

Unlocking access to Information

**Report of the study on the functioning of the Right to
Information mechanism in Sri Lanka**

RIGHT TO LIFE HUMAN RIGHTS CENTER

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Preface

During the past decade, Sri Lanka introduced some crucial new laws that were much needed for our legal system. Most of these legal reforms were the results of the efforts of civil society and therefore, the credit should go to them, especially throughout the period between 2015 and 2018 ‘Good Governance’.

‘Good Governance’ brought the 19th Amendment to the Constitution to re-strengthen the Independent Commission mechanism which had been nullified by the 18th Amendment to the Constitution and inclusion of the Right to Information into the fundamental rights chapter 14(a) of the Constitution can be considered remarkable achievements.

Apart from this, many other laws were integrated into our legal system during the period of ‘Good Governance’. Among them, the following laws have gained significant social attention due to their contribution to our legal system.

1. Protection of Victims of Crime and Witnesses Act No. 04 of 2015
2. Right to Information Act No. 12 of 2016
3. Office of Missing Persons Act No. 14 of 2016
4. Judicature (Amendment) Act No. 26 of 2017
5. International Convention for the Protection of All Persons from Enforced Disappearances Act No. 05 of 2018
6. Office for Reparation Act No. 34 of 2018

Among the above new laws, the Right to Information Act No. 12 of 2016 can be called

a vibrant law that is actively used by citizens compared to other laws. We have observed that due to citizens' getting used to requesting information under this Act, corruption and irregularities in the related fields have decreased to a certain extent. Significant progress has been achieved in this process due to the appointment of an Information Officer in every department of the government and the responses to the information requests within the relevant period.

Also, another unique feature of this Act is that people are motivated to request information from institutions such as parliament, police, prison, Attorney General's department, etc., from whom it was almost impossible to get information previously. We believe that citizens acting based on evidence will lead to the development of the country and the securing of democratic rights including human rights, thereby creating the necessary background to build a healthy society.

We must mention that it would not be possible to achieve so much success if it was not for the interest shown by civil organizations, journalists, and human rights defenders in this regard, the understanding and publicity provided by them about this Act, and the services provided by referring the relevant victims to this process.

Also, it should be mentioned that the main reason for the strengthening of this process was that the commissioners with a great understanding and commitment were appointed to the Right to Information Commission and they fulfilled their responsibilities properly.

It is also reported that our information law is the fourth best among 128 countries with Right to Information law in place. If it is true, we can do a lot more with this strong law. We must move forward by increasing the number of people using this law and solving the practical problems that arise when implementing this law.

This study report was prepared for the benefit of the human rights defenders who work with us by recording the experiences of our human rights defenders who have first-hand experience with the Right to Information Commission and its functioning.

I would like to express my gratitude to the coordinators of our Human Rights First Aid Centers (HRFACs) who contributed in various ways to the preparation of this publication and to all those who contributed to socializing their experiences using the Information Act. Mr. Suneth Gajanayake who conducted this study has delivered a commendable service.

Philip Dissanayake

Executive Director,
Right to Life Human Rights Center

15/06/2023

Introduction

In the current context, the Right to Information is a right that is inalienable from the concept of democracy because it secures essential democratic values such as good governance, transparency, and accountability of public officials. By the end of the 19th century, many countries in the world brought many positive laws into their legal system through various Acts to establish the Right to Information. The Right to Information Act No. 12 of 2016, ratified by the Parliament of the Democratic Socialist Republic of Sri Lanka on 4th August 2016 and published in the Gazette on 5th August 2016, is a positive step in establishing the Right to Information in the country. The 19th Amendment guarantees the right of access to information as a fundamental right through Article 14 (a) of the Constitution of Sri Lanka and by enforcing that right, fostering a culture of transparency and responsibility in public authorities, the environment in which the citizens of Sri Lanka can participate more in good governance is created and the democratic system is further strengthened.

The Right to Information Act No. 12 of 2016 further elaborates on the applicable laws and guides for citizens to access information and for public authorities on how they should provide information. This process has been operating for the last six years with various shortcomings as well as positive features. It is a need of the hour to study the shortcomings, trends, and ways to improve the efficiency of the process. This study on the mechanism of the Right to Information in Sri Lanka was conducted to fulfill that need. Here, the background of the Right to Information Act, the functioning of the mechanism, and the

Commission has been studied. The contribution of the human rights defenders of our Human Rights First Aid Centers (HRFACs) was crucial for these studies.

Based on the information requests sent to various public authorities through the HRFACs in eight districts, the functioning, efficiency, awareness of the public official, practical problems of the mechanism, citizen's awareness, and current positive features of the mechanism have been highlighted here. The focus here is on developing the practical use of the Right to Information mechanism, minimizing shortcomings, improving citizen's as well as public officials' awareness and understanding, and making proposals and recommendations to assure the Right to Information.

Objectives of the study

The primary objective of this study is to analyze and study the current functioning of the procedure laid down in the Right to Information Act No. 12 of 2016, to identify gaps and make recommendations to strengthen the Right to Information. Another objective is to appreciate the identified positive features, highlight the practical problems faced by the citizens in making information requests, and study the understanding and awareness of the officials of the public authorities who are engaged in the Right to Information mechanism.

Limitations of the study

Here we studied the outcome of the requests for information to public authorities and the data of

the performance reports of the Right to Information Commission were also used as secondary data for analysis. Accordingly, this study focused on how the relevant public authorities functioned at the initial stage and the way the process extended from the initial request for information to the appeal to the Designated Officer and the appeal procedure to the Right to Information Commission.

The main problem we faced while conducting the study is that our district coordinators could not contact some of the parties who submitted information requests through HRFACs to inquire about the current status of their information requests. We were unable to obtain accurate information on several requests for information.

Also, although an information request was forwarded to the Right to Information Commission regarding appeals, investigations, and recommendations from January 2022 to February 2023 under the Right to Information Act, no response has been received so far. After that, an appeal was made to the Designated Officer of the commission under the Right to Information procedure, but no response has been received for that also so far. As such, we had to rely on the Commission's performance reports on the Right to Information and other documents available on the Commission's website for this study.

Study methodology

Data was gathered through interviews with people who were active in the Right to Information mechanism, media reports, the Right to Information Act and gazettes linked to it, and performance reports of the Right to Information Commission, newspaper articles, and information obtained through requests for information sent to public authorities under the Right to Information Act through the HRFACs. They were synthesized into a comprehensive report and then analyzed. Primary data included interviews with stakeholders and 75 information requests sent by the people to public authorities through HRFACs in Matara, Galle, Puttalam, Gampaha, Kurunegala, and Trincomalee from May 2022 to February 2023. Secondary data is in the form of newspaper articles, press reports, performance reports of the Right to Information Commission, and other documents.

This study focuses on the procedure indicated by the Right to Information Act No. 12 of 2016 to identify weaknesses in the Commission's investigations, recommendations, and processes. Also, it aims to enhance the awareness of the citizens regarding the Right to Information and the progressive value of the said Act. It should be noted that it is not a deep legal analysis of the Right to Information.

1. Passage of the Right to Information Act

The history of Right to Information goes back hundreds of years although it has been functioning through an Act in Sri Lanka for a brief period of six years. It was first established in 1766 in Sweden as the Freedom of Press Act. With a history of more than 250 years, the Right to Information Act is currently in force in over a hundred countries. The United States of America introduced it in 1966, France in 1978, the Netherlands in 1980, England, Australia, and New Zealand in 1982, Canada in 1983, Denmark in 1985, Pakistan in 2001, India in 2005, Nepal in 2007 and Bangladesh, Maldives and Bhutan in 2009. In this way, Sri Lanka also became the 113th country to pass the Right to Information Act in 2016¹. While this is one of the main factors in displaying democracy in the world, Sri Lanka got some attention and influence through the implementation of the Right to Information Act in neighboring India. However, the Bill on the Right to Information was presented to the Parliament in the year 2016.

When we consider the previous legal situation in Sri Lanka, hiding information was the norm in our country. The laws that have paved the way for this culture are the State Secrets Act, the Establishment Code, the Emergency Regulations, and the Press Council Act. It is no secret that the people's right to access government information was limited through those laws and regulations. However, several laws encouraging the Right to Information were introduced later through provisions of the Constitution and judgments etc. The Declaration of Assets and Liabilities Act was introduced in 1975. The Supreme Court has stated

through many judgments in some cases that the Right to Information is included in the freedom of expression.

The first written record of the Act was found in 1994. Tourism, Information and Aviation Minister Dharmasiri Senanayake presented a cabinet paper titled "Government's Media Policy" in 1994. Its second clause was about recognizing the Right to Information and promised to provide Constitutional protection for it. Thereafter, the Law Commission of Sri Lanka introduced a Bill on Access to Information in 1996².

Although the Right to Information was expected to be included in the Constitution under fundamental rights as per the proposal submitted to the cabinet in 2002, it did not reach the parliament. If that effort was successful at that time, Sri Lanka would be the first South Asian country to pass a Right to Information Act. Even after that, various parties tried to address this. The Editors' Guild, Free Media Movement and Center for Policy Alternatives presented a bill on the Right to Information. The Cabinet approved a Bill in 2004 and the Ministry of Justice presented the final bill with several amendments to the parliament. However, the process on the bill ended with the dissolution of Parliament.

Again in 2006, the Law Commission of Sri Lanka presented a Right to Information bill for the second time, recommending that the bill should be legally passed to promote public participation in democracy. They also mentioned the need for

¹ <https://yukthiya.lk/9958-2/>

² <https://rti.gov.lk/rti-unit/>

such an action as Sri Lanka had signed two UN Conventions such as Convention on the Prevention of Organized Crime and the Convention against Corruption³. Although all the efforts for an Act failed, eventually the Right to Information was introduced to the 1978 Constitution by the 19th Amendment in 2015. Accordingly, Article 14 (a) of the Constitution of Sri Lanka guarantees the right to access information as a fundamental right.

