

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA**

In the matter of an Application for mandates in the nature of a writ of Certiorari under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Kalyani Shanthi Kumari Ranasingha
Manawadu,
27/1, Kuduwamulla Road,
Katubedda, Moaratiwa.

Petitioner

C.A. Writ Application No. 181/2007

Vs

1. N.Devarajan,
Director General of Buildings Department,
of Buildings, 2nd Floor "Sethsiripaya",
Battaramulla.
And three (03) others.

Respondents

<u>BEFORE</u>	:	S. SRISKANDARAJAH, J.
<u>COUNSEL</u>	:	Petitioner appears in person. S.Rajaratnam DSG for the Respondents.
<u>Argued on</u>	:	09.09.2010
<u>Written Submissions on</u>	:	14.09.2010 Petitioner 14.09.2010 Respondent
<u>Decided on</u>	:	21.01.2011

S.Sriskandarajah J.

The Petitioner served as an Architect of the Department of Buildings during the relevant time. The Petitioner submitted that the 1st Respondent at a meeting held on 21st August 2006 informed that he had decided to install Time Recording Machines Using Finger Prints to record the arrivals and departures of employees to and from office. The 1st Respondent by a circular No 05.04.01.01 dated 27th October 2006 marked P5 in the Petition, informed the employees of the Department of Buildings that he had decided to introduce an automated finger scanning time recording machine as the only method of recording arrival and departure of employees of the Department of Buildings effective from 1st November 2006. According to the said circular the recording of attendance using the signature and the cards will not be utilised/ permitted and anyone who fails to register their fingerprints on the said machine on any given day will be considered as being on leave.

The Petitioner submitted that she is suffering from Bilateral Carpel Tunnel Syndrome in her palm area and fingers and has undergone a surgery in 1992 and continues to suffer from the same disease from time to time. She has been medically advised that her condition may worsen in the future. Hence she was fearing that infra-red and other rays emitted from the said Finger Scanning Machine may cause health hazards to her. The Petitioner due to the above continuously appealed to the 1st Respondent that she be allowed to refrain from using said Finger Print Sensor Machine but it was refused by the 1st Respondent. The 1st Respondent contended that the Circular issued by the Ministry of Public Administration and Home Affairs No.1/2006 dated 12th January 2006 it was a requirement to introduce Automated Time Recording Machines using Finger Prints in all Ministries and Departments. Accordingly the Department of Building commence this process by a circular marked P5 dated 27th October 2006.

The Petitioner contended that the Public Administration Circular 1/2006 dated 12.01.2006 introducing finger sensor machine for marking attendance got cancelled by Public Administration Circular 6/2006 dated 25.04.2006. After the cancellation of the said circular the circular P5 was issued by the 1st Respondent dated 27.10.2006. The introduction of finger sensor machine for marking attendance was re introduced after a cabinet decision of 11th March 2009 and accordingly P A circular No. 09/2009 dated 16.04.2009 was issued. As such the circular P5 was issued at a time when there is no public Administration Circular.

At present the Public Administration Circular No 09/2009 is in force and as a Government Policy the finger scanning machine is the only mechanism by which attendance should be recorded after the aforesaid circular is introduced. However the Petitioner as she is suffering from an ailment has been permitted to enter her attendance in the Attendance Register as envisaged in the establishment Code.

In the above circumstances the quashing of the circular P5 is futile and therefore this court dismisses this application without costs.

Judge of the Court of Appeal