

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

C.A. Application No: 78/2016

Deepak Kumar Krishnakumar Vasanji,
Lal & Sons,
No: 5, Kotalawala Place,
Colombo 04.

Petitioner

Vs.

Hon. Ravi Karunanayake,
Minister of Finance,

and 05 others

Respondents

C.A. 78/2016 : An Application for Writs of Certiorari, Prohibition and Mandamus

Before : Vijith K. Malalgoda, P.C.J.(P/CA) &
P. Padman Surasena, J.

Counsel : K. Deekiriwewa with L.M. Deekiriwewa, Mrs. M.K. Herath
and Mrs. Samantha Ramanayake for the Petitioner
Milinda Gunathilaka, D.S.G. for the Respondents

Argued &

Decided on : 08.06.2016.

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

Heard the learned counsel for the Petitioner as well as the learned Deputy Solicitor General representing the Respondents.

In this case the main issue raised by the learned counsel for the Petitioner is that the gazette in question which is produced marked 'X2' had been signed by the State Minister of Finance who is not a cabinet rank Minister. When this matter came up on the last date i.e. 17.05.2015, the learned Deputy Solicitor General informed Court that His Excellency the President has properly appointed the State Minister of Finance as the Acting Minister of Finance under Article 49 of the Constitution and he undertook to submit a copy of the said appointment before this Court. By way of a motion

dated 18.05.2016 the learned Deputy Solicitor General has now filed the relevant document marked 'X'. We observe that the said document refers to the appointment of the State Minister of Finance, Hon. Lakshman Yapa Abeywardana as the Acting Minister of Finance until the Hon. Minister of Finance is returned to Sri Lanka under Article 49. This appointment was made on 03.10.2015. The impugned gazette before us produced marked 'X2' is dated 09.10.2015. We observe that there is a proper appointment made under Article 49 of the Constitution by His Excellency the President prior to this gazette is issued by the Acting Minister. Even in the gazette notification the said Hon. Lakshman Yapa Abeywardana had signed the gazette notification as Acting Minister of Finance. However, the learned counsel for the Petitioner whilst referring to Article 44 of the Constitution submits that a non-cabinet rank Minister cannot be appointed to act as a Cabinet Rank Minister.

We see no merit in this argument raised by the learned counsel for the Petitioner. Under Article 49 the only qualification to be appointed as an Acting Minister is to be a member of Parliament. We observe that this is the only ground raised by the learned counsel for the Petitioner challenging 'X2' before this Court. When considering all these issues, we are not inclined to issue

notices in this matter and therefore, we refuse notices and dismiss this application.

PRESIDENT OF THE COURT OF APPEAL

P.Padman Surasena,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-