

මගේ අංකය
எனது இல.
My No.

ඔබේ අංකය
உமது இல.
Your No.

Article 12C(1)



දිනය
திகதி
Date.

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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

16.08.2019

Complaint No: HRC/722/16

H.R.D. de Soyza
4/V/2/C, Haige Road
Beltona Lane
Colombo 04.

Complainant

Vs.

01. Principal
Vishaka Vidyalaya
Colombo 05.

02. Secretary
Ministry of Education
"Isurupaya"
Battaramulla.

Respondents

The facts in brief of the complaint are as follows. The complainant is a Commodore of the Sri Lanka Navy transferred to Colombo with effect from 30th October 2014, which is confirmed by document dated 10th June 2015 issued by the Director of Naval inquiries, addressed to the Principal, Vishaka Vidyalaya, Colombo. This is further confirmed by a letter dated 09th June

2015 issued by the Senior Assistant Secretary, Acting for the Commander of the Navy, Addressed to the Principal, Vishaka Vidyalaya.

The Complainant had taken up residence at 43/B/2/C, Haige Road, Colombo 04, which is confirmed by the lease agreement dated 10th July 2015, duly signed and attested by Mr. S. Gunasekara, Notary Public. The Grama Sevaka of the Milagiriya Division had issued a certificate of residence dated 25.06.2015 confirming that the Complainant is residing at the said address.

The complainant had submitted an application dated 26.06.2015 to Vishaka Vidyalaya to have his Daughter admitted to Grade 1. He had submitted his applications under the category of "Government servants transfer category".

The complainant states that notwithstanding the fact that he is entitled for the full 100 marks for admission governing the selection criteria, the 1st respondent Principal did neither call him for an interview nor communicate to him the status of his application.

The complaint refers to some discussions he have had with the 1st respondent, Principal of the Vishaka Vidyalaya. We have taken note of that. However, we are of the opinion that it is sufficient to confine the correctness or otherwise of the conduct of the Principal to the Circular which was operative and the relevant time (23/2013) dated 23.05.2013.

The Commission informed parties to be present at an inquiry to be held on 26.06.2017. The 1st respondent by letter dated 26.06.2017 informed this Commission, her inability to be present at the inquiry, as she has to attend a special meeting at the Ministry of Education. This Commission thereafter held an inquiry on 14.08.201, having notified the relevant parties. On this day the petitioner was present and represented by an Attorney-at-Law. The 1st respondent, Principal of Vishaka Vidyalaya was absent and unrepresented. There was no communication with regard to the inability of the 1st respondent to be present at the inquiry. The 2nd respondent was represented by Ms. J.K.C. Maheshika, Assistant Director (National Schools) and Assistant Education Director Mr. G.A.V.P. Nishantha, Attorney-at-Law.

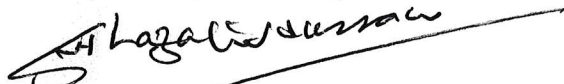
The representatives of the 2nd respondent, informed that they had not received a copy of the complaint. This Commission considers this to be unsatisfactory and unacceptable. At the inquiry it was revealed that the complainant had not been informed as to whether his application has been accepted or rejected. In the circumstances he had prepared two appeals. The copies of which were submitted for the perusal of the Commission. The 1st respondent by her letter dated 25.06.2018 addressed to the commission has informed that the applicant has failed to establish his residence as required by the Circular. The 1st respondent in her said communicate further has stated that there was a 2nd application in respect of the same child from a different address, as such the applications cannot be accepted, for failing to comply with the required Circular as the child does not possess the required qualifications, as such did not warrant the applicant to be called for an interview. I shall now examine the provisions of the circular which was operative and relevant at the material time.

Section 4.5 of Circular number 23/2013 dated 23.05.2013 permits parents and or guardians to submit applications falling within different categories. The 1st respondent's finding, that two applications cannot be submitted is erroneous as she has failed and or refused to interpret and understand the clear meaning set out in the Circular. Further, the 1st respondent's position that the applicant had not submitted documents to establish his residence is incorrect. The Lease agreement referred to above, the Grama Seva certificate duly authenticated by the Divisional Secretary and the letter issued by the Daham Pasal, are ample and sufficient proof to establish the residence. The Commission finds that the 1st respondent has failed and neglected to examine the said documents. It is further noted that the distance from the applicant's residence to the school is 300 meters.

Taking into consideration the above facts, the Commission finds that the 1st respondent had violated the fundamental rights of the complainant attend of his child Hiddadura Sanuli Dulsadi guaranteed and protected under Article 12(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

This Commission hereby directs that the 1st and 2nd respondent to take immediate steps to admit H.S. Dulsadi de Soyza to Vishaka Vidyalaya, Colombo and place her in the appropriate Grade as at the date of this recommendation.

The Commission draws the attention of the respondents to Section 15(7) of the HRCSL Act. The 1st Respondent is directed to report to the HRCSL on the action taken to implement Recommendation within one month of the date of this Recommendation.


Commissioner
Human Rights Commission of Sri Lanka.


Commissioner
Human Rights Commission of Sri Lanka.

M/A

Commissioner
Human Rights Commission of Sri Lanka
No. 14, R.A. De Mel Mawatha,
Colombo 04.

Commissioner
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