

In the Human Rights Commission of the Democratic Socialist Republic of Sri Lanka

In the matter of a complaint to the Human Rights Commission of Sri Lanka under and in terms of the Human Rights Commission of Sri Lanka Act No. 21 of 1996

- 1) The Centre for Policy Alternatives (Guarantee) Ltd, No.24/2, 28th Lane, Off Flower Road, Colombo 07.

- 2) Dr. Paikiasothy Saravanamuttu,
No. 03, Ascot Avenue,
Colombo 5.

Complainants

Vs.

- 1) Independent Television Network (ITN),
Wickramasinghepura, Battaramulla.

- 2) Rosmand Senaratne,
Chairman,
Independent Television Network (ITN),
Wickramasinghepura,
Battaramulla.

Respondents

On this 12th day of August 2013

To: The Commissioners of the Human Rights Commission of Sri Lanka

- 1) The 1st Complainant, The Centre for Policy Alternatives (Guarantee) Ltd (CPA) is a corporate citizen of Sri Lanka, a body incorporated under the laws of Sri Lanka and is made up of members, more than three-fourths of whom are citizens of Sri Lanka and is entitled to make this application in terms of the provisions of the Human Rights Commission of Sri Lanka Act, No 21 of 1996.
- 2) The 2nd Complainant, Dr. Paikiasothy Saravanamuttu is a citizen of Sri Lanka and the Executive-Director of the 1st Complainant above-named.
- 3) The Independent Television Network (ITN) inaugurated its transmissions on or about 13th April 1979 as a private Company. **However** it was taken over by the Government of Sri Lanka by **Gazette Extraordinary No. 39/4 published on 05th June 1979 and Gazette Extraordinary No. 39/5 published on 05th June 1979** issued in terms of the **Business acquisition Act No. 35 of 1971**.

It was declared a Government Owned Public Company on or about **27th April 1992** under the provisions of the **Conversion of Government Owned Business Undertakings Into Public Corporations Act No. 23 of 1989** by which the Secretary to the Treasury became the solitary shareholder for and on behalf of the State.

A copy of Gazette Extraordinary No. 39/4 published on 05th June 1979 is annexed herewith and marked as **P1 (a)**.

A copy of Gazette Extraordinary No. 39/5 published on 05th June 1979 is annexed herewith and marked as **P1 (b)**.

A document titled "Independent Television Network Ltd Annual Report 2002" which sets out the Statutory Structure of ITN and which was obtained from the official website of the Treasury (<http://www.treasury.gov.lk/FPPFM/ped/pdfdoc/independenttelevisionnetworklimited/itnl%20ar2002.pdf>) is annexed herewith and marked as **P1(c)**.

- 4) This complaint is made, further to the Sinhala language news broadcast of ITN on Sunday 14th July 2013 which was aired at 7:00pm.

A compact-disc (CD) which contains the news broadcast is annexed herewith and marked as **P2 (a)**.

- 5) A segment on this news bulletin stated that the CPA and its Executive Director, Dr. Paikiasothy Saravanamuttu, organized a meeting in Ampara on 14th of July 2013 to further the interests of the Liberation Tigers of Tamil Eelam (LTTE) [a group proscribed by the laws of Sri Lanka] and that the said meeting was cut short due to the intervention of Buddhist clergy and public of the area.

A compact-disc (CD) which contains an edited clip of the news broadcast is annexed herewith marked **P2 (b)**.

- 6) No representative from ITN contacted CPA, its Executive Director or any other staff member in order to verify the above facts relating to the above news item and/or obtain comment.
- 7) Furthermore, the visuals used in the news item did not show any staff member of CPA or the Executive Director or any banner or poster naming or in any way representing CPA or the Executive Director as the organizers of the meeting or been even in attendance at the meeting.

- 8) The Complainants further state that no employee of CPA or its Executive Director organized or was present at any meeting in Ampara on Sunday 14th July 2013.
- 9) The language used by ITN in its news item was incendiary and it intentionally distorted the facts with the aim to arouse public opinion against CPA and its Executive Director and lower their standing in the eyes of the public.
- 10) The Complainants state that the unfair, arbitrary and vicious reporting by ITN infringes the following Fundamental Rights guaranteed under the Constitution:
- Article 14(1)(g) - the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise.
 - Article 12(1) - All persons are equal before the law and are entitled to the equal protection of the law.
 - Article 12(2) - No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, **political opinion**, place of birth or any one of such grounds.
- 11) In the above circumstances, the 2nd Complainant on his behalf and on behalf of the 1st Complainant, sent a letter to ITN and its Chairman, Rosmand Senarathne on 16th July 2013. In the said letter, the 2nd Complainant:
- a. Categorically denied the contents of the said news item.
 - b. Requested ITN and its Chairmen to correct the said erroneous news item and issue an apology to both CPA and its Executive Director and to give such correction and apology the same prominence that was given to the original news item.

