

Madushan Rathnayake v. Central Environmental Authority

RTIC Appeal(In-Person) 253/18 - *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)* – heard as part of a formal meeting of the Commission on 10.07.2018

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

Appellant: Mr. Madushan Rathnayake
Notice Issued to: Designated Officer, Central Environmental Authority

Appearance/ Represented by:

Appellant - Mr. Madushan Rathnayake

Public Authority - Mr. Asela Thisulgala, Information Officer, CEA
Mr. P. V. S. Shantha, ADJ, CEA
Mr. R. G. R. Rathnage, HRM

RTI Request filed on	27.11.2017
IO responded on	18.12.2017
First Appeal to DO filed on	20.12.2017
DO responded on	No response
Appeal to RTIC filed on	12.02.2018

Brief Background Facts

The Appellant had requested the following items of information, by an information request dated 27.11.2017:

1. A copy of the complaint sent to the PA in which the Initial Environmental Examination (IEE) Report states the cite in question does not have waterfalls;
2. A copy of the complaint sent to the PA in which it states the Hydrology Report is inaccurate;
3. A copy of the complaint sent to the PA in which it states the information contained in the Ecology Report is inaccurate;
4. In case 1, 2 and 3 aren't available the basis in which a complaint was made (in writing); and
5. The professor in charge of the team preparing the IEE report and addendum has pledged in writing to take responsibility of completion. If that assurance is sufficient to extend the project approval, and if it is not reasons for it being insufficient (in writing).

In response to the request, in the letter dated 18.12.2017, the IO stated that the PA is not bound to release information that was presented by a third party. Further, the PA attached the report of a meeting that was held on 26.10.2017 on the Medapitiya Minor Scale Hydro-power Project to support the position that the IEE report did not sufficiently provide the information required to be presented to the authority with observation of experts. Dissatisfied with this response, the appellant received from the IO, he appealed to the DO in 20.12.2017. the Appellant preferred an appeal to the Commission on 23.02.2018.

Matters Arising During the Hearing

The appellant has received approval from the CEA to carry out the project up to August 2017. This approval was extended for another three years on 26.01.2018. However, as the appellant claims, the said license was suspended due to objections to the project filed in January 2017 by a person representing a non-governmental organization. It was evident at the hearing that the appellant wanted to know the basis behind these objections made against the construction of the hydro-power project. In other words, the basis of the appeal seems to be to identify whether the delay was based on mere allegations or a solid foundation.

It was further disclosed at the hearing that the appellant has filed an appeal related to the same matter (*R.G.R.M.N.B. Rathnayake v. Central Environmental Authority, RTIC Appeal 219/18*) with a different information request. In the previous appeal, the appellant has been able to receive a detailed response including the report submitted by the National Aquatic Resources and Research Development Agency (NARA) from the PA (*R.G.R.M.N.B. Rathnayake v. CEA, id*).

However, when "[t]he Commission questioned the PA on the information that had not been provided to the Appellant, [t]he PA citing Section 5(1)(a) of the Act, submitted that information requested in item 3 could not be provided as it relates to the disclosure of information that

could infringe the privacy of the petitioners.” (*R.G.R.M.N.B. Rathnayake v. CEA, id*) Nevertheless, following repeated questioning of the Public Authority during the appeal hearing, it was ascertained that one provincial politician had had repeatedly obstructed the construction of the hydro-power plant rather than an environmental group or the villagers. The Public Authority clarified that though the project was delayed as a result for about four months, approval was given to the company to which the Appellant belonged, to proceed with the project.

Order

The Public Authority has agreed to release the letter sent by the aforesaid individual based on which, as the Appellant claimed, its project had got unreasonably delayed due to unfounded allegations against the project. The said information is hereby released. The Appellant states that he is satisfied with the information. The co-operation of the Public Authority before this Commission in this appeal is recorded.

The Appeal is concluded.
