

**K. Prasanna Kumar v Ministry of Hill Country, New Villages, Infrastructure and
Community Development**

RTIC Appeal (In-Person Hearing)/[1551]/[2019]- Order adopted as part of the formal meeting of the Commission on 27/08/2019.

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

Appellant: K. Prasanna Kumar
Notice issued to: Designated Officer, Ministry of Hill Country, New Villages, Infrastructure and Community Development

Appearance/ Represented by:
Appellant –K. Prasanna Kumar
PA – Mrs. T.K. Thuraichamy, Additional Secretary(Information Officer), D. P. M. C. H. Dharmaraja, PMA

RTI Request filed on	11/03/2019
IO responded on	22/06/2019

Brief Factual Background:

The Appellant by information request dated 11/03/2019 requested the following information.

- 1. The development plans from 2014-2019 undertaken by the Plantation Human Development Trust*
- 2. The money allocated to the Plantation Human Development Trust from 2014-2019 and details of expenses*

Subsequently, he had received the information and had proceeded to publish an article in the Thinakkural Newspaper, on 04/08/2019, titled, “*Indian Housing Scheme: Are funds being allocated for the Minister’s food as well?*”

This hearing was held, in response to a written complaint made by him to the RTI Commission on 13/08/2019 with regard to threats made to him by below mentioned individuals following the said publication. His appeal was consequently heard as an urgent request relating to the life and liberty of the requestor-Appellant.

Matters Arising During the Course of the Hearing:

Both the requestor- Appellant and the PA were present at the hearing. Explaining his complaint in detail, the requestor-Appellant explained that he had written an article in the Thinakkural Newspaper, on 04/08/2019 titled, “*Indian Housing Scheme: Are funds being allocated for the Minister’s food as well?*” utilizing information received from the IO. Pursuant to this article, the PRO of the Ministry, Mr. Palani Vijayakumar spoke to him on 05/08/2019 on his private telephone number and threatened him in support of the Minister, regarding the article he had written.

Thereafter, the Minister of Hill Country, New Villages, Infrastructure and Community Development, Palani Digambaram threatened him using abusive language on 06/08/2019, through a telephone conversation. Furthermore, the Minister’s Joint Secretary, Ganapathy Naguleshvaran, also contacted him on 06/08/2019 and was continuously passing threats. The requestor - Appellant presented a small clip of these conversations which he had recorded, to the Commission, saying that his photographs were circulated on Facebook and that he had also been attacked on social media by members belonging to the Minister’s political party. The Free Media Movement and the BBC had drawn attention to the threats made to the said requestor-Appellant, by way of newspaper articles/interviews, featuring the Appellant on 09/08/2019 and 12/08/2019 respectively.

The PA responded saying that it wished to distinguish between the Minister and the Ministry. The representative for the PA stated that she was present to represent the Ministry and not the Minister. Furthermore it was submitted that the said PRO and Coordinating Secretary were the Minister’s personal staff and were not connected to the Ministry. The PA also stated that it could not speak to the veracity of the Appellant’s claims.

Order:

The allegations made by the RTI requestor amount to one of the most shocking claims of intimidation that have been brought to the notice of this Commission since the operationalising of the RTI Act in February 2017. Effectively the individuals who are named as responsible for the said intimidation have not denied the specific allegations leveled against them before this Commission. Instead, the PA has stated, through its representative, that it had no knowledge of the incident. In the absence of any contesting claims made by the Ministry in representing the Minister, this Commission observes that the serious complaint made by the requestor stands uncontested. Further, it is evident that a distinction as sought to be made by the Public Authority cannot be made between the Minister and the Ministry as the said Minister is vested with the portfolio of the relevant Ministry and therefore is responsible.

By virtue of the powers vested in it under and in terms of the RTI Act, this Commission takes a stern position on any allegations of complaints of intimidation or threats made against citizens for filing RTI applications. Such action can lead to the RTI Commission determining to proceed on a notice of prosecution against responsible persons under Section 39 (1)(a) of the RTI Act.

Section 39 (1) (a) of the RTI Act states as follows.

39. (1) Every person who—

(a) deliberately obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information;...

commits an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

We have questioned the requestor as to whether the alleged intimidation against him by the individuals named by him is continuing and has informed that, this has ceased. In the above circumstances, we will keep this matter under inquiry for monitoring and intervention in terms of the full force of the law if that is so warranted.

Order is conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).