Copies of the said letter dated 16th July 2013, in Sinhala, Tamil and English are annexed herewith and respectively marked as **P3 (a)**, **P3 (b)** and **P3 (c)**.

Copies of the Registered Post Articles of the said letter are annexed herewith marked as **P4**.

- 12) The above letter requested that remedial action should be taken within one (01) week from the date of the letter. However, up until the point this Complaint was filed, no action whatsoever has been taken to remedy the said erroneous news item or to apologize to CPA and its Executive Director.
- 13) The Complainants state that the conduct of the Defendants after receipt of the letter dated 16th July 2013 is indicative of their *mala fide* intentions and constitutes a continuous violation of the Complainants Fundamental Rights. Furthermore, in the given circumstances, further infringements of the Fundamental Rights of the Complainants and/or others who are perceived as being unsupportive of the Government appear imminent, having regard to the facts and circumstances in which this complaint is made.
- 14) The Complainants further state that this news item has to be viewed in light of the previous vicious and baseless reporting by ITN - against the Complainants. Evidence of such reporting can be produced on request and/or as necessary.
- 15) On previous occasions when the Human Rights Commission of Sri Lanka (HRCSL) held consultations with civil society organizations, the Complainants have brought to the attention of the HRCSL that the vicious and inaccurate news reporting of ITN - and other media organizations which are directly funded by tax payer money-causes grave prejudice to the Complainants.
- 16) The aforesaid actions of ITN as a State-owned and effectively Government-controlled institution demonstrate and/or strongly indicate and/or reflect

continuing infringement and/or imminent infringement and/or further imminent infringement of Fundamental Rights guaranteed to other persons (including civil society activists and organizations) likely to be perceived as being critical and/or unsupportive of the Government under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution.

17) In the circumstances, this Complaint is made not only to address the infringement and imminent further infringement of the fundamental rights of the Complainants, but also thereby to secure steps and measures that would prevent the future infliction of such infringements on other persons who are likely to be similarly aggrieved.

THEREFORE the Complainants respectfully urge that the Human Rights Commission of Sri Lanka:

- a) Issue summons on the 2nd Respondent Rosmand Senarathne, Chairman of ITN to attend and appear before the Human Rights Commission to explain under oath the full circumstances of and reason for the said publication complained of hereby;
- b) Inquire into and investigate this complaint that the actions of ITN constitute infringement, continuing infringement and imminent further infringement of Fundamental Rights guaranteed to the Complainants under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution;
- c) Make a finding and declaration that the said conduct of ITN has infringed the Fundamental Rights of the Complainants guaranteed under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution;
- d) Recommend that the said act of ITN which gave rise to the infringement of the Complainants' fundamental rights guaranteed under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution be addressed by:

- a. Issuing a categorical public apology from ITN to CPA and its Executive Director, Dr. Paikiasothy Saravanamuttu;
 - b. Rectifying the erroneous news bulletin of 14th July 2013 in its next news broadcasts in the Sinhala, Tamil and English News Bulletins giving it the same publicity as the original broadcast; and
 - c. Publish an apology on the 'homepage' of the ITN website: www.itnnews.lk
- e) Recommend that when ITN is reporting on the activities of CPA and/or its Executive Director in the future, the prior comment of the Executive Director or any other responsible officer of CPA be ascertained;
 - f) Recommend that disciplinary proceedings be instituted and fully prosecuted against all persons accountable, responsible and involved in causing the publication of the said publication complained of hereby;
 - g) A sum of Rs. 10 million be paid to the Complainants by the Respondents as damages for damage and/or prejudice caused by the malicious, irresponsible and unprofessional reporting by ITN seeking to cause harm and prejudice to the CPA and its Executive Director through actions constituting and involving infringement of the Complainants' fundamental rights guaranteed under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution;
 - h) Inquire into and investigate this complaint that the actions of ITN as a State-owned and Government controlled institution demonstrate and/or strongly indicate and/or reflect continuing infringement and/or imminent infringement and/or further imminent infringement of Fundamental Rights guaranteed to other persons (including civil society activists and organizations) likely to be perceived as being critical and/or unsupportive of the Government under and in terms of **Article 12(1), 12(2) and 14(1)(g)** of the Constitution;

- i) Recommend that when ITN, a State-owned entity is reporting on the activities of civil society activists and/or groups and/or organizations, it should put in place and continuously implement genuine and transparent mechanisms to ensure that their respective positions and/or views are also ascertained prior to publication of any news item(s) likely to adversely affect such activists and/or groups and/or organizations; and
- j) Grant such further and other reliefs as may transpire to be necessary, which the Complainants shall request from the Human Rights Commission upon inquiry and investigation of this complaint.

On behalf of the Complainants –

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N.I.C. Number
Director
The Centre for Policy Alternatives
(Guarantee) Ltd.

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N.I.C. Number
Director
The Centre for Policy Alternatives
(Guarantee) Ltd.

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Dr. Paikiasothy Saravanamuttu
N.I.C. Number