ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව
இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

මගේ අංකය எனது இல. My No.

ඔබේ අංකය உமது இல. Your No.

දිනය திகதி Date 2020 - 12 - 03

Complainant: Akhri Ameer, No. 37B, Boswell Place, Colombo 06

Complaint No.: HRC 2404/2018

Respondents: 1) Mr. Faiszer Mustapha - Minister of Sports

2) Mr. H. M. D. P. Herath - Director General, Department of Sports Development, No. 09, Philip Gunawardena Mawatha, Colombo 07.

This application came up for determination by the Human Rights Commission pursuant to a complaint dated 04. 10. 2018 made by Akhri Ameer, alleging that the decision taken by the 2nd Respondent to have the complainant banned from officiating as a Judge at Sri Lanka Aquatic Sports Union (SLASU) artistic swimming competitions, is a violation of his Fundamental Rights *inter alia* Right for Employment.

For purpose of clarity, we reproduce the relevant paragraphs in the said letter.

> *"ඒ අනුව, එම තරඟාවලියේ විනිශ්චයකරුවෙකු වශයෙන් කටයුතු කරන ලද අක්‌රි අමීර් මහතා හට ශ්‍රී ලංකා ජල ක්‍රීඩා සංගමයේ විනිශ්චයකරුවෙකු වශයෙන් කටයුතු කිරීම තහනම් කිරීමට 1973 අංක 25 දරන ක්‍රීඩා පනතේ 30 වැනි වගන්තිය ප්‍රකාරව ගරු පළාත්සභා, පළාත්පාලන හා ක්‍රීඩා අමාතඡතුමා වෙත පැවරී ඇති බලතල අනුව නියෝග ලබා දී ඇති බව කරුණාවෙන් දන්වමි.*
>
> *ඉහත සඳහන් නියෝගය අනුව වහාම ක්‍රියාත්මක වන පරිදි මෙම අක්‌රි අමීර් මහතා විනිශ්චයකරුවෙකු වශයෙන් කටයුතු කිරීම තහනම් කොට, ඒ බව කඩිනමින් මා වෙත දැනුම් දෙන ලෙස වැඩිදුරටත් දන්වමි."*

This Commission had the benefit of examining the said document, which has been addressed by the 2nd Respondent to the Secretary of Sri Lanka Aquatic Sports Union, copied to the complainant.

The Complainant being aggrieved by the decision communicated to him by the above letter had preferred an appeal dated 03. 10. 2018 to the 1st Respondent, to which he has had no response to date.

This Commission is called upon to determine whether the conduct of the 2nd Respondent banning the Petitioner from officiating at swimming meets as set out above, violate his Fundamental Rights.

The Human Rights Commission held an inquiry into this matter on 30. 11. 2018. The Petitioner was represented by an Attorney-At-Law, and the Respondents were represented by R. B. Wickramasinghe, Assistant Director, Department of Sports Development. At the conclusion of inquiry, parties were directed to file written submissions.

It transpired in evidence that the Petitioner was not informed of the inquiry referred to in the communication dated 13. 09. 2018, and as such did not participate.

At the inquiry before the Human Rights Commission, it transpired that Shiyanka De Silva, Rivinka De Silva and TharíniPerera, aggrieved by their non-selection to represent Sri Lanka in an international swimming meet, had complained to the sports body that Akhri Ameer was biased.

It further transpired in evidence that notwithstanding the objections raised with regard to the selection of swimming athletes, the 1st Respondent had authorized the selected athletes to participate at the international meet held in Budapest, Hungary from 18th – 22nd July 2018. It is to be noted that the result for the said selection were accepted both by the international and local judges.

It also transpired in evidence that some of the contestants who were not selected to represent Sri Lanka in an international swimming meet, had filed a Fundamental Rights Application bearing No. SCFR/244/2018 against the 1st Respondent.

The Assistant Director of the Department of Sports Development in giving evidence before the Commission stated that the Complainant, is a swimming coach in Artistic Synchronized Swimming, and as such he cannot officiate in swimming meets. He relied on the provisions of Section 30 of the Sports Law no. 25 of 1973 and the regulations thereof.

Section 30 of the said Law reads as follows;

> *"Any person who is aggrieved by any decision or action of a registered National Association of Sports may, in accordance of the succeeding provisions of this law, appeal to the minister against such decision or action and the Minister's decisions on such appeal shall be final and conclusive."*

On an examination of the regulations promulgated in terms of the Sports Law published in the Gazette Extraordinary 1990/23 dated 27. 10. 2016, we find no regulations preventing and/or prohibiting swimming coaches officiating at swimming meets. Further, Section 30 is not applicable.

Having examined the relevant law and the regulations, this Commission has to ascertain whether the Fundamental Rights of the Complainant complained of has been violated.

The decision of the 2nd Respondent referred to above amounts to a permanent bar from the Complainant officiating at swimming meets.

Article 14 (1) (g) of the Constitution reads as follows;

> *"Every citizen is entitled to –*
>
> *the freedom to engage by himself, or in association with others in any lawful occupation profession, trade, business or enterprise."*

Conclusion

This Commission having examined the evidence placed before us and the relevant provisions of the law find that the action of the Respondents, more so by the 2nd Respondent imposing a permanent ban on the Complainant from officiating at swimming meets is arbitrary, and a violation of his Fundamental Right, guaranteed by and entrenched in Article 14 (1) (g) of the Constitution.

Recommendation

(a) The Commission hereby recommends that the Respondents take immediate steps to lift the ban imposed on the Petitioner, communicated in the letter dated 13. 09. 2018.

H. Ghazali Hussain
Commissioner
Human Rights Commission of Sri Lanka
Lanka

Ramani Muththettuwegama
Commissioner
Human Rights Commission of Sri