After various amendments, the Right to Information Act was passed on 24th June 2016 and was published in the Gazette on 5th August 2016. This Act has been ranked among the best RTI Acts in the world.

The 20th Amendment to the Constitution⁴ abolished the Constitutional Council and replaced it with the Parliamentary Council, creating a possibility for the independence of the Information Commission to be affected. Until then, recommendations of the Constitutional Council were required for such appointments, but the Parliamentary Council established through the 20th Amendment had only been given the power to provide oversight. Here, even if the observations are obtained for the appointments, the President is not bound to apply those observations to the appointments. There was a question that the president has discretionary power to appoint commissioners and

whether independent and suitable commissioners would be appointed. However, the situation was controlled to some extent by the special provisions of the Right to Information Act No. 12 of 2016. That is Section 12 of the Right to Information Act, which specifically stated that the members of the Commission should be the representatives nominated by the organizations or types of organizations specified in that section. Therefore, in the current commission appointed under the 20th amendment, only one member had been appointed under the sole authority of the president. It cannot be said that the independence of the commission was not affected by the power of appointing the chairman coming under the hands of the President. Also, the change in the entire institutional structure made through the 20th Amendment affected the information mechanism.

Again, through the 21st amendment to the Constitution⁵, a Constitutional Council chaired by the Speaker makes the appointments of Independent Commissions. All the commissions except the Election Commission are answerable to the Parliament. Moreover, as in the 19th Amendment to the Constitution, again the President shall not appoint any person to any position in the Commissions unless the Constitutional Council has approved the recommended names.

³ <https://rti.gov.lk/rti-unit/>

⁴ 20th Amendment to the Constitution <https://www.parliament.lk/uploads/acts/gbills/english/6176.pdf>

⁵ 21st Amendment to the Constitution <https://www.parliament.lk/uploads/acts/gbills/english/6261.pdf>

2. Right to Information

The Universal Declaration of Human Rights has confirmed the Right to Information as a universal human right, like other rights. Accordingly, all member states must take proactive measures to secure it. Article 19 of the Universal Declaration of Human Rights states “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers⁶.” Right to Information refers to the right to request information from public authorities. Public authorities here refer to statutory bodies, government departments and

agencies, government-controlled bodies, local and provincial authorities as well as all courts and tribunals established for the administration of justice. Also, private institutions operating on a contractual basis, institutions operating with the Government under contract, license, or joint venture, institutions of higher education, vocational training institutes, or technical colleges, recognized or licensed under any written law or wholly or partly state or non-state. Private institutions that provide public services obtaining support from state or non-governmental organizations also belong to this category⁷.

⁶ Universal Declaration of Human Rights (UDHR), section 19. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁷ http://www.rticommission.lk/web/index.php?option=com_content&view=article&id=8&Itemid=111&lang=si

3. Right to Information Act No. 12 of 2016

The Right to Information Act No. 12 of 2016 is an Act to provide for the right of access to information to specify grounds on which access may be denied; to establish the Right to Information Commission; to appoint Information Officers; to set out the procedure and formatters connected therewith or incidental thereto.

It is mentioned in the preamble of that Act as follows.

“Whereas the Constitution guarantees the right of access to information in Article 14A thereof and there exists a need to foster a culture of transparency and accountability in public authorities by giving effect to the right of access to information and thereby promote a society in which the people of Sri Lanka would be able to more fully participate in public life through combating corruption and promoting accountability and good governance.⁸”

According to this Act, every public authority shall have an Information Officer. His or her job is to provide all relevant assistance in providing information for information requests submitted to their public authority. There should also be a Designated Officer whose role is to consider the appeals made by information applicants who are dissatisfied with the decision of the Information Officer. They deliver their decision to the information applicant within the prescribed time.

Only the information specifically mentioned in Section 05 of this Act is exempted from the public. It includes personal information unrelated to public

welfare, information harmful to national security and diplomatic relations, information harmful to the economy of Sri Lanka, confidential commercial information, private medical records, confidential information held on a custodial basis, criminal cases, information relevant to national security, information about third parties, information that may insult the judiciary, information that may be harmful to the independence of the judiciary, information that conflicts with parliamentary or provincial council privileges, information that is harmful to the integrity of examinations, and information regarding elections and undecided cabinet memos, etc. belong to this category.

But as stated in Section 5(4) of the Act, **if the public welfare outweighs the harm caused by disclosing the information, such information requests should not be refused.** This clause applies to all the exemptions in Section 05. The public welfare referred to herein shall be ultimately interpreted by the Commission.⁹ Especially in 2018, after the initial refusal of Mr. Chamara Sampath’s information request for the statements of assets and liabilities of the Members of Parliament, the Information Commission ruled that it is not possible to refuse to provide information based on parliamentary privileges and if the public welfare is more important, then parliamentary privileges or Declaration of Assets and Liabilities Law No. 1 of 1975 must not be considered and information should be revealed. Information Commission took this decision regarding the Appeal Order RTI

⁸ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

⁹ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

719/2018¹⁰. The Court of Appeal also approved the Commission's decision by rejecting the appeal CA/RTI/0004/2021¹¹ filed by the Parliament of Sri Lanka against that decision. The decision makes it clear that restricted information can be released if it is important to the public welfare.

¹⁰ <http://www.rticommission.lk/web/images/pdf/0719-2018/5.-RTIC-Appeal-Documentary-In-Person-Hearing-719-2018--....pdf>

¹¹ https://www.rticommission.lk/web/images/pdf/Court_2023/Chamara_Samapath_Vs_SL_Parliament.pdf

4. Right to Information Commission

If the Right to Information mechanism is not functioning properly, or if the official mechanism related to the Right to Information is corrupted, the rulers and public officials can easily hide the information about their misdeeds. It is directly harmful to the public well-being. Due to the lack of transparency about the work performed by government officials, the possibility of questioning it is also limited. There, under Section 11 of the Right to Information Act No. 12 of 2016, if any institution fails to provide information or if the information applicant is not satisfied with the information provided, the citizen has the right to appeal before the Right to Information Commission. Right to Information Commission, an Independent Commission established with effect from 03 February 2017 plays an important role in providing information to the citizen in a proper manner.

Vision

Ensure that the citizens of Sri Lanka are able to effectively exercise their Right to Information.

Mission

Developing and protecting the Right to Information of all Sri Lankan citizens adhering to a culture of transparency and good governance, through effective adjudication and monitoring of the practices of all Public Authorities, and promoting proactive disclosure which leads to citizens being more 'aware' of all information that relates to them.

Objectives

- Promote Enabling Measures to Process Requests: Formulate Rules in regard to

Appeals, the Inquiry procedure, Fee Schedule for providing information, and Report Formats, develop and publish Guidelines and Directives for the purpose of giving effect to the provisions of the RTI Act, advise on Regulations proposed by the Ministry of Mass Media, and publicise the Commission's Oversight and Adjudication role.

- Provide Effective Adjudication and Enforcement: Effectively adjudicate disputes between Public Authorities and Information Seekers.
- Support the Training of Public Officials: Collaborate in training Public Officials and support specialised training on the Right to Information for stakeholders
- Increase Public Awareness: Increase public understanding of the RTI Act through the Commission's website and through media interaction.
- Improve Records Management: Provide precise directions on information management by way of Guidelines.
- Increase Proactive Disclosure: Foster proactive disclosure of information by issuing guidelines, setting minimum standards, initiating revisions to existing law, and periodical assessments.
- Establish Effective Monitoring and Evaluation: Effective monitoring and evaluation of RTI implementation by Public Authorities through utilisation of appropriate online solutions and assessment tools.

(Source: Right to Information Commission Web Page)

The Right to Information Commission is an Independent Commission established under the Right to Information Act No. 12 of 2016. It is the agency that primarily monitors and enforces the Right to Information. The Commission performs tasks including providing more effective judgments and enforcement, prosecuting public authorities, supporting the training of public officials, raising public awareness of the Right to Information Act through the Commission's website and media interactions, improving records management, increasing proactive disclosure of information and establishing an effective monitoring and evaluation system.

4.1 The duties, functions and powers of the Commission

4.1.1 The duties and functions of the Right to Information Commission (Section 14)

- a) to monitor the performance and ensure the due compliance by public authorities, of the duties cast on them under the Act No. 14 of 2016.
- b) to make recommendations for reform both of a general nature and those in regard to any specific public authority,
- c) to issue guidelines based on reasonableness, for determining fees to be levied by public authorities for the release of any information under this Act,
- d) to prescribe the circumstances in which information may be provided by an information officer, without the payment of a fee,
- e) to prescribe the fee Schedule based on the principle of proactive disclosure, in regard to providing Information,

- f) to co-operate with or undertake training activities for public officials on the effective implementation of the provisions of this Act;
- g) to publicise the requirements of this Act and the rights of individuals under the Act and
- h) to issue guidelines for the proper record management for public authorities.

4.1.2 Under this Act, the Commission shall have the power-

- 1. to hold inquiries and require any person to appear before it,
- 2. to examine such person under oath or affirmation and require such person where necessary to produce any information which is in that person's possession, provided that the information which is exempted from disclosure under section 5 shall be examined in confidence,
- 3. to inspect any information held by a public authority, including any information denied by a public authority under the provisions of this Act,
- 5. to direct a public authority to provide information, in a particular form,
- 6. to direct a public authority to publish any information withheld by a public authority from the public, subject to the provisions of section 5,
- 7. to hear and determine any appeals made to it by any aggrieved person under section 32,
- 8. to direct a public authority or any relevant information officer of the authority to reimburse fees charged from a citizen due to any information requested for not been provided in time.

