

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

**C.A. Application No. 207/2016**

Yen Unapana Chandawimala Thero,  
Divrumpola Purana Rajamaha Viyaraya,  
Dewrumpola,  
Nugathalawa.

**Petitioner**

**Vs.**

1. Chandraprema Gamage,  
Commissioner General of Buddhist  
Affairs,

2. Wasantha Ekanayake  
Secretary to the Ministry of Buddha  
Sasana,

3. Hon. Wijedasa Rajapaksha  
Minister of Buddha Sasana,  
All of Ministry of Buddha Sasana,  
"Dhahampaya"  
No. 135, Srimath Anagarika Dharmapala  
Mawatha,  
Colombo 07.

4. Hon. Attorney General,  
Attorney General Department,  
Hulftsdorp Street,  
Colombo 12.

**Respondents**

**C.A Writ 207/2016**

**Before** : Vijith K. Malalgoda, PC, J (P/CA) &  
S.Thurairaja, PC, J.

**Counsel** : Prinath Fernando instructed by Dhamma  
Vidyaratne for the Petitioner.

Suranga Wimalasena SSC for the  
Respondents.

Argued &

Decided on : 19.10.2016.

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

Heard learned Counsel for the Petitioner and the learned Senior State Counsel representing the Respondents in this case. The Petitioner to the present case Rev. Unapana Chandawimala Thero, has come before this Court seeking a writ of certiorari and mandamus to quash the decision of the 3<sup>rd</sup> Respondent which was produced marked P4 and also directing the 3<sup>rd</sup> Respondent to conduct an inquiry under Section 15 of the Buddhist Temporalities Ordinance on the 3<sup>rd</sup> Respondent. As observed by this, court by document P4 the 3<sup>rd</sup> Respondent had informed the Petitioner that he had received a letter from the Mahanayake of Malwatta Chapter dated 03.06.2016 removing the Petitioner from the Viharadhipathi post and

appointing another priest as the Viharadhipathi of the said Temple and due to that appointment the 3<sup>rd</sup> Respondent have informed that he had to cancel the registration of the Petitioner in view of the letter he had received from the Mahanayake Thero. As observed by this court the 3<sup>rd</sup> Respondent had not taken any steps to remove the Petitioner from the post of Viharadhipathi since it had been done only by the Mahanayake Thero of Malwatta Chapter. It is brought to the notice of Court by the learned Senior State Counsel that by letter dated 03.06.2016 the Mahanayake Thero of the Malwatta Chapter had written the 3<sup>rd</sup> Respondent, of the decision taken by the Malwatta Chapter, after considering a report submitted by the committee appointed by the said chapter with regard to the conduct of the Petitioner and thereafter decided to remove him from the post of Viharadhipathi. From this material it is clear that the decision to remove the Viharadhipathi was clearly taken by the Mahanayake Thero of the said chapter and therefore the 3<sup>rd</sup> Respondent is not responsible for the removal of the Viharadhipathi from his position. Learned Counsel for the Petitioner had brought to our notice of Section 15 of the Buddhist Temporalities Ordinance but we observe that the provisions of the said Section has no application to this case since there was no complaint before the 3<sup>rd</sup> Respondent for him to conduct an inquiry and take a decision with regard to the Petitioner since the entire matter had been looked into by the Mahanayaka Thero of the Malwatta Chapter.

For the reasons discussed above it is our considered view that a writ application will not lie against the Respondents who are before this court for the reason that they were not involved in removing the Viharadhipathi from Divrumpola Purana Rajamaha Viharaya in

Nugathalawa. Therefore, this court is not inclined to issue notices in this application. Application is accordingly dismissed.

**PRESIDENT OF THE COURT OF APPEAL.**

S.Thurairaja, PC, J.  
I agree.

**JUDGE OF THE COURT OF APPEAL.**

Vkg/-