

REF.NO:-DPO/DEC/6

IN THE MATTER OF:-

Complainant

VERSUS

Respondent

This office has received a complaint on 18.02.11 by way of letter from anonymous data subjects, claiming that the respondent has allegedly emailed symbolic pictures of a religious nature to several persons using their email addresses without their authorisation. In so doing, respondent has allegedly divulged the private email addresses allocated to complainants by the organisation they are working for to unauthorised individuals copied in the same email.

The complainants have further alleged that their privacy rights have been infringed. An enquiry was thus opened to investigate any potential disclosure of personal data to unauthorised third parties.

In accordance with section 5(f) of the Data Protection Act, the Data Protection Commissioner has the power to investigate any complaint or information which gives rise to a suspicion that an offence under the Act may have been committed. Since complainants are anonymous, this enquiry is triggered under the legal power of the Commissioner to investigate **any information giving rise to a suspicion that an offence may have been committed.**

By way of a written declaration dated 24.03.11, respondent has confirmed to have sent the email in question from his employee mailbox to various recipients. However, he also stated having done so with no malicious intention to harm anybody since he did it according to his religious beliefs and as a well-wisher. He further stated that, in his opinion, some people or

one of the email receivers are attempting to put his professional career at stake by making an anonymous complaint. He further stated that he will cooperate fully with this office in its investigation.

A further statement was taken from respondent on 01.08.11 wherein he stated that he has been made aware of the relevant provisions of the Data Protection Act with regard to this complaint and will ensure in the future that any email sent by him will be in conformity with the Data Protection Act. He was further satisfied with the way the enquiry was conducted.

The Data Protection Commissioner has decided as follows:-

It has been proven beyond reasonable doubt that respondent was not aware of the implications of sending email addresses of third parties to unauthorised recipients and there was no mala fides involved in his action. The enquiring officers have informed respondent of the legal implications involved in sending personal data of data subjects to other parties. In accordance with section 24 of the Data Protection Act, respondent is further reminded of his duty to obtain the express consent of a data subject before using the latter's personal data.

Failure to abide by the provisions of the Data Protection Act may result in prosecution by this office.

Mrs Drudeisha Madhub

Data Protection Commissioner

Data Protection Office

Prime Minister's Office

4th floor, Emmanuel Anquetil Building,

Port Louis

26.08.11