

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

CA (Writ) Application 177/2016

Don Charles Themiya Sirimanne
No. 113/17, Treasure Gardens,
Soratha Mawatha, Gangodawila,
Nugegoda

Petitioner

Vs.

1. Nirmal Siripala De Silva, MP,
Hon. Minister of Transport and Civil Aviation,
7th Floor, Sethsiripaya,
Stage II, Battaramulla.

2. Civil Aviation Authority of Sri Lanka

3. H.M.C. Nimalasiri
Director General CEO,
Civil Aviation Authority of Sri Lanka

2nd & 3rd Respondents above, both of
No.4, Hunupitiya Road,
Colombo 02

4. Mihin Lanka (Private) Ltd
No. 15A, Alfred Place,
Duplication Road, Colombo 03

Respondents

CA(WRIT)177/2016

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

COUNSEL: Senior Counsel Chrishmal Warnasuriya with Wardani Karunarathne,
J. Wickramasuriya instd. By Ms. Udani Galappaththy for the Petitioner.

ASG Mr. Rajaratname PC & SSC Zuhri Zain for 1st-3rd Respondent.

S. Parathalingam PC with Nishkan Parathalingam for the 4th Respondent
instd. by Srimal Weerakkody.

SUPPORTED ON:22.06.2016.

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

Heard Senior Counsel for the petitioner. The learned Additional Solicitor General representing the 1st -3rd respondents and the learned President Counsel for the 4th respondent. During the submissions before us the petitioner drew our attention to the document which was produced marked P9A where the petitioner has complained to the head of operation Sri Lanka Civil Aviation Authority Colombo of certain incidents taken place on 25th August 2015 and 29th August 2015. The petitioner complains the failure by the 2nd and 3rd respondents to investigate the said complaints and seeks a writ of mandamus directing the authorities to investigate the said complaints in addition to the other relief prayed for. However, it was further revealed before us that subsequent to the incident on 29th August 2015, the

petitioner's services had been terminated by the 4th respondent and it is admitted that the petitioner had filed a fundamental rights application before the Supreme Court and failing the said application he had now gone before the Labour Tribunal. He is now come before this Court after eight months to the original complaint complaining of the inaction by the 1st to 3rd respondents.

The learned Additional Solicitor General who represents the 3rd respondent before this Court had submitted a letter sent by the 3rd respondent to the petitioner dated 23rd May 2016 requesting the petitioner to submit further information with regard to a complaint he said to have lodged by a letter dated 16th May 2016. Petitioner admits the receipt of this document but submits that he has received this document subsequent to filing this application. As observed by us the papers were submitted before this Court on 31st May 2016. However, the learned Additional Solicitor General appearing for the 1st to 3rd respondents by producing the said document informs Court that the petitioner is free to submit all the complaints he has to make before the 3rd respondent for the 3rd respondent to inquire into.

When looking at the prayer before us, we observe that the petitioner's complaint before this Court is the inaction by the 1st to 3rd respondents to look into the complains made by him but from the document the 3rd respondent has now produced before this Court, we are satisfied that the 3rd respondent is now prepared to look into the complaints made by the petitioner. The 3rd respondent being the regulator he has a statutory duty to take action with regard to the outcome of the inquiry that he is going to conduct. If the petitioner is not satisfied with the inquiry he is now conducting the petitioner is free to complaint against his conduct at a

proper stage but we see that this is not the proper stage for the petitioner to comment about the conduct of the 3rd respondent since he is now in the process of conducting an inquiry into the complaints made by the petitioner. The petitioner further submits that he has filed this application in public interest litigation but we see no merit in this submissions as we observe that he is a person who had been dismissed by the 4th respondent.

For the reasons set out above, we see no merit in this application and we therefore not inclined to issue notices on the respondents. Application is accordingly dismissed. No cost is ordered.

Application dismissed.

PRESIDENT OF THE COURT OF APPEAL.

P. Padman Surasena, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Mm/-.