

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

In the matter of an application for  
Writs of Certiorari, Prohibition and  
Mandamus under and in terms of  
Article 140 of the Constitution of the  
Democratic Socialist Republic of Sri  
Lanka.

Solanga Arachchige Dhanushaka  
Anthony Perera.  
No.329/80,  
Lake Crescent,  
Attidiya,  
Dehiwela.

**Petitioner**

**C.A. (Writ ) Application**  
**No.83/2018**

Vs.

1. Sri Lanka Anti-Doping Agency,  
100/7, Independence Avenue,  
Colombo 7.
2. Prof. Arjuna De Silva,  
Chairman,  
Sri Lanka Anti-Doping Agency,  
100/7, Independence Avenue,  
Colombo 7
3. Dr. Seevali Jyawickreme,  
Director General

Sri Lanka Anti-Doping Agency,  
100/7, Independence Avenue,  
Colombo 7

4. Sri Lanka Rugby  
(Formerly known as Sri Lanka  
Rugby Football Union),  
No.33, Torrington Place,  
Colombo 7.
5. Nizam Mohamed,  
Hon. Secretary,  
Sri Lanka Rugby,  
(Formerly known as Sri Lanka  
Rugby Football Union),  
No.33, Torrington Place,  
Colombo 7.
6. Rohan Gunaratne,  
Executive Director  
Sri Lanka Rugby,  
(Formerly known as Sri Lanka  
Rugby Football Union),  
No.33, Torrington Place,  
Colombo 7.
7. Dayasiri Jayasekera,  
Minister of Sports,  
No.9, Phillip Gunawardane  
Mawatha,  
Colombo 7.

8. Jayantha Wijeratne,  
Secretary,  
No.9, Phillip Gunawardane  
Mawatha,  
Colombo 7.
9. T. M. S. P. Bandara,  
Director General,  
Department of Sports Development,  
No.9, Phillip Gunawardane  
Mawatha,  
Colombo 7.

**Respondents**

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BEFORE : P.PADMAN SURASENA, J. (P/CA) &  
A. L. SHIRAN GOONERATNE, J.

COUNSEL : Pulasthi Rupasinghe for the petitioner  
instructed by R.A.Lanka Dharmasiri.  
Sumathi Dharmawardane, S.D.S.G. for  
the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> respondents.

ARGUED AND

DECIDED ON : 21<sup>st</sup> February, 2018

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**P. PADMAN SURASENA, J. (P/CA)**

Court heard submissions of learned Counsel for the petitioner as well as learned Senior Deputy Solicitor General for the respondents.

One relief the petitioner has prayed for in this application is a writ of mandamus to compel the respondents to provide a reasonable opportunity for the petitioner to submit a fresh urine sample.

This Court observes that after the respondents found an adverse analytical finding report, they have communicated the said finding to the petitioner by letter dated 02<sup>nd</sup> February, 2018 produced marked **P 4.** In the same letter the 1<sup>st</sup> respondent has afforded an opportunity for the petitioner to report to Sri Lanka Anti-Doping Agency at 10.30

a.m. on 06<sup>th</sup> February 2018 and to inform whether he would proceed for the 'B Sample' analysis or not. It is the submission of learned Senior Deputy Solicitor General that if the petitioner was not satisfied with the adverse finding there was an opportunity given to him to produce a 'B Sample' for re-testing within a period of 07 days. This is manifest from the "Analytical report (confidential) (Sample A)" report annexed to the letter marked **P 4**.

Learned Senior Deputy Solicitor General brings to the notice of this Court that the petitioner had in fact presented himself before the Sri Lanka Anti-Doping Agency on 07<sup>th</sup> February 2018 and tendered a letter written by his own hand writing that he would not opt for a 'B Sample'. The petitioner by that letter had requested the Authorities to conduct an inquiry. This Court observes that this assertion by the petitioner made in the letter dated 07<sup>th</sup> February 2018 runs counter to his present request contained in the prayer **(e)** to issue a writ of mandamus to compel the respondents to

provide a reasonable opportunity for the petitioner to submit a fresh urine sample. In view of the assertion by the petitioner in the above letter this Court is of the view that the prayer **(e)** of the petition does not simply arise. Learned Senior Deputy Solicitor General pointed out to Court that the petitioner has not divulged anything about the handing over of the said letter. Thus, this fact seriously vitiates his credibility.

The petitioner has also prayed for a writ of prohibition to prohibit the respondents in preventing the petitioner from participating any sports related activity without conducting an inquiry in compliance with the law. It is the submission of the learned Senior Deputy Solicitor General that in any case the issue whether to prevent the petitioner from participating any sports related activity or not, will be decided after the inquiry. The said inquiry is scheduled to be held on 12<sup>th</sup> March 2018. Therefore, this Court is of the view that even the prayer **(d)** also does not arise.

The petitioner has prayed for a writ of certiorari to quash the decision contained in the document produced marked P 4. Perusal of P 4 reveals that it has only communicated to the petitioner about adverse analytical finding arising out of his sample (Sample A) and had given him also the option of going for the 'Sample B'

The 1<sup>ST</sup> respondent had by the letter P 4 has provisionally suspended the petitioner from taking part in any sports related activities. This Court is of the view that this is a temporary measure that has been implemented by the Sri Lanka Anti-Doping Agency and the said decision is based on adverse analytical finding report. It is common ground that the petitioner is anxious in participating the '**Cliford Cup**' **Knock-out Tournament** which has already commenced. This Court is of the view that it cannot encourage a situation where the petitioner whose sample is reported to have contained

adverse analytical finding, is permitted in taking part in this tournament at this stage.

Learned Counsel for the petitioner relies on document **P 5** to argue that the 2<sup>nd</sup> respondent had been biased against the petitioner. However, we observe that the said document namely, **P 5** is only a news item published in the 'Daily Mirror' newspaper. This Court is of the view that it cannot act on such newspaper articles. In these circumstances this Court decides to refuse to issue notices on the respondents. The application must stand dismissed without costs.

PRSIDENT OF THE COURT OF APPEAL

**A. L. SHIRAN GOONERATNE, J.**

I