

H.L Karunasena v Human Rights Commission of Sri Lanka

RTIC Appeal (In-Person Hearing)/[530/2018]- Order adopted subsequent to the hearing/ consideration at a part of the formal meeting of the Commission on 04.12.2018

Order under Section 32 (1) of the Right to Information Act, No. 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

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

Director-General: Mr. Piyathissa Ranasinghe

Appellant: H.L Karunasena

Notice issued to: Designated Officer (DO), Human Rights Commission (HRC)

Appearance/ Represented by:
Appellant – Absent

PA - W.A.U.S. Wijesooriya, Documentation Officer, HRC
A.S. Nilantha, Investigating Officer, HRC

RTI Request filed on	27.04.2018
IO responded on	No response
First Appeal to DO filed on	23.05.2018
DO responded on	No response
Appeal to RTIC filed on	03.07.2018

Brief Factual Background:

The Appellant by letter dated 27.04.2018 requested the following information pertaining to the Appeal made against the false Investigation Report issued by the Anuradhapura Human Rights Commission of Sri Lanka which included that fundamental rights have not been infringed when in fact fundamental rights were infringed.

1. Whether the PA has/has not received the petition letter sent by the Appellant through the legal officer of the Human Rights Commission Regional Office, Anuradhapura on 28.05.2009.
2. Whether the PA has/has not received a 2nd reminder (under R. P. no. 9629) sent by the Appellant on the above matter?
3. Whether the PA has/has not received the letter dated 20.03.2014 sent by the Appellant addressed to the Chairman of the PA.

4. What are the official steps taken by the PA about the letters if they have been received?
5. Whether the infringement of the Appellants fundamental rights been proven or not by the Documents sent with the letters.
6. Whether the reasons can be given for not investigating the matter by the PA Officials if the fundamental rights infringement has been proven.
7. Whether reasons can be given for not providing the information requested by no 6.
8. Does the PA accept that its officials have neglected their duties by not holding an official inquiry?
9. Does the PA accept that it has become an institution which protects police officers who have infringed fundamental rights?
10. If so, can it be explained extensively?
11. If it cannot be accepted, is the PA ready to take action against the responsible officials if the Appellant proves the matter? (if only the inquiry is held in front of a reputed inquiry officer)

As the IO failed to respond within the time period stipulated under the Act the Appellant on 23.05.2018 lodged and appeal with the DO. As the DO too failed to respond with the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 03.07.2018

Matters Arising During the Course of the Hearing:

The Appellant was absent.

The Public Authority submitted that the information requested relate to year 2014 and thus the documents pertaining to the Appellant's information request has been disposed.

Order:

Notices directed to be sent to the Appellant and the Information Officer (IO)/ Designated Officer (DO) required to be present under and in terms of Section 15 (a) of the RTI Act.

The attention of the Appellant is drawn to the fact that in conformity with the Commission's practices, if either party/both parties to an Appeal does not appear or file written representations on the dates of hearing despite being noticed, either/both party/parties will be reminded that it is an offence to fail to appear in terms of Section 39 (1)(c) of the Act. If such failure is manifested on three consecutive dates, the Commission will proceed to take steps under the Act, including delivering its decision notwithstanding the absence of either/both parties and will inform the parties thereof.

The matter is re-fixed for hearing on 16.01.2019.

The Appeal is adjourned.