(Source: Right to Information Act No. 12 of 2016)

The Commission holds meetings every week on Monday and Tuesday. Citizens' access to the Right to Information began on February 3, 2017, with the issuance of Extraordinary Gazette No. (2002/42)¹² dated January 20, 2017, under Section 1 (3) of the Right to Information Act. According to the Right to Information Act, any citizen aggrieved by the response to a request for information by the Information Officer and Designated Officer can appeal to the Commission after the expiry of the prescribed period. The Commission is empowered to conduct appeal hearings and investigations under Section 15 of the Right to Information Act. This includes the power to examine a person under oath/ affirmation and require the person to produce any information in his/ her possession (information released will be examined in confidence). The Commission has the power to inspect any information held by a public authority, including information deemed to be covered by the exemptions provided in the Act. The Commission may direct a public authority to supply certain information and/or to publish information (other than that subject to exemptions) that a public authority has withheld from the public. The Commission may direct a public authority to reimburse the fees charged to a citizen in case of delay in furnishing the information.

Information Commission consists of 05 commissioners including a chairman and 04 members appointed by the President on the recommendations of the Constitutional Council. According to the provisions of the Right to Information Act, persons nominated by the Sri Lanka Bar Association, media organizations, and other civil organizations are to be recommended to the President by the Constitutional Council. Nominees should be distinguished persons of social life and should possess good experience

¹² Gazette (Extraordinary) Notification No. (2002/42) dated 20 February 2017 http://documents.gov.lk/files/eg-z/2017/1/2002-42_S.pdf

and excellence in their chosen fields. And they should be those who do not hold any political or any government or judicial or any other lucrative position and should not be affiliated to any political party, should not be carrying on any business, and should not be engaged in any profession. Commission members or commissioners hold their office for five years. The Commission shall appoint its Director General, other officers, and employees as may be necessary¹³.

Under this procedure, Mr. Mahinda Gammanpila was appointed as the chairman of the first commission in 2016, and the other commissioners were retired judge Ms. Rohini Walgama, senior counsel Ms. Krishali Pinto Jayawardena, Mr. S.G Punchihewa, AAL and Dr. Selvi Thiruchandran. The Chairman of the Right to Information Commission appointed in 2021 is Retired Judge Mr. Upali Abeyratne and the other commissioners are retired Judge Ms. Rohini Walgama, senior counsel Ms. Kishali Pinto Jayawardena, senior counsel Mr. Jagath Liyanarachchi and Mr. Mohammad Nahaiya¹⁴.

¹³ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

¹⁴ http://www.rticommission.lk/web/index.php?option=com_content&view=article&id=10&Itemid=141&lang=si

5. Procedure for obtaining information.

5.1 Request for Information

| Request to the Information Officer | Appeal to the Designated Officer | Appeal to the Right to Information Commission | Appeal to the Court of Appeal |
|---|---|--|---|
| <ul style="list-style-type: none"> •The applicant must be a citizen of Sri Lanka. •The Information Officer is appointed by the Public Authority to provide information. | <ul style="list-style-type: none"> •If the applicant is not satisfied with the decision of the Information Officer, he / she can appeal to the Designated Officer within 14 days of such decision. | <ul style="list-style-type: none"> •If the applicant is not satisfied with the decision of the Designated Officer, he / she can appeal to the Right to Information Commission within two months of such decision. | <ul style="list-style-type: none"> •If the applicant is not satisfied with the decision of the Right to Information, he / she can appeal against such decision to the court of Appeal within one month of such decision. |

Information requests can be made by Sri Lankan citizens. The citizen here includes any statutory or

non-statutory body if not less than three-fourths of its members are Sri Lankan citizens.

| Procedure for requesting information | Manner to provide information |
|--|---|
| <ul style="list-style-type: none"> • Sample format 01 given in the Regulation of the Gassette issued in February 2017 can be used to request information. Even a verbal request is sufficient. • The applicant can obtain information through Email under Regulation No. 4(04) of the Gassette issued in February 2017 and under Section 24(6) of the Act. | <ul style="list-style-type: none"> • inspect relevant work, documents, records; • take notes, extracts or certified copies of documents or records; • take certified samples of material; • obtain information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device. • However, the public authority has the discretion to allow taking notes and extracts with the use of a mobile phone or a camera. Access to relevant information will be available only after the full payment is made. |

(Source - Right to Information Commission webpage)

| Information officer | Duties of the information officer |
|---|--|
| <ul style="list-style-type: none"> Information officer deals with requests for information made to the public authority of which he or she has been appointed its information officer Until such time that an information officer is appointed, the Head or Chief Executive Officer of the public authority shall be deemed to be the information officer of such public authority under Section 23 of this Act | <ul style="list-style-type: none"> On receipt of a request, an information officer shall immediately provide a written acknowledgement of the request to the applicant. If the request is in verbal form, it will be documented An information officer makes a decision to make a decision either to provide the information requested within 14 days for on the payment of a fee determined and shall forthwith communicate such decision to the applicant who made the request. Where the request for information concerns the life and personal liberty of the citizen, the response to it shall be made within forty-eight hours of the receipt of the request. This includes that information officer can obtain assistance from other officers to respond to the requests and to maintain records |

(Source - Right to Information Commission webpage)

5.2 Appeal procedure

After that process, if the Information Officer does not provide the information required or the applicant is not satisfied with the response given, appeals can be made to the Designated Officer within 14 days of receiving the response. The Designated Officer is herein referred to as the First Appellate Authority of a Public Authority and if the Information Officer does not respond or if the Information Applicant is not satisfied with the response he or she may appeal to the Designated Officer.

If a Designated Officer is not appointed by the public authority, the head of the relevant government agency or department will automatically become the Designated Officer of that agency and appeals can be made directly to him or her.¹⁵

¹⁵ http://www.rticommission.lk/web/index.php?option=com_content&view=article&id=8&Itemid=111&lang=si

5.3 Appeals to the Commission

The Act has introduced a strict appeal procedure, and accordingly, where a Designated Officer has been appointed by the public authority, the first appeal must be submitted to the Designated Officer. If the person who requested the information is not satisfied with the response, that person can submit an appeal to the Information Commission as a second appeal. This is because the law empowers the Commission to appeal against the decisions of the Designated Officer.

Appeals to the Information Commission are permitted in case the person who requested the information is not satisfied with the responses given or not given by the Designated Officer and in cases where the decisions of the Designated Officers are not available. It is possible to submit appeals to the commission within two months of receiving the response or not. Appeals to the Commission cannot

be made through email and as per RTI regulation 13 (2), an appeal to the Commission can only be made by registered post or by personal delivery.¹⁶

After receiving the appeals, if it is felt that it is necessary to fulfill the objectives of the Act and when there is a need for it, the Commission will consider the appeals and make a decision under the procedure of summoning the two parties to the hearing according to Rule No. 20 of the Act. There are several steps that the Commission can recommend under the Right to Information Act. That is, if an Information Officer deliberately refuses to accept the request for information or does not give reasons for refusing the request or charges more fees, or refuses to process the information request, the Commission is empowered to make recommendations to the relevant disciplinary control authority to take disciplinary action against the relevant officer of the public authority.

Also, if any Designated Officer deliberately rejects the appeal for a reason other than the reason given in Section 5 of the Act, or if a decision is not taken within three weeks of receiving the appeal without a reasonable reason, power is given to the commission to recommend to the relevant

disciplinary control authority to take disciplinary action against those officers.

Here, under the Act, the Commission has been empowered to investigate and take legal action through a Magistrate's Court against the persons found guilty of errors such as providing false, incomplete, and defective information, destroying, canceling, altering, or concealing information, as well as failing to appear before the Commission, refusing to provide or verify information, or providing false information under oath, and non-enforcement of decisions and obstruction.

The commission has been authorized to file a case in a Magistrate's Court and in case of conviction, the relevant guilty parties will be fined not more than fifty thousand rupees (Rs.50000.00) or imprisoned for up to two years or both. Moreover, disciplinary measures may also be taken by the relevant disciplinary control authority against the guilty parties.¹⁷

If the information appellant is not satisfied with the recommendations received by submitting appeals to the Information Commission, in such a case, the information appellant can file an appeal in the Court of Appeal within one month of receiving the decision.

¹⁶ http://www.rticommission.lk/web/index.php?option=com_content&view=article&id=8&Itemid=111&lang=si

¹⁷ http://www.rticommission.lk/web/index.php?option=com_content&view=article&id=8&Itemid=111&lang=si

6. Interference with the Right to Information by public authorities and the functioning of the Information Commission to prevent such interference

Although the citizen can request information from any public authority under the Information Act, hiding information and refusing to provide information, and lack of commitment of the officials to ascertain the Right to Information are negative aspects observed. In some cases, when a person requested information regarding a controversial matter, the person who requested the information was targeted and questioned over the phone about the purpose of this information. But as the Information Commission has confirmed, in an information request, the person requesting the information is not bound to explain why it is requested. However, common people are scared and pushed to the point where they do not ask for information due to this reason. Officials involved in fraud and corruption are not very keen on receiving requests for information. The reason is that with the Right to Information Act, it is possible to get all the information including details of the payment vouchers.

Many persons who have faced challenges regarding the Right to Information have recorded their experiences in different ways. For example, journalist Tharindu Jayawardena and journalist Bingun Menaka Gamage, who studied the functioning of the information mechanism by referring more than 100 information applications to various public authorities using the Right to Information, published their experiences in an article in Lankadeepa newspaper in 2018. One can get an idea about the behaviour of the officials in the information mechanism and the functioning of the commission through the evidence in that article.

A telephone call from the Commissioner General of Rehabilitation after requesting a list of ex-LTTE members undergoing rehabilitation

After a request for information was sent to the Office of the Commissioner General of Rehabilitation asking for a list of rehabilitated former LTTE members, the head of the office made a phone call and questioned the applicant. This affects the right of the information seeker and the act is not in line with the protocol set by the Right Information Act. Most officials misunderstand that all information related to security or related agencies is related to national security. But the vast majority of that information is not classified information. With the Right to Information Act, the majority of the information is required to be disclosed, but the officials do not want to disclose it because of their biased views. The same was the case with the Office of the Commissioner General of Rehabilitation.

