

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

CA. Writ 53/2014

W.A. Thilakaratne
No. 134/25, Stafford Gardens,
Mawalamulla Road, Meegoda.

Petitioner

Vs.

Amila Ranmandala
Chairman
Road Passenger Transport Authority of the
Western Province,
Robert Gunawardena Mawatha,
Battaramulla.

K.A.R.A. Ranjith
Operations Manager,
Road Passenger Transport Authority
Robert Gunawardena Mawatha,
Battaramulla.

P. Liyanage
Zonal Operational Manager
Road Passenger Transport Authority
Borella Bus Stand,
Colombo 08.

Respondents

C.A 53/2014**Writ Application**

Before : Vijith K. Malalgoda PC J. (P/CA).
H.C.J. Madawala J.

Counsel : Athula Ratnayake for the Petitioner.
Senaka de Saram with Shaheem Wageer for
1st and 3rd the Respondents.

**Argued &
Decided on** : 13.05.2015.

Vijith K. Malalgoda, PC. J. (P/CA).

Heard counsel for both parties in support of their respective cases. The Petitioner has come before this court seeking a writ of mandamus compelling 1st and 3rd Respondents to allow the Petitioner to operate his bus as permitted in letter dated 03.12.2013 the document marked P9. In other words he wanted this court to issue a writ of mandamus directing the 1st and 3rd respondents to permit him to operate his bus under Route No: 171/2. He further alleged that by document P-10 a letter dated 21.01.2014 the Respondents have cancelled P-9 and the said decision to cancel P-9 is ultravires, illegal and unreasonable. However during the argument before this court it is revealed that the Petitioner at present is

issued with a route permit for route 174 after a proper application made by the Petitioner to the relevant authorities which is produced marked R6 by the Respondents. By document R12 the authorities have issued the relevant route permit to the Petitioner. Petitioner has suppressed this material from this court when he has filed the petition. However, the counsel for the Petitioner during the argument submitted that the Petitioner is making use of said permit for carrying a staff belonging to the Independent Television Network from Jayawadanagama to Sugathadasa Stadium through 174 route. But according to the document R6 which was suppressed to us by the Petitioner, he has applied for the route Thalawatugoda to Pettah via Borella and he has indicated that he is charging Rs. 34/- per ticket in the said route. The application does not refer to any contract between him and Independent Television Network. This court observes that the Petitioner has now been issued with a valid route permit by the Western Province Passenger Transport Authority, but this fact is suppressed from this court. We find that this suppression is on a material fact. We are mindful of the decision in *Alphonso Appuhamy V. Hettiarachchi* 77 NLR 131 at 135 where it was held that a full and fair disclosure of all the material facts has to be placed before court when an application for writ or injunction is made and the process of court is invoked. Therefore, we are not inclined to grant relief as prayed by the Petitioner. We decide to dismiss this

application with costs fixed at Rs.15,000/- . Application is accordingly dismissed.

PRESIDENT OF THE COURT OF APPEAL.

H.C.J. Madawala, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-