

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

C.A. Writ Application No. CA/Writ/171/2017

In the matter of an application for writs  
of certiorari and mandamus under and in  
terms of Article 140 of the Constitution  
of the Democratic Socialist Republic of  
Sri Lanka.

P. Pushparani Perera,

No.424/1, Neduna, Ganemulla.

**Petitioner**

Vs.

1. A.M.R.J.K.Jayasinghe,

Secretary,

Ministry of Transport and Civil

Aviation,

7<sup>th</sup> Floor, Sethsiripaya, Stage II,

Battaramulla.

2. National Transport Commission,

241, Udyana Road, Colombo 05

**Respondents**

Counsel : Nadvi Baudeen with Shabma Jiffry for the Petitioner

**Before** : L.T.B. Dehideniya J.

: Shiran Gooneratne J.

Supported on: 11.09.2017

Decided on : 09.10.2017

**L.T.B.Dehideniya J.**

The petitioner in this case is seeking to quash an order of the 1<sup>st</sup> Respondent dated 15.06.2016 made on an appeal made against an order of the 2<sup>nd</sup> Respondent dated 29.01.2016. The Petitioner, prior to this case, filed the writ application No. 134/2016 before this Court seeking a mandate to quash the said order of the 2<sup>nd</sup> Respondent dated 29.01.2016 and was dismissed without issuing notice to the Respondents. In this application the Petitioner is seeking to quash the order made on the appeal in the same issue.

The first application was dismissed on several grounds. Among the reasons for dismissal, one fundamental reason is non disclosure of a material fact, that the order of the 2<sup>nd</sup> Respondent dated 29.01.2016 was affirmed by the 1<sup>st</sup> Respondent on 15.06.2016. In the present case the Petitioner submits that the previous application was filed prior to the said order of the 1<sup>st</sup> Respondent being delivered and there was no possibility to plead the said order in the previous petition. Further he submits that the present application is to quash the order dated 15.06.2016.

The first application was supported on 29.08.2016 that is after the order dated 15.06.2016 being delivered. The Court was of the view that the Petitioner should have disclosed the fact that the appeal referred to in the application has been decided by the 1<sup>st</sup> Respondent and the decision of the 2<sup>nd</sup> Respondent has been confirmed. The Court considered that the non disclosure of this fact is non disclosure of a material fact.

When the previous application was supported the Petitioner was aware of the fact that the order of the 2<sup>nd</sup> Respondent has been confirmed by the 1<sup>st</sup> Respondent. Without disclosing that fact to the Court in the said application it was supported and the application was dismissed. Now the Petitioner in this application again moving this Court to quash the said order which was not disclosed to the Court earlier. The Petitioner should have disclosed the fact that the order canvassed was affirmed by the appellate body and should have made an appropriate application. Without doing it, the Petitioner cannot come before this Court again, for the second time, to canvass the order of 1<sup>st</sup> Respondent. There must be an end to litigation.

We see no reason to issue notice.

The application dismissed without costs.

President, Court of Appeal

**Shiran Gooneratne J.**

I agree.

Judge of the Court of Appeal