In the end, the information applicant had to go to the Right to Information Commission to get the required information. The complaint hearing of the Information Commission was held in the presence of its chairman Mahinda Gammanpila, its members Justice Rohini Walgama, lawyer Krishali Pinto Jayawardena, lawyer S.G. Punchi Hewa, Dr. Selvi Thiruchandran and Director General of the Information Commission Piyatissa Ranasinghe. The Information Officer was present representing the Commissioner General of Rehabilitation.

When asked about the non-provision of information, the Information Officer stated that the requested

information could not be provided as it is related to national security. The Information Officer further said that he had sought advice from the relevant line ministry, the Ministry of Defense about this information request, but no response had been received. The Commission asked the Information Officer to explain how the information applicant had asked for statistics on rehabilitated former LTTE members and how it would affect national security.

After that, the Information Officer said that he did not agree to disclose the information as it would harm the privacy of the rehabilitated LTTE members. The Information Officer failed to point out how disclosing a few statistics would harm their privacy.

Accordingly, in giving its order, the Information Commission stated that the Rehabilitation Commissioner General's Office had violated section (d) of sub-section 5 of section 24 of the Information Act by asking for the reason for requesting the information. That clause reads as follows.

"A citizen making a request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him or her."¹⁸

After a two-day hearing, the Information Commission directed the Rehabilitation Commissioner General's Office to provide all the requested information through the Commission.¹⁹ We have witnessed this incident as well as many other incidents in the past.

First case filed by the Right to Information Commission before a Magistrate's Court against a Public Authority

¹⁸ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

¹⁹ <https://rb.gy/mjdzdt>

There was a social dialogue regarding a statement made by the health authorities that local tests have revealed that imported milk powder does not contain anything other than fat, in a press conference held at the Ministry of Health on February 19, 2019. After that, representing the People's Movement for Free Health Services, Dr. Nilan Fernando submitted an information request to the Ministry of Health on 27.02.2019 under the Right to Information Act regarding the substances contained in imported milk powder, in which laboratory the local tests related to imported milk powder mentioned in the press conference had been conducted, when and by whom. He further asked to provide a complete copy of the said inspection report. But the Information Officer responded to the request that the above information could not be provided. After that, the information applicant submitted his appeal to the Designated Officer, but it also did not receive a positive reply. They informed that the information belonged to a third party and therefore refused to provide the information under section 29 (2) (d) of the Right to Information Act. Mr. Nilan Fernando, who was not satisfied with that answer, appealed to the Information Commission on 19.07.2019²⁰.

After a long hearing, the Information Commission decided on 21.10.2021 through appeal order No. 1720/2019²¹ to immediately release the copies of the said report to the Commission and the applicant. But the Ministry of Health avoided implementing the order given by the Commission. Accordingly, due to the non-implementation of the order and recommendations given by the Right to Information Commission under the Information Act, the Commission filed case No. 85399/01 in the Colombo Chief Magistrate's Court.

It is considered to be the first case filed by the

²⁰ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

²¹ Right to Information Act No. 12 of 2016 https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

Right to Information Commission against a public authority before a magistrate's court. When this case was called before the Colombo Chief Magistrate's Court, lawyer Mrs. Himali Kularatne, who represented the Right to Information Commission, requested to issue summons to two defendants for violating Sections 32(1), 32(3), 39(1) of the Right to Information. Accordingly, Colombo Chief Magistrate Mr. Prasanna Alvis ordered to send summons to the Deputy Director General of Health Services, Dr. J.C. Gamlath, and the Ministry's Information Officer Mr. V.T.S. Siriwardena, to appear before the court on March 21, 2023. The case is pending²².

These events clarify a few facts. They are:

- To what extent the information commission can secure the citizen's Right to Information through its powers?
- The slow and irresponsible manner in which the public officials have acted in guaranteeing this right to the people.
- The majority do not have a proper understanding of the Right to Information Act and the mechanism that can request information.

An information application cannot be ignored and it is one of the best public weapons that can be used to assert citizenship rights. The best example

is India. Today in India, the word RTI is used as a verb. Indian citizens are reaping the maximum benefits from it. In the CA/RTI/0004/2021²³ Indian Appellate Court has focused on the Indian case law on the Right to Information.

In the judgment of M.R. Misra Vs. Supreme Court of India (CIC/SM/A/2011/000237/Secretary General) case the following fact is highlighted:

“Where there is any inconsistency in a law as regards furnishing of information, such law shall be superseded by the RTI Act. Insertion of a nonobstante clause in section 22 of the RTI Act was a conscious choice of Parliament to safeguard the citizen’s fundamental Right to Information... If the PIO has received a request for information under RTI Act, the information shall be provided to the applicant as per the provisions of the RTI Act and any denial of the same must be in accordance with section 8 and 9 of the RTI Act only.”

Although the Right to Information Act is being used very effectively and efficiently in India, Sri Lankan citizens still do not have much awareness about this Act. But people armed with the knowledge of this mechanism reap its fruits whereas many people consider it just another word and do not take advantage of the Act. Therefore it is clear that popularizing this Act among the people is the need of the hour.

²² <https://rb.gy/rt80r>

²³ https://www.rticommission.lk/web/images/pdf/Court_2023/Chamara_Samapath_Vs_SL_Parliament.pdf

7. Implementing a recommendation of the Information Commission.

The Information Act can be considered a privilege of the citizens of the country because most of the other laws and regulations are based on the needs of the government. Today, although citizens are interested in accessing information, some public authorities do not provide information because they want to maintain their authority over the Right to Information. In such context, the Right to Information Commission is the protector of the citizen's Right to Information. People refer their appeals to the Information Commission in large numbers to get help through the statutory power of the Act, because of not providing information, or not providing enough information. Since February 03, 2017, many appeals have been submitted to the Information Commission and many public authorities have provided information on the recommendations of the Commission. Moreover, many frauds and corruptions that were hidden were revealed through it and frauds that could have happened were avoided too. But in some cases, the recommendations given by the Information Commission were not implemented and the decisions were challenged.

Following are two of the main instances the decisions of the Information Commission were challenged.

❖ **Request for the declaration of assets and liabilities of the Members of the Parliament**

Independent journalist Mr. Chamara Sampath, who has been engaging with the Right to Information process since the Act came into force, expressed his opinion during the consultation for this study as

follows describing an incident in 2018.

When he worked as a journalist for Ada newspaper, he requested the declarations of assets and liabilities of the Members of Parliament through an information request form.

This information request was directed to the Parliamentary Information Officer on 21.06.2018, to obtain information on whether the Declarations of Assets Liabilities of the Members of Parliament from the year 2010 to 2018 have been provided or not. Elected public representatives must provide their declarations of assets and liabilities to Parliament and people have the right to get information about it. But in response to Mr. Chamara's request for information, the Information Officer stated that it was not possible to provide the information. The reason was that they did not have the requested information in their possession. But since the parliament should have the declarations of assets and liabilities MPs, Mr. Chamara Sampath appealed to the Designated Officer on 30.08.2018. The Designated Officer has also given in response to the appeal stating that even if the assets and liability statements are given to the Parliament, the information cannot be given because the information is not in the custody of the Secretary General of the Parliament. Mr. Chamara Sampath, who was not satisfied with that answer, forwarded his appeal to the Information Commission on 11.09.2018 intending to get the information he requested correctly.

The Commission heard the appeal for more than two years and during that period, the parliamentary officials tried to withhold information by bringing

various arguments. The Commission was informed that the Speaker can provide the information and the Secretary-General cannot make a decision in that regard. Moreover, it was also informed that the instructions of the Attorney General should be sought to provide the information and then the Information Commission was informed that the information cannot be provided according to the instructions given by the Attorney General.

After a two-year investigation, under RTI 719/2018²⁴, the commission decided on 11.02.2021 that the request was made under the Right to Information Act and not under the Asset Liability Act. The requested information was a list of the names of the members who had given the declarations of assets and liabilities. Accordingly, the Commission informed Parliament to release the information as no MP's rights were violated. Although the Information Commission forwarded a 16-page decision to the Parliament to provide information, the Parliament refused to provide the information. Instead of providing the information, the General Secretary of the Parliament appealed to the Court of Appeal to invalidate the decision given by the Information Commission giving reasons under 15 points. The Court of Appeal, after a long inquiry in this regard, decided on 28.02.2023 that the information can be given to the applicant. Although there have been several cases in the Court of Appeal against decisions of the RTI Commission, this is the first appeal to be decided and it was a judgment that strengthened the Right to Information Act. The Court of Appeal ruled that MPs are maintained by the public and are bound by law to declare their assets and liabilities. Further, the provisions of the Right to Information Act also apply to MPs, and MPs are also bound by law to implement the decisions of the Information Commission. The appeal of the Secretary General

²⁴ <http://www.rticommission.lk/web/images/pdf/0719-2018/5.-RTIC-Appeal-Documentary-In-Person-Hearing-719-2018--....pdf>

of the Parliament was rejected and the order given by the Information Commission on February 02, 2021, to release the statements of assets and liabilities was confirmed.²⁵

However, the applicant reported that he had not received the necessary information even after five years. The incident shows that the government machinery is still not making any effort to comply with the Information Act. Also, the officials are still working only to protect their authority rather than the decisions of the commission. This clearly illustrates the problematic nature of the functioning of the Information Commission, no matter how correct the decisions it makes are. Moreover, a person makes an information request to get that information to him as soon as possible. But according to this incident, the main problem seen here is that the information applicant is not able to get the information even after waiting for 5 years.

❖ **The writ petition filed in the Court of Appeal naming the Public Authority and the Information Commission as respondents.**

There are also cases where citizens filed appeals against the Information Commission before the Court of Appeal due to non-implementation of the decision of the Information Commission. The first case filed by a citizen in the court against the Information Commission is currently being heard in the Court of Appeal and it was filed by Mr. S.M. Manoj Prasanna, a provincial reporter from Polonnaruwa.

