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**இலங்கை மனித உரிமைகள் ஆணைக்குழு**  
**HUMAN RIGHTS COMMISSION OF SRI LANKA**

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My No. }

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Your No. }

දිනය } 2019-11-05  
திகதி }  
Date }

**HRC/02/19, HRC/272/19**

Petitioner

: ✓ Ms. N.T. Ismath Sawal  
3/1, Kassapa Road  
Thimbirigasyaya  
Colombo 05.

Respondents

- : 01. ✓ The Principal  
Royal College  
Colombo 07.
02. ✓ Secretary  
Ministry of Education  
"Isurupaya"  
Battaramulla.
03. ✓ Secretary  
Board of Selection – Grade I Admission  
Royal College – Colombo 07.
04. ✓ Chairman  
Appeal & Objection Board  
Royal College, Colombo 07.

**Facts of the Complaint**

The complaint dated 31<sup>st</sup> December 2018 was made at Human Rights Commission of Sri Lanka and registered the under number HRC/272/19.

The Complainant Mrs. N. Tuwan Ismath Sawal of 3/1, Kassapa Road, Thimbirigasyaya, Colombo 05, has applied to Grade 01 (Tamil Medium) of Royal College, Colombo 07 based off the Circular 24/2018 sent out by the Ministry of Education concerning the eligibility for application.

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14, ஆர்.ஏ.த. மேல் மாவத்தை, கொழும்பு - 04.  
14, R. A. De Mel Mawatha, Colombo - 04.

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The Complainant further says in her complaint that the panel who conducted the relevant interview failed to give consideration to the material submitted as per the Circular 24/2018 and acted in an unfair and prejudicial manner.

The Complainant seeks the intervention of HRCSL in this regard and to announce that her application to admit her child Ayaan Ahamed to Grade one of Royal College be given effect to.

The Commission held inquiries in this regard with relevant parties on 11<sup>th</sup> February 2019 and 08<sup>th</sup> April 2019.

The basis for this application to Royal College was made on the ground of proximity of residence, which is a primary consideration for admittance as per the Circular (Regulation 6.0). Although the petitioner lives within a distance of 1Km from Royal College, their application was denied. Interestingly, applicants who live further away were granted admission. It is claimed by the petitioner that although they possess the required credentials for the admission they were unfairly denied the opportunity of registering their son Ayaan Ahamed. It is further claimed that this was due to the consideration of irrelevant details that were outside the realm of the Circular and should not have been a deterrent.

Evidently, the issue at hand would seem to revolve around the confirmation of a legal relationship. The petitioner currently resides at the above said address on the ground floor of a house owned by her foster brother Mohamed Shibly Ibrahim. However, by a Special Power of Attorney, the father Mr. Meera Mohideen Mohamed Ibrahim is given the requisite ability to deal with the property. Mr. M.M.M. Ibrahim would thereby appear to be the chief occupant of the house.

It is important to note however that Mr. M.M.M. Ibrahim is the foster father of the petitioner and it is on this ground that the admission has been denied. That is, the requisite link to the residence by the petitioner is not evident and therefore does not satisfy the close proximity requirement.

The petitioner has provided details concerning the residency at said location citing the lease agreements as within their possession too. Further the house is termed a family home allowing for such an accommodation. There appears to be no other competing interest to the land and neither is there a prior claim for it. This in turn validates the lease agreements.

Additionally, much of the required documentation was provided by the petitioner to the best of her abilities, most of which appear to have been disregarded by the interview panel as well as the appeal panel. A score of "0" was given instead of the "30" that should have been awarded for the clear display of residence within the range required.

The consistent claim made by the respondents concerned the fact that the petitioner was not legally adopted. This, as claimed by the respondents does not sit with the depiction of a family home as per the Circular and hence could not satisfy the residential requirement. This prompted the Human Rights Commission to request for affidavits confirming the likelihood of a relationship of father and daughter between the parties.

### **Observations**

It appears that the affidavits provided by multiple parties including Mohamed Nizam Kariapper (AAL) (PC), Mohamed Shibly Ibrahim and Fathima Silmiya Ahamed Riyaz confirm the status of the petitioner as daughter of Mr. M.M.M. Ibrahim.

Additionally, it is questionable as to why this is even a consideration when the Circular does not require such an affirmation but merely a requisite proof of residence. The lease agreements would prove valid for such a requirement. Despite this the petitioner has provided other ample details to confirm proof of residence.

It is noteworthy that other applicants were afforded another date to submit documents required which the petitioner was not given and this would appear to be blatant discrimination.

In a school admission case: *Gayani Geethika Vs. Dissanayake SC (FR) 35/2011* pertaining to admission under the proximity category. It was held that the cumulative effect of all the documents submitted should be considered and assessed carefully in order to establish the genuineness of the residence of the applicant.

Furthermore, in another case pertaining to the proximity category: *Pushparajan Rohan Vs. Kariyawasam SC (FR) 06/2017*, it was held that it was arbitrary for the school not to grant any marks, merely because one of the documents listed to verify proof of the residency had not been submitted.

It would appear that the grading on the part of the interview panel was against relevant considerations given by the Circular (as given in Regulation 6.1). At the interview held to inquire into the matter, bare consideration was given to the actual issue and the interview conducted in an arbitrary fashion and a score of "0" deemed valid. This would appear to be in direct contravention to the above established case law.

In light of the above it can be seen that discrimination was at play when considering the application made by the petitioner. Furthermore, instead of investigating the issue, unnecessary considerations were made in order to deny the admission of Ayaan Ahmed into Royal College.

**Conclusion**

According to Article 12 of the Constitution, all persons are entitled to the right to equality. Discrimination will thereby not be tolerated in any form. Clearly the interview panel conducted proceedings in an unfair and unnecessary manner contravening existent case law that requires careful consideration of documents. Therefore the Respondents should be held accountable for the infringement of a fundamental right of the petitioner.

**Recommendation**

The relevant marks that should have been obtained at the interview must be given to the petitioner and her son granted admission to Royal College.

As per Section 15(7) of the HRCSL Act, the 1<sup>st</sup> Respondent should report to the HRCSL on the action taken to implement the Recommendation within the month of the date of this Recommendation.



Ramani Muttetuwegama  
Commissioner  
Human Rights Commission of Sri Lanka.



Ambika Satkunanathan  
Commissioner  
Human Rights Commission of Sri Lanka.

**Commissioner**

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

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