

Zacky Ismail v Base Hospital Nintavur

RTIC Appeal (In-Person Hearing)/[1182/2018] Order adopted as part of the formal meeting of the Commission on 18/06/2019.

Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

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

Appellant: Zacky Ismail
Notice issued to: Designated Officer, Base Hospital, Nintavur

Appearance/ Represented by:
Appellant – Zacky Ismail
PA – Dr. Issadeen, Medical Superintendent,

RTI Request filed on	17/09/2018
IO responded on	25/09/2018 (Acknowledgement) 08/10/2018
First Appeal to DO filed on	23/10/2018
DO responded on	08/11/2019
Appeal to RTIC filed on	31/12/2018

Brief Factual Background:

The Appellant by information request dated 17/09/2018 requested the following information.

- 1. The names of the doctors who treated Seeni Mohammed Yakoob since he was admitted to hospital on 08/09/2019 until he passed away on 15/09/2018.*

2. *The names of the nurses and other workers who treated Seeni Mohammed Yakoob since he was admitted to hospital on 08/09/2019 until he passed away on 15/09/2018.*
3. *The admission card and bed head tickets of Seeni Mohammed Yakoob on his admission at the Base Hospital, Nintavur*
4. *The cause of death form of Seeni Mohammed Yakoob*
5. *The Declaration of Death form of Seeni Mohammed Yakoob*
6. *The names of the doctors, nurses and other workers, who worked at the Base Hospital Nintavur since 15/09/2018 the wards and the ward numbers they worked in.*

The IO on 08/10/2018 responded stating that the information was denied on the basis of Section 5(1)(a) and 5(1)(e) of the RTI Act. Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 23/10/2018. The DO responded by sending a letter of acknowledgement. Furthermore by letter dated 08/11/2019 requested the presence of the Appellant for an Inquiry of Appeal. Dissatisfied with the response of the DO the Appellant preferred an appeal to the Commission on 31/12/2018.

Matters Arising During the Course of the Hearing:

The Appellant submitted that the person concerned was admitted to the Nintavur Base Hospital in September for the treatment of a small wound on the leg. He was a farmer. Since he was diabetic, as a precautionary measure he went to the hospital, where he was admitted. After 7 days he died in the ward. The family was informed. The body was released and a Declaration of death was given on the basis that no further action would be taken by the family after receiving the body. The Commission observed that this was not in conformance with the law.

The PA stated that the bed head ticket (BHT) cannot be provided and that other information was reliant on the BHT. Therefore none of the information requested can be provided.

Order:

The Appellant is entitled to receive the requested information. Furthermore the exemptions claimed by the PA namely Section 5 (1) (a) and Section 5 (1) (e) which are reproduced below are inapplicable given that the person concerned is deceased.

(a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the

disclosure of such information or the person concerned has consented in writing to such disclosure;

(e) the information could lead to the disclosure of any medical records relating to any person, unless such person has consented in writing to such disclosure;

However since the PA has not produced the relevant documents we are unable to make an order on the release of the substantive information to the Appellant.

The PA is directed to bring all relevant documents, in its “possession, custody or control” pertaining to the information request for the perusal of the Commission.

The Appeal is adjourned.

Next date of hearing: 17/07/2019