In late 2016, a cabinet decision was taken to hand over 60,750 acres of land to a foreign company on the south bank of Maduru Oya, bordering to the west of Thoppigala, where there was a war for thirty years, to cultivate sugarcane. The development process was implemented to protect

²⁵ https://www.rticommission.lk/web/images/pdf/Court_2023/Chamara_Samapath_Vs_SL_Parliament.pdf

the livelihood of 2,000 displaced farming families and 400 families engaged in the dairy farming industry were subjected to public attention due to the environmental impact on the 22,000 families on the left bank of Maduru Oya who draw water from the Maduru Oya Reservoir. Journalist Mr. S.M. Manoj Prasanna who lives in the Polonnaruwa area requested information on the development of the south bank of Maduru Oya from the Sri Lanka Mahaweli Authority, on 02.05.2017 under the Information Act²⁶.

But the Information Officer did not provide any information and after that, an appeal was made to the Designated Officer on 30.05.2017. But no response was received and after that, he submitted an appeal to the Information Commission on 06.07.2017. After a long examination of the Information Commission, it was decided by Appeal Order No. 97/2017 that the relevant public authority should provide the information to the information applicant²⁷. But the Mahaweli Authority had not released the information while implementing the order.

Therefore, a writ petition was filed by Mr. Prasanna based on the fact that the Information Commission had failed to implement its decisions and the Mahaweli Authority had not provided information. The petition made 11 persons including the Chairman and commissioners of the Information Commission, Sri Lanka Mahaweli Authority and the Attorney General the respondents.

This petition was heard at the Court of Appeal on February 19, 2021. The Information Commission, one of the respondents, informed the Court of Appeal that the information requested by the appellant had already been provided to the appellant. The Court of Appeal accepted the

notification that the petitioner was not satisfied and issued a notice to the other respondent party, the Sri Lanka Mahaweli Authority, to appear before the Court of Appeal. Mr. Manoj Prasanna, who appealed in this regard, stated that although the Right to Information Act is one of the greatest privileges given to the citizens of our country, still many government institutions would not provide information to the people as required.

If the government agencies avoid providing information in this way, what the Information Commission should do is help the people to get information. That is to order the public authorities to provide information to the people and prepare a program for their implementation properly. The Information Commission is legally bound for that. But when a citizen approaches the commission without being able to get the information, the commission conducts the hearing for more than a year. Then people may get frustrated about the Right to Information. Moreover, the Information Commission is located only in Colombo. If a citizen of Jaffna, Polonnaruwa, and Hambantota areas has to spend a long time and come to Colombo for hearings of the Information Commission, they have to bear a huge expense. On these grounds, Mr. Manoj Prasanna mentioned that he had come to the court to obtain an order to strengthen the Right to Information²⁸.

Although the Right to Information Act provides for a very practical process, the understanding of the Act among some government officials is very low. The Information Act is not there to withhold information or to hide information and even though the Right to Information Act has been in effect for six years, many government officials still have the basic culture of concealing information as they did before the Act was passed. Many organizations are now providing information properly. However,

²⁶ <https://medialk.com/archives/4162>

²⁷ <http://www.rticommission.lk/web/images/pdf/rticap-peal-097-2017/rtic-97-2017-si-19122018.pdf>

²⁸ <https://medialk.com/archives/4162>

the above examples show that some agencies are still reluctant to provide information. The number of appeals that flow to the Information Commission is also evidence for this. The other main problem is that the commission takes a long time to examine the appeals, and the main reason for that is not the excessive number of appeals. One of the reasons for the delay is that the Right to Information Commission is not properly provided with the necessary financial allocations from the government. The government cannot wash its hands just by bringing the Right to Information Act. It is also the responsibility of the government to allocate the necessary financial allocation for the functioning of the Right to Information Commission from time to time. It is also the responsibility of the government to identify institutions that are reluctant to provide information and inform their officials to use the Right to Information Act very practically. Moreover, there should be some change in the fees charged for providing information, and

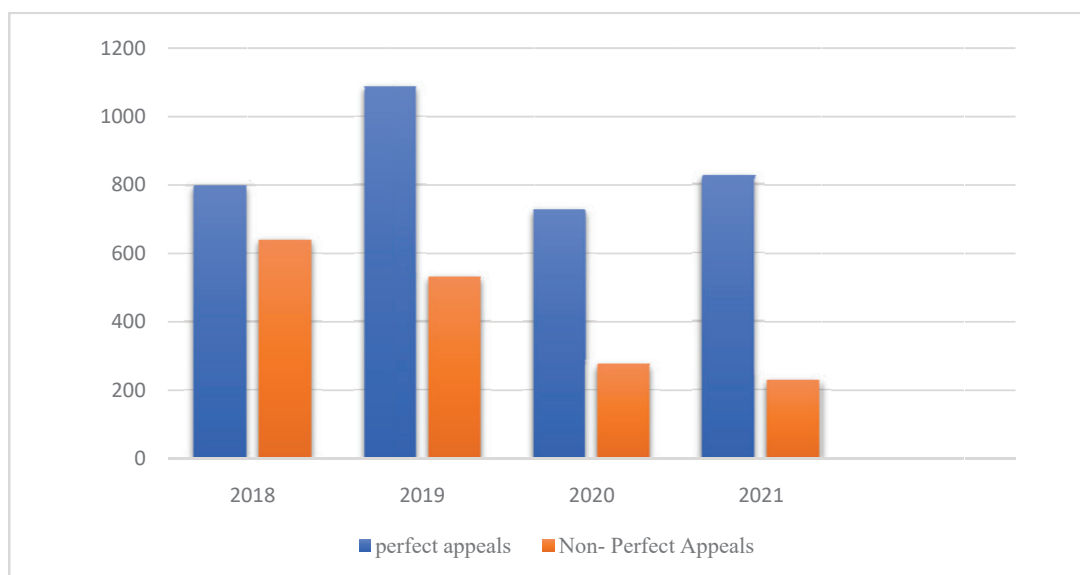
charging more money may lead to keeping the common citizens away from this process.

Many practical problems like this still exist in this mechanism and the fact that the Right to Information Act does not go to the villages can be cited as another major shortcoming. That is why people have to kneel before government officials and politicians on public days to get their problems solved. If people are made more aware of the effectiveness of the Right to Information Act, the aim of bringing the Act will surely become a reality.

After the Right to Information Act was passed, the Commission on Right to Information was one of its main components and it has come up to this point through various ups and downs. A brief analysis of the investigations and recommendations made by the Commission from 2018 to the date after its inception on February 03, 2017, will provide some insight into its functioning.

8. Analysis - Performance of Right to Information Mechanism and Right to Information Commission from 2018 to 2022

8.1 The number of appeals submitted to the Right to Information Commission in 2018, 2019, 2020, 2021 2018, 2019, 2020, 2021



²⁹Source: Performance Report 2021, Right to Information Commission

The above chart shows the total number of appeals received from 2018-2021 and the proportional difference between years in comparison. The highest number of appeals 1089-42% were received in 2019 and the lowest 729-28% were received in 2020. And this bar chart depicts the number of perfect appeals and the number of non-perfect/ rejected appeals. The graph shows that the number of appeals rejected by the Commission has gradually decreased since 2018. Between perfect appeals and rejected appeals, 44% of appeals were rejected in 2018 and 33% in 2019. Only 26% were

rejected in 2020. 68% of appeals made in 2021 were identified as resolved appeals and 22% were rejected as non-resolved appeals.

8.2 Resolved and postponed appeals

The Commission heard 937 appeals in 2021 and 999 appeals in 2020. Further, 472 appeals were postponed/ partially heard in 2020. Also, 495 appeals were postponed/ partially heard by the Commission in 2021 and the Commission delivered 475 final orders (including 59 withdrawals) in 2021.

²⁹ <https://www.rticommission.lk/web/images/pdf/Re--edited-2021---English---Draft-RTIC-Performance-Report---21.10.2022-1.pdf>

8.3 Decisions of the Commission

| Year | Number of perfect appeals | Number of successfully completed appeals |
|------|---------------------------|--|
| 2017 | 230 | 57 |
| 2018 | 800 | 549 |
| 2019 | 1089 | 709 |
| 2020 | 729 | 427 |
| 2021 | 825 | 475 |

³⁰Source: Performance Report 2021, Right to Information Commission

Also, 11 parties have appealed the Commission's orders to the Court of Appeal by December 2021, out of the total number of cases completed since February 3, 2017.

8.4 Statistics of Commission's appeal hearing from 20.12.2021 to 31.12.2022

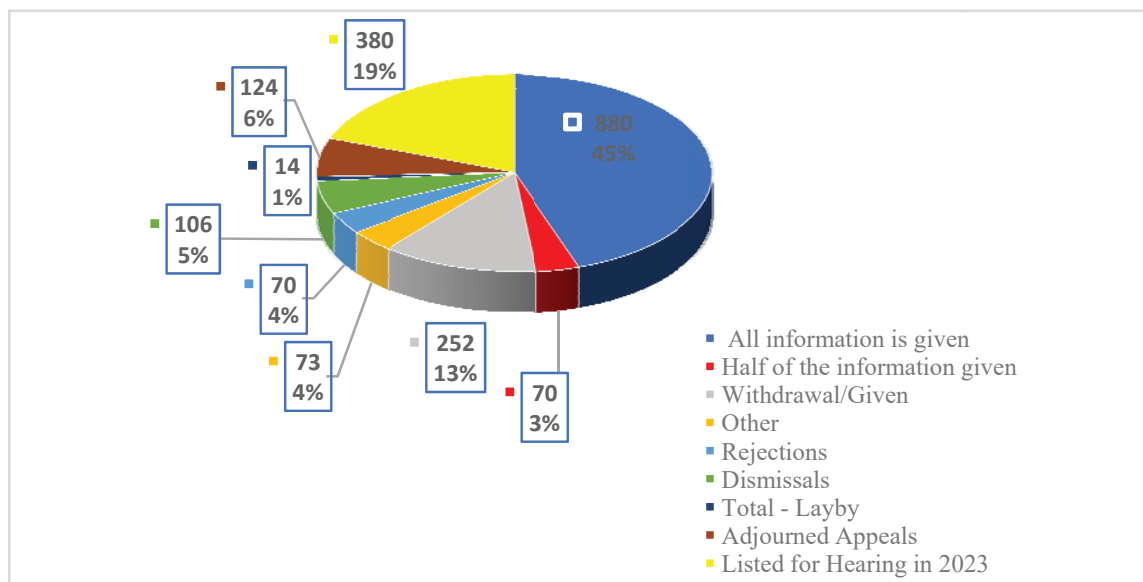
| Summary | | | | |
|--|-----|------|-------------------------------|-------------|
| Completed | | 1451 | Number of Fresh Appeals | Grand Total |
| All information is given | 880 | | Listed for Hearing in 2023 | |
| Half of the information given | 70 | | | |
| Withdrawal/Given | 252 | | | |
| Other | 73 | | | |
| Rejections | 70 | | | |
| Dismissals | 106 | | | |
| Total - Layby | | | | 14 |
| Adjourned Appeals pending as of 31.12.2022 | | | | 124 |
| Total | | 1589 | 380 | 1969 |

