

**Prof. C Ellankumaran v. University of Jaffna**

RTIC Appeal(In-Person) /233/2018 - Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure) – heard as part of a formal meeting of the Commission on 12.06.2018

**Chairperson:** Mahinda Gammampila  
**Commission Members:** Kishali Pinto-Jayawardena  
S.G. Punchihewa  
Dr Selvy Thiruchandran  
Justice Rohini Walgama  
**Present:** Director-General Piyathissa Ranasinghe

**Appellant:** Prof. C Ellankumaran  
**Notice Issued to:** Designated Officer, University of Jaffna

**Appearance/ Represented by:**

Appellant - Prof. C Ellankumaran  
Public Authority - Mr N Rajavisahar, Deputy Registrar, University of Jaffna

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|------------------------------------|---------------------------|
| <b>RTI Request filed on</b>        | 12.05.2017 and 17.07.2017 |
| <b>IO responded on</b>             | 08.09.2017                |
| <b>First Appeal to DO filed on</b> | 29.09.2017                |
| <b>DO responded on</b>             | No Response               |
| <b>Appeal to RTIC filed on</b>     | 01.02.2018                |

**Brief Background Facts**

The Appellant had requested the following items of information, by information requests dated 12.05.2017 and 17.07.2017

1. Reason for the provisions of PA 6/2004, regarding the ‘Effective date (One year from the date of Charge sheet) of Full Salary and Compulsory Leave’ not being correctly

implemented after the reinstatement took place on 01.01.2015, without break of service of 01.10.2013

2. Reasons for not implementing the provisions of the Establishment Code for University Grants Commission and Higher Education Institutes which clearly stipulated in paragraph 14:2 of Chapter X, regarding placing on Special Leave instead of long term Compulsory Leave
3. Reasons for the continuation to impose of out of bounds (Against Rules of Natural Justice/Rules against Bias/Against Fundamental Rights) for about 3 years and 8 months
4. Reason for allowing Prof. V. Tharmaratnam to take part in the Appellants' matters at the council against the rules of natural justice and against the principles of Administrative Law as he was an offender in the Appellants' promotion process and he was identified and removed by the Senate and Council for malicious under marking in the Appellant's promotion process

Prior to making the second information request, the Appellant received a response from the Vice Chancellor by a letter dated 20.05.2017 stating that since the outcome on the formal inquiry against the Appellant and his case in the Court of Appeal were pending, the requested information could not be provided.

The Appellant received a response from the IO by letter dated 08.09.2017 stating item 2 of the request with regard to the provision of leave could be provided. Dissatisfied with the information provided, the Appellant appealed to the DO on 29.09.2017. As the DO failed to respond, the Appellant preferred an appeal to the Commission on 01.02.2018

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

On questioning the PA with regard to the DO's failure to respond, the PA submitted that the Appellant was requesting for the reasoning behind the PA's decisions and not information per se. The Commission responded stating that section 35 of the Act places a duty on the PA to provide reasons and an ongoing case at the Court of Appeal is not a ground to deny the provision of requested information.

### **Order**

Section 35 of the Right to Information Act No.12 of 2016 places a duty on the PA to give reasons with regard to decisions made.

Section 35 of the Act states as follows;

*“Every officer in any public authority giving a decision which affects any person in any way, shall be required on request made in that behalf by the person concerned, to disclose to that person in writing the reasons for arriving at such decision.”*

The PA is directed to examine the information request and file written submissions explaining the reasons for denying the Appellant the requested information.

The Appeal is adjourned.

Next date of hearing: 31.07.2018

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