranasinghe

**Appellant:** Mr. W.R. Silva, Ms. P.H. Wijitha, Ms. P.H. Malani, Ms. Hilda Balasuriya

**Notice issued to:** A.H. Ravindra Lasantha, Secretary, Pradeshiya Sabha Balapitiya

**Appearance/ Represented by:**

Appellant - Mr. W.R. Silva

Ms. P.H. Wijitha

PA - Ravindra Lasantha, Secretary, Pradeshiya Sabha, Balapitiya

<b>RTI Request filed on:</b>	An information request is not attached and as per the acknowledgment the date is 28.11.2017
<b>IO responded on:</b>	11.12.2017 (acknowledgement)
<b>First Appeal to DO filed on:</b>	24.11.2017
<b>DO responded on:</b>	27.12.2017
<b>Appeal to RTIC filed on:</b>	04.02.2018

**Brief Factual Background:**

The Appellant had by request dated 28.11.2017 requested following information pertaining to an unauthorized construction carried by Gamini Warushawithana, a resident of Wadumulla, blocking the access road to the residence of the Appellants.

1. A design copy given by the Sub-Office of Wattugoda relating to the regular rounding of the wall (නාප්පයේ මුල්ල විධිමත්ව රවුම් කිරීම පිළිබඳ වතුගෙදර උප කාර්යාලයෙන් ලබා දෙන ලද සැලසුම් පිටපතක්),
2. A copy of the blatant covenant/agreement signed for the construction of the wall (නාප්පය සෑදීම සඳහා අත්සන් කරන ලද නිර්මිතීන්දු ගිවිසුමේ පිටපතක්) and
3. A copy of building application for the wall (නාප්පය සම්බන්ධ ගොඩනැගිලි අයදුම්පත් පිටපතක්)

As the IO failed to respond within the timeframe stipulated under the Act, an appeal was lodged with the DO on 24.12.2017. The DO by letter dated 27.12.2017 informed the Appellant the following information,

- a) With regard to items no 2 and 3 namely the agreement and the building plan are information related to a third-party named one, Mr. Gamini Warushawithana. For that reason the AP has noticed the third party to make representations for or against disclosure and the third party, had refused the disclosure of the information requested on the basis that it will prejudice a pending court case in relation to this matter.
- b) Based on the objection of the third party the PA cannot provide a copy of the agreement signed with him. Further the application has been made by the third party subsequent to the payment of a fee and since all the documents in the file are considered to be his personal documents they cannot be provided without his consent.
- c) The appeal of the Appellant had been rejected because the documentation in relation to the construction is legally valid and that the construction work had taken place in a satisfactory manner.

Dissatisfied with the response of the DO, the Appellant preferred an appeal to the Commission on 04.02.2018

### **Matters Arising During the Hearing**

Upon being queried as to the status of the information requested, the Public Authority submitted that the information requested by items no 2 and 3, namely, the covenant/agreement and the building plan are information related to a third-party, one, Mr. Gamini Warushawithana and he had refused the disclosure of the same on the basis that it will prejudice a pending court case. Consequently, the Appellant submitted that a partition case is being litigated for past seven years and this case had no relevance to the information requested.

With regard to item no 1 the Appellant submitted that one, Mr. Gamini Warushawithana had no right to build a wall if such partition case is still pending in Court.

Upon being queried as to whether the regular rounding and the construction of the wall had caused any obstruction, the Appellant submitted that this construction caused to reduce 7 ½ feet of the 13 Feet road.

### **Order**

The PA is directed to handover a copy of building application for the wall and a design copy given by the Sub-Office of Wattugoda of the same.

The matter is re-fixed to 10.07.2018 to ascertain the status of the provision information requested by item no.03.

The Appeal is adjourned.

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RTIC Appeal (In – person)/179/2018 (*Order adopted as part of a formal meeting of the Commission on 10.07.2018*)

*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 Members:** Ms Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

Justice Rohini Walgama

**Present:** Director-General Mr. Piyathissa Ranasinghe

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**Notice issued to:** A.H. Ravindra Lasantha, Secretary, Pradeshiya Sabha Balapitiya

**Appearance/ Represented by:**

Appellant - W.R. Silva

P.H. Wijitha

W. Chandaragunasili

PA - S.K.D.S Kanakarathne (Illegible)

### **Matters Arising During the Hearing**

Upon being queried as to the status of the information requested, the Appellant submitted that the information requested by item no.1 was handed over to the Appellant by the PA.

With regard to item no 3, the Appellant submitted that there were missing pages in the document/application handed over by the PA (11 pages were missing). Consequently, the PA submitted that the entire document/application contained 30 pages and that it could provide the Appellant with the missing pages which are pages 4,5,20,21,22,23,24,26,27,28 and 30.

At the time of the hearing, the PA handed over the following information to the Appellant,

1. Item no. 2, namely the Agreement no. 1088
2. Deed of Gift No. 1830 (This information was not requested in the initial information request)
3. Plan No.408 (This information was not requested in the initial information request)

**Order**

Upon perusal of the above information submitted by the PA, it is evident that the information requested by items no 1, 2 and 3 had been provided to the Appellant. Order is directed to be 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.

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