³¹ Source- Appeals Hearing Report 2022, Right to Information Commission

³⁰ <https://www.rticommission.lk/web/images/pdf/Re--edited-2021---English---Draft-RTIC-Performance-Report---21.10.2022-1.pdf>

³¹ <http://www.rticommission.lk/web/images/pdf/Statics-2022/Statistics-20.12.2021---31.12.2022.pdf>

8.5 2022 Appeal Hearing of the Commission



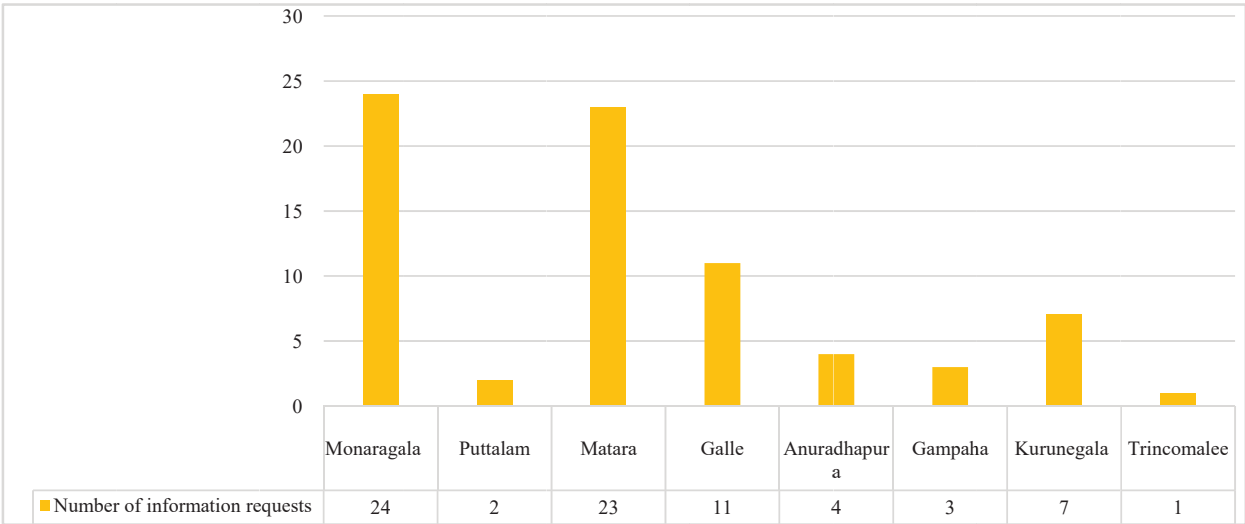
The above statistical data helps to get a rough idea about the functioning of the Right to Information Commission and how citizens have dealt with the Commission under their Right to Information in the last few years. In the face of appeals presented to the Commission in the year 2022, according to their powers, the Commission provided 880 full information - 45%, 70 - 3% partial information, 252- 13% withdrawal or Given information, 70 - 4% refusals, invalid 106 cases - 5%, 14 appeals held - 1%, adjourned appeals 124 - 6%, others 73 - 4% and the number listed for examination in 2023 is 380 - 19%.

Information was requested from the Information Officer of the Right to Information Commission

under the Right to Information Act No. 12 of 2016 regarding the Commission's operation, recommendations, and how they are implemented, but the Commission has not responded regarding the request by the time of the publication. An appeal was then made to the Designated Officer of the Right to Information Commission in accordance with the procedure for obtaining information and no reply has been received so far.

During this period, the Human Rights First Aid Centers (HRFACs) have been making efforts to inform the public about the Right to Information Act and to encourage the public in almost all areas to request information from public authorities under the Right to Information Act for their problems.

8.6 Information requests and appeals made under the Right to Information Act district-wise through Human Rights First Aid Centers from May 2022 to February 2023

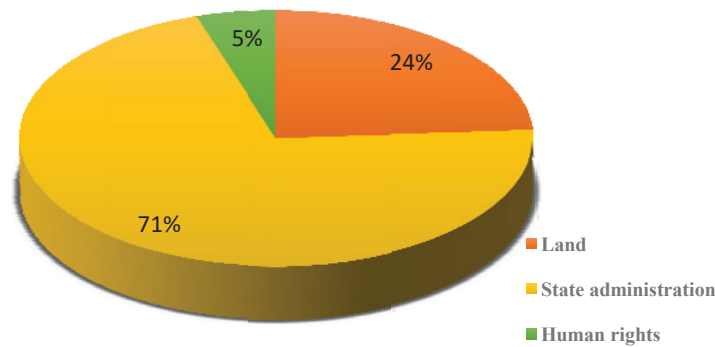


Source - Annex 01

According to the confirmed data, 75 Right to Information requests sent to public authorities could be identified from 08 districts, 24 from Monaragala district, 23 from Matara district, 11

from Galle district, 07 from Kurunegala district, 04 from Anuradhapura district, 03 from Gampaha district, 02 from Puttalam district and 01 from Trincomalee district.

Subjects of the information requests

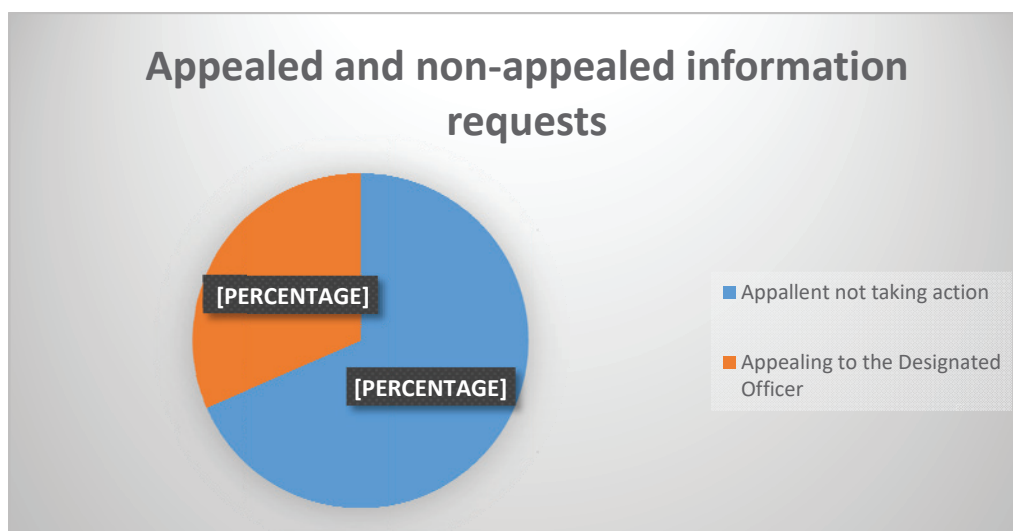


Three categories of information requests can also be identified here. That is, information related to land, information related to public administration, and information related to human rights issues. Accordingly, taking into account all eight districts, the information requests made regarding matters related to public administration is 71%, information requests made regarding the land is 24% and the information requests made in the field of human

rights is 5%.
When considering all the above districts, the highest number of information requests regarding public administration has been directed from the Matara district and the percentage is 38%. Secondly, the highest percentage of information requests related to the public administration sector is from Monaragala district, which is 28%.

Under the Right to Information Act, the information request should first be made by the Information Officer of the concerned public authority. If the information is not received from that officer or if the applicant is not satisfied with the information received, an appeal must be made to the Designated Officer of the same public authority within the relevant period of 14 days. If there is no satisfactory information, then an appeal should be made to the Right to Information Commission within

two months, and if no satisfactory information is received, there is the possibility to refer to the Court of Appeal within one month. Accordingly, when considering the above information requests, it is observed that the Information Officer has provided sufficient information regarding 62% of the information requests first directed to the Information Officer and regarding 25%, the Information Officer has not provided sufficient information.



Regarding the 25% of the requests that were not given enough information by the Information Officer, appeals to the Designated Officer were submitted for 32% of them. Further action was not initiated by the applicant or the victim for the remaining 68%. On further consideration of the number of appeals directed to the Designated Officer, it is observed that the Designated Officer has provided sufficient information for 50% of them and the relevant information has not been received properly for the remaining 50%.

When considering the extent to which the relevant information has not been properly provided by the

Designated Officer, it is observed that the applicants have properly appealed to the Right to Information Commission regarding all of them. On further consideration of those appeals, it is observed that 67% of them have not yet been investigated by the commission, and for the remaining 33%, the commission has called the relevant stakeholders and after conducting proper investigations, sufficient information has been provided to the applicant.

As stated above, when analyzing this, it was found that 13% of the applicants who requested information abandoned the process without making an appeal to the higher authorities under the provisions of the Act, when there was no response from the Information Officer or when insufficient information was received. However, the above analysis further reveals that 67% of the information requests submitted from the above-mentioned eight districts have received sufficient information and 20% have not received enough information. It is also observed that 13% of the applicants in the total eight districts have failed to enter the appeal process under the Right to Information Act.

During this period, it is observed that the Monaragala district is the district that sent the highest number of information requests to the public authorities, and the coordinator of the Monaragala District Human Rights First Aid Center, Mr. H. L. Achala Piyumantha expressed his experience as follows.

"About 70% of the public authorities are currently providing information in line with the Right to Information mechanism, but the length of time it takes to obtain information affects the interest of the information applicant. Further, the lack of awareness and lack of concern regarding the Right to Information Act in public authorities has led to non-disclosure of information in some cases. Among the Independent Commissions, the Right to Information Commission can be identified as a body that works with a certain level of efficiency, but the main problem is

that it takes a long time to hear or respond to the appeals. Another problem is, the telephone numbers given for inquiries in this regard do not work properly.

"Also, the interest and confidence of citizens in the Right to Information Act and that mechanism is not very positive, and the main reason for that is the inefficiency of the government mechanism. About 1% to 2% of the people have a proper understanding in this regard, but many people do not have the proper understanding and awareness to get the benefits from it. A proper awareness program is essential for us as civil activists and the government to overcome that weakness.

"One of the biggest problems in the functioning of public authorities is that the officers involved in this process are not given proper training. Initial training was provided when the Right to Information Act came into force. Proper re-training was not provided after that to update their knowledge. Because of that, the benefits of the citizens are limited. In many cases, due to the lack of information literacy among the officials, they try to hide the information that can be given. Therefore, to overcome these weaknesses, it is the need of the hour to provide public officials as well as the citizens of the country with a very good awareness of the Right to Information Act."

Conclusion and recommendations

We observed in this study that even though the Right to Information Act has been in force for six years, there are still some deficiencies in this mechanism. We noticed several main points and among them are the following facts:

The Information Officers of some public authorities are not eager to provide information quickly, even if the citizens request information. The reason is that they do not have proper awareness of this Act. If they are aware of the punishment they will get if they fail to do so, they will adequately provide information and the citizen's Right to Information will be secured.

If the public authorities provide information properly, so many appeals will not be piled up in the Right to Information Commission. On the other hand, if the public authorities release the information in advance properly, then there is no need to exert great effort to know the information in this way.

The Right to Information Commission also takes a lot of time to respond to an appeal and to conduct an investigation. Therefore, if a mechanism is set up to make the process of the commission more efficient, the real purpose of this Act and the Commission will be achieved.

On the other hand, even after many years have passed, citizens still do not have very positive attitudes toward this bill. The study also shows that many people have not followed the process properly. The main reason seems to be the lack of proper awareness among the citizens regarding the Right to Information Act and its procedure. When

no response is received from the Information Officer, citizens do not mind about the next step and the need diminishes with time. Therefore, the awareness and participation of the citizens must be enhanced. Also, strengthening the information mechanism is important.

Accordingly, based on the facts found in this study, we present the following recommendations for further formalizing and expanding the mechanism of Right to Information.

1. Creating a program that strengthens institutional structures and coordination processes that support the Right to Information regarding government policies that enhance development strategies
2. Streamline training for government officials on the Right to Information and keep them informed of developments in the law.
3. Include the Right to Information and the process of providing information in the general training of public service officers and provide related training to all newly recruited public officers.
4. Training of Information Officers, Designated Officers, and Senior Officers of Public Authorities to provide information and pre-disclose institutional information.
5. Making proactive disclosure of information a practice of government officials and institutions.
6. For the Right to Information to be effective, information must be protected by the

public authorities and for that, every public authority should establish and maintain an online information database in addition to documenting.

7. Strengthening the Right to Information by relaxing other laws and regulations that hinder the functioning of the Right to Information Act-
8. Implementation of awareness programs across the country to increase awareness and participation of citizens.
9. Designing a specific program to enhance the efficiency of hearing appeals before the Right to Information Commission. Establishment of Provincial Offices administered by the head office.
10. Incorporating a follow-up monitoring system into the process to ensure that the recommendations given by the Right to Information Commission are properly implemented.
11. Minimize delays by using new advanced technology for requesting and providing information as well as for inquiries of the Information Commission.
12. Providing online technology to facilitate access to information for applicants living in remote geographical areas and thereby expedite Information Commission inquiries.

Related Sources

Websites

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2. *About RTI – Right to Information – Sri Lanka*. (n.d.). <https://rti.gov.lk/rti-unit/>
3. User, S. (n.d.). *Right to Information Commission of Sri Lanka - නීති අසන පැන -* <https://rb.gy/668i5>
4. තොරතුරු දැන ගැනීමේ පත හා තක්කඩි - (n.d.). <https://rb.gy/mjdzdt>
5. සංස්කාරක - (2021, March 15). සීනි ව්‍යාපෘතියේ තොරතුරු ; මහවැලියට එරෙහිව නඩු පවරන්නැයි ඉල්ලයි ; තොරතුරු කොමිසමට එරෙහිව පළමු නඩුව පවරයි ! - MediaLK. MediaLK. <https://medialk.com/archives/4162>

Books

1. Performance Report 2021, Right to Information Commission. <https://www.rticommission.lk/web/images/pdf/Re--edited-2021---English---Draft-RTIC-Performance-Report---21.10.2022-1.pdf>

Constitutional Amendment and Acts

1. 20th Amendment to the Constitution <https://www.parliament.lk/uploads/acts/gbills/sinhala/6176.pdf>
2. 21st Amendment to the Constitution <https://www.parliament.lk/uploads/acts/gbills/english/6261.pdf>
3. Gazette (Extraordinary) Notification No. (2002/42) dated February 20, 2017. http://documents.gov.lk/files/egz/2017/1/2002-42_S.pdf
4. Right to Information Act No. 12 of 2016' https://rti.gov.lk/wp-content/uploads/2022/09/RTI_Act_Sri_Lanka_E-1.pdf

Decisions and judgments of the Commission

1. RTI 719/2018. <http://www.rticommission.lk/web/images/pdf/0719-2018/5.-RTIC-Appeal-Documentary-In-Person-Hearing-719-2018--.--.pdf>
2. RTIC 97/2017. <http://www.rticommission.lk/web/images/pdf/rticappeal-097-2017/rtic-97-2017-si-19122018.pdf>
3. (2021)CA/RTI/0004/2021. https://www.rticommission.lk/web/images/pdf/Court_2023/Chamara_Samapath_Vs_SL_Parliament.pdf

Annexel

| Information Appellant and the district | Nature of information | | | Date the information requested | Public Authority from where information was requested | Has sufficient information been received? | Have you appealed to the Designated Officer | Has sufficient information been received? | Have you appealed to the Right to Information Commission | Investigations and recommendations |
|--|-----------------------|----------------|--------------|--------------------------------|---|--|---|---|--|------------------------------------|
| | land | administration | Human rights | | | | | | | |
| 1. A.M. PodiMahathaya Monaragala | | | x | 2022/05/24 | Human Rights Commission of Sri Lanka | Sufficient information provided | - | | | |
| 2. M.P. Maithripala Monaragala | x | | | 2022/05/07 | Divisional Secretariat | Sufficient information provided | - | | | |
| 3. R.M. IshaniNimanka Monaragala | | x | | 2022/06/20 | iuDeuydix.uh | Sufficient information has not been provided | Applicant informed that the request for information will not be taken forward | | | |
| 4. H.L. AchalaPyumantha Monaragala | | x | | 2022/06/23 | Divisional Secretariat | Sufficient information provided | - | | | |
| 5. T.W. Ramyalatha Monaragala | | x | | 2022/07/30 | Divisional Secretariat | Sufficient information provided | - | | | |
| 6. S.H. DinushaSewwandi Monaragala | | x | | 2022/07/30 | Ceylon Electricity Board | Sufficient information provided | - | | | |
| 7. K.A. IsuruEranda Monaragala | | x | | 2022/08/06 | Road Development Authority | Sufficient information has not been provided | Yes | Sufficient information provided | | |
| 8. T.W. NayanaWasanthi Monaragala | x | | | 2022/08/23 | WellawayaPradeshiaSabha | Sufficient information provided | - | | | |
| 9. E.K. NirmalaKumari | x | | | 2022/09/13 | Divisional Secretariat | Sufficient information provided | - | | | |

| | | | | | | | | | | | | |
|-----|--|---|---|--|------------|--|--|---|---------------------------------|-----|----------------------------------|--|
| 10. | Monaragala R.M. Indika Sanpath Monaragala | x | | | 2022/09/14 | District Land Registry | Sufficient information provided | - | | | | |
| 11. | D.M. HarshaGihan Monaragala | x | | | 2022/09/16 | Irrigation Department Divisional Secretariat | Sufficient information provided | - | | | | |
| 12. | A.M. Chandrawathi Monaragala | x | | | 2022/09/20 | ueo.uDivisional Secretariat | Sufficient information provided | - | | | | |
| 13. | S.M. Piyaatilaka Monaragala | | x | | 2022/09/21 | Divisional Secretariat | Sufficient information provided | - | | | | |
| 14. | R.H.M. Prasad Rathnayaka Monaragala | | x | | 2022/09/25 | Road Development Authority | Sufficient information has not been provided | Applicant informed that the request for information will not be taken forward | | | | |
| 15. | M.H. Eminona Monaragala | x | | | 2022/09/26 | Divisional Secretariat | Sufficient information provided | - | | | | |
| 16. | W.M. Piyasena Monaragala | | x | | 2022/10/03 | Divisional Secretariat | Sufficient information provided | - | | | | |
| 17. | K.G. Piyadasa Monaragala | | x | | 2022/10/08 | Defense Ministry | Sufficient information provided | - | | | | |
| 18. | Angamuttu Weerapa Subashini Monaragala | | x | | 2022/11/09 | Department of Registration of Persons | Sufficient information provided | - | | | | |
| 19. | S. Nimali Monaragala | | x | | 2022/11/10 | je,a,jdhDivisional Secretariat | Sufficient information provided | - | | | | |
| 20. | G.D.I.M. Nawarathna Monaragala | | x | | 2022/11/16 | :Ku,ai, Divisional Secretariat | Sufficient information provided | - | | | | |
| 21. | E.M. NithyaJeevanthi Monaragala | | x | | 2022/11/28 | je,a,jdhDivisional Secretariat | Sufficient information provided | - | | | | |
| 22. | K.A. Isuru Eranda Monaragala | x | | | 2022/12/12 | Eia,%slaf.düeckfiajdld³/4hd.h | Sufficient information has not been provided | Yes | Sufficient information provided | | | |
| 23. | K.A. Isuru Eranda Monaragala | x | | | 2022/12/12 | Road Development Authority | Sufficient information has not | Yes | Information not provided | Yes | When appealed to the Information | |

