

[Leak of personal information of civil claimants by public officials]

Rectification Human Rights Violation Committee 2 decision on Complaint

Case : 13Jinjeong0644600 decided June 24, 2014

Facts

Petitioner complained that Defendants at the Inspector Office of the Ministry of Science, ICT and Future Planning (MSIP) forwarded his petition dated August 8, 2013 via “Hear Citizens’ Voice” to BB Company. Petitioner called for the improvement of regional information assessment operated by BB Company. Petitioner said BB Company took advantage of reply advertisement, and so market leader’s wrongful practices should be rectified.

Without paying attention to the particular relations between Petitioner and the system operator, Defendants advised Petitioner’s name, phone number and complaints to BB Company without obtaining Petitioner’s prior consent thus violating the freedom of his private life.

Reasoning

The MISP officials have dealt with petitions only related with the government and of the public nature. In this case, such petition as related with the operator-user disputes or the private sector is beyond the scope of MISP capacity under the Electric Communication Business Act. So the MISP officials used to forward petitions of the private nature to the business operators concerned on a limited basis. BB Company is the concerned party in this case,

and is informed of the facts at issue and the name and address of Petitioner.

Defendants argued that this kind of provision of personal information is in accordance with Articles 15(1) ii and iii of the Personal Information Protection Act where it is unavoidable so as to observe legal obligations, or so that the public institution may carry out the work under its jurisdiction as prescribed by statutes. Defendants notified Petitioner via ARS of forwarding the relevant petition beyond MISP's authority to the concerned party.

According to the MISP CS Center Guidance, Defendants were required to obtain prior consent from Petitioner because it was not certain whether the petition requesting redress could be forwarded to the broadcasting service or electric communication business operator. Therefore, it is in breach of Article 17 of the Constitution that Defendants failed to obtain the consent of Petitioner, and made Petitioner's personal information informed to BB Company, other concerned party in this case.

In conclusion, it is necessary to hold Defendants responsible for breach of human rights, and to prevent similar cases from taking place again in the future.

Conclusion

The Rectification Human Rights Violation Committee 2 of NHRCK has decided pursuant to Article 44(1) i of the National Human Rights Commission Act that:

The Minister of Science, ICT and Future Planning shall

1. give Defendants disciplinary warnings;
2. take caution in classifying directly processed civil petitions and business-related civil petitions, and observe the procedure to obtain the consent of data subjects; and
3. implement the education programs regarding effective job performance for the officials in charge of civil petitions.