

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

CA Writ No.259/2012

S H Firdous,
No. 69,
Al-Jeddah,
Thillaiyadi,
Puttalam.

And 02 others

Petitioners

Vs.

Mr. Laxman Hulugalle,
Director General,
National Secretariat For Non-Governmental Organizations,
3rd floor,
Sethsiripaya,
Battaramulla.

And 7 others

Respondents

C.A. Writ Appln. No. 259/2012

Before : S. Sriskandarajah, J (P/CA)

Counsel : M. Nizam Kariapper with A.M. Faiz , M.C.M. Nawas
and M.I.M. Iynullah for Petitioners.

Anusha Samaranayake, S.S.C., for A.G.

Argued &
Decided on : 14.03.2013.

S. Sriskandarajah, J (P/CA)

The petitioners are trustees of fund called Community Trust Fund which is a nongovernmental organization established in 1993 and was registered with the Ministry of Social Service. The 1st respondent Director General of National Secretariat for nongovernmental organization. The 3rd, 4th and 5th Respondents were nominated as members of a board of inquiry appointed to inquire into a complaint received in relation to the said trust fund. The said board of inquiry was appointed under the Voluntary Social Services Organization (Registration and Supervision) Act No. 31 of 1980 as amended. The board of inquiry submitted an interim report and sought further time to conclude their inquiry. Before any decision on the said request was made and the inquiry was pending the Chairman and

members were appointed for an interim board of management to administer the affairs of Community Trust Fund under Section 14A of the Voluntary Social Services Organization Registration and Supervision of Act No. 31 of 1990 and it is published in gazette extraordinary No.1723/3 dated 12.09.2011 (marked as 14A to the amended petition). Under section 14A of the said Act as amended the minister after the receipt of the report of the board of inquiry constituted under section 11 and after satisfying that there is evidence to support any allegation or fraud or misappropriation made against the said voluntary organization and if the minister is satisfied that the fraud or misappropriation is of such a nature as would affect the final management of the organization and that the public interest will suffer if such organization is continued to carry on its affair. Then only the minister is empowered under the said section to appoint an interim board of management by order published in the gazette for the purpose of administering the affairs of such voluntary organization.

In this instance the board of inquiry constituted under section 11 has only submitted an interim report and has sought time to submit a full report and before obtaining the report and considering the same the minister had appointed an interim board of management which is contrary to Section 14A of the said law and as such the said order of appointing the interim board of management is ultra vires to the said provisions of the said section. And the learned Senior State Counsel who is appearing for the 1st to 5th Respondents concedes to the position that the said gazette notification

could be quashed as the appointment of the board of management is premature . As the appointment of board of management is premature the said decision to appoint the board of management is quashed by this Court by a writ of certiorari. This is without prejudice to the rights of the board of inquiry to continue with the relevant inquiry and to submit the report to the Minister. The application is allowed without costs.

President of the Court of Appeal

AKN/-