| | | | | | | | | | been provided | | Yes | Sufficient information provided | | Commission, the Designated Officer provided information and the application withdrawn |
|-----|------------------------------------|---|--|--|------------|--|--|---------------------------------------|--|--|-----|---------------------------------|--|---|
| 24. | H.L. AchalaPriyumantha Monaragala | x | | | 2022/12/22 | | | Zonal Education Office | Sufficient information has not been provided | | Yes | Sufficient information provided | | |
| 25. | A.H.M.N.K. Abesinghe Anamaduwa | x | | | 2022/06/13 | | | Zonal Education Office | Sufficient information provided | | - | | | |
| 26. | D.M. Punchi Banda Anamaduwa | x | | | 2022/09/25 | | | Agrarian Services Center | Sufficient information provided | | - | | | |
| 27. | M. Sadasivam Deniyaya | x | | | 2022/06/17 | | | Kotapola Divisional Secretariat | Sufficient information has not been provided | | - | | | |
| 28. | Indula Dias Wijesekara Matara | x | | | 2022.05.11 | | | Weligama Pradeshiya Sabha | Sufficient information provided | | - | | | |
| 29. | Wellabada Hewage Dharmadasa Matara | x | | | 2022/05/26 | | | Welipitiya Divisional Secretariat | Sufficient information provided | | - | | | |
| 30. | Imaduwa Hewage Nandasena Matara | x | | | 2022/05/27 | | | Divisional Secretariat | Sufficient information provided | | - | | | |
| 31. | K.P.V. Kalyani pkaod Matara | x | | | 2022/05/30 | | | Malimbada Divisional Secretariat | Sufficient information provided | | - | | | |
| 32. | W. Anura Matara | x | | | 2022/06/22 | | | Housing Development Authority, Matara | Sufficient information provided | | - | | | |
| 33. | M.W. Amitha Nilanthi Matara | x | | | 2022/06/24 | | | Housing Development Authority, Matara | Sufficient information provided | | - | | | |
| 34. | Inoka Udayangani Matara | x | | | 2022/07/15 | | | Divisional Secretariat | Sufficient information provided | | - | | | |

| | | | | | | | | | | | |
|-----|---|--|---|---|------------|--|--|---|--|--|--|
| 35. | G.P. Chaminda Sampath Matara | | x | | 2022/08/12 | National Housing Development Authority | Sufficient information provided | - | | | |
| 36. | W. Rajitha Niyomi Matara | | x | | 2022/09/02 | Community Water Supply Department | Sufficient information provided | - | | | |
| 37. | Dayananda Sahabandu Matara | | x | | 2022/09/02 | ;syf.dv Divisional Secretariat | Sufficient information provided | - | | | |
| 38. | A.S. Dilini Madumali Matara | | | x | 2022/09/13 | Welipitiya Divisional Secretariat | Sufficient information provided | - | | | |
| 39. | Galbokka Hewage Nihal Sisira Matara | | x | | 2022/10/12 | Public Services Commission | Sufficient information provided | - | | | |
| 40. | S.H. Kusumawathi Matara | | | x | 2022/10/21 | Agricultural Department, Peradeniya | Sufficient information has not been provided | - | | | |
| 41. | R. Amith Priyantha Matara | | x | | 2022/11/27 | Weligama Divisional Secretariat | Sufficient information provided | - | | | |
| 42. | H.B. Sanduni Matara | | x | | 2022/11/28 | Weligama Divisional Secretariat | Sufficient information provided | - | | | |
| 43. | Munaweera Patabedige Samanthi Matara | | x | | 2022/12/08 | Matara Divisional Secretariat | Sufficient information provided | - | | | |
| 44. | P.P. Gunadasa Matara | | x | | 2022/12/15 | Matara Divisional Secretariat | No response from the applicant | - | | | |
| 45. | P.B. Wasantha Nilamani Matara | | x | | 2022/12/22 | fmd.siawēld8 1¼hd,h | No response from the applicant | - | | | |
| 46. | Mahavidana Chaminada Thanuja Alexander Matara | | x | | 2022/12/30 | National Youth Services Council | Sufficient information provided | - | | | |
| 47. | Allan Gamage | | x | | 2023/01/27 | Ministry of | Sufficient | - | | | |

| | Matara | | | | | | Education | information provided | | | | |
|-----|---|---|---|--|------------|--|--|---------------------------------|--|--|--|--|
| 48. | A. G. Deshika Gayani Matara | x | | | 2023/01/28 | | Matara Agrarian Services Center | Sufficient information provided | - | | | |
| 49. | Appu Kapuge Nandawathi Matara | | x | | 2023/01/30 | | Agricultural Department, Peradeniya | No response from the applicant | - | | | |
| 50. | Krishnan Chandralal Galle | | x | | 2022/06/01 | | Sri Lanka Foreign Employment Bureau | No response from the applicant | - | | | |
| 51. | G. H. Somasiri Galle | | x | | 2022/06/01 | | Public Services Commission Ministry of Education | No information received | Information appellant has not taken further action | | | |
| 52. | P. H. R. Premachandra% Galle | | x | | 2022/06/22 | | Educational Director Office | No response from the applicant | - | | | |
| 53. | Arumapperuma Arachchige Sumanadasa Galle | | x | | 2022/07/04 | | Cooperative Development Department | No response from the applicant | - | | | |
| 54. | Munipella Arachchige Sarath Galle | | x | | 2022/07/04 | | Divisional Secretariat | No information received | Information appellant has not taken further action | | | |
| 55. | Wellana Gamage Darmadasa Galle | | x | | 2022/07/25 | | Labour Department | No response from the applicant | - | | | |
| 56. | Damure Vithanarachchi Pushpa Chandrapatha Galle | | x | | 2022/09/13 | | Post Office, Galle Pensions Department District Office | No response from the applicant | - | | | |
| 57. | K. Somasiri Galle | | x | | 2022/10/12 | | BimSaviya | Sufficient information provided | - | | | |
| 58. | Weerawuni Arachchige Malani Galle | x | | | 2022/11/21 | | Survey Department | No information received | - | | | |
| 59. | A. Iresha Ganga | | x | | 2022/11/23 | | Sri Lanka Foreign | No information | - | | | |

| | Kumari Mendis Galle | | | | | Employment Bureau | received | | | | | |
|-----|------------------------------------|---|---|------------|--|--|--|-----|--|-----|--------------------------|--|
| 60. | Palolpitiya Gamag e Piyasena Galle | x | | 2023/02/24 | | Pensions Department | Sufficient information provided | - | | | | |
| 61. | A.H. Shanthi Kumari Kurunegala | x | | 2022/05/31 | | Pensions Department | No response from the applicant | - | | | | |
| 62. | H.M. Chandrawathi Kurunegala | x | | 2022/06/28 | | Divisional Secretariat | Sufficient information has not been provided | - | | | | |
| 63. | Gnanaweera Dissanayaka Kurunegala | x | | 2022/08/08 | | Divisional Secretariat | Sufficient information has not been provided | - | | | | |
| 64. | Darshana Amarathunga Kurunegala | | x | 2022/11/03 | | Office of the ASP, Kurunegala | No response from the applicant | - | | | | |
| 65. | Sarath Padmasiri Kurunegala | x | | 2023/01/02 | | Regional Office, Bank of Ceylon Kurunegala | No response | Yes | No response | Yes | Not summoned for hearing | |
| 66. | Gnanaweera Dissanayaka Kurunegala | x | | 2023/01/13 | | Post Office Kurunegala | Sufficient information has not been provided | Yes | Sufficient information has not been provided | Yes | Not summoned for hearing | |
| 67. | Gnanaweera Dissanayaka Kurunegala | X | | 2023/01/25 | | Divisional Secretariat | Sufficient information has not been provided | - | | | | |
| 68. | Nilanthi Sagarika Gampaha | X | | 2022/05/05 | | Jaffna Pradeshiya Sabha | Sufficient information provided | - | | | | |
| 69. | G.D. Jagath Pushpakumara Gampaha | X | | 2022/05/05 | | National Water Supply Board | Sufficient information provided | - | | | | |
| 70. | Newton Dominic | X | | 2022/06/18 | | wO Hdmkwud; Hdx Y | Sufficient | - | | | | |

| | Gampaha | | | | | h | information has not been provided | | | | | |
|-----|---------------------------------|---|---|--|------------|--|--|---|--|--|--|--|
| 71. | Neetha Nelumdeniya Anuradhapura | | X | | 2022/05/10 | Divisional Secretariat | Sufficient information provided; | - | | | | |
| 72. | K.J.M. Jayathissa Anuradhapura | X | | | 2022-09-30 | Anuradhapura Municipal Council | Informed they have no the requested information and asked to request from the Divisional Secretariat | - | | | | |
| 73. | K.J.M. Jayathissa Anuradhapura | X | | | | Nuwaragam Palatha Divisional Secretariat | Sufficient information provided; | - | | | | |
| 74. | K.M. Chithrasena Anuradhapura | | X | | 2022/12/05 | Anuradhapura Provincial Education Office | Sufficient information provided; | - | | | | |
| 75. | NCDF Kantale | X | | | 2022/12/26 | Land Ministry LRC | Sufficient information provided; | - | | | | |



RIGHT TO LIFE
HUMAN RIGHTS CENTRE

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