

M. Jayathunga v Human Rights Commission of Sri Lanka (HRCSL)

RTIC Appeal (In-Person Hearing)/228/17- Order adopted subsequent to the hearing held as a part of the formal meeting of the Commission on 26.06.2018.

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

Director-General: Piyathissa Ranasinghe

Appellant: Mr. M. Jayathunga
Notice issued to: Dr. Deepika Udagama Chairperson/ Designated Officer (DO) HRCSL

Appearance/ Represented by:
Appellant – Mr. M. Jayathunga
PA - A S Nilantha
W A U S Wijesuriya

Brief Factual Background:

The Appellant by information request 22.07.2017 dated requested the inquiry proceedings of complaint No HRC/4332/15 lodged with the PA and the certified copies of the final recommendations in relation to the said complaint. The information request was acknowledged on 09.08.2017 however there was no response in regard to refusing or denying the substantive information requested. The Appellant thereafter lodged an appeal with the DO on 11.09.2017 to which a response was not received within the time frame stipulated under the Act. Thereafter the Appellant preferred an appeal to the Commission on 08.10.2017.

Matters Arising During the Course of the Hearing:

The Appellant submitted that he had lodged a complaint with the PA in relation to the breach of conditions of a tender awarded by a state institution to the Appellant. The Appellant sought the relevant inquiry proceedings and recommendations made in relation to the said complaint.

The PA submitted that once a complaint is lodged before the PA, an investigation commences and that, depending on the facts of the case, there may or may not be sufficient grounds to allege a fundamental rights violation. It was clarified that a significant proportion of the complaints relate to/lead to criminal cases and therefore it has been a long standing practice on the part of the PA that information in these matters are not automatically issued to third parties. However a complainant may request the proceedings of an inquiry conducted in pursuance of a complaint made by himself/ herself. The PA submitted that information is given in these instances though

there is some delay given the considerable number of complaints being lodged before the PA. In this particular instance, it was stated that there was no objection to releasing the information requested.

Order:

The PA is directed to provide the information requested (ie; proceedings of the inquiry on complaint No HRC/4332/15 and recommendations thereto).

The Appeal is concluded. Order is directed to be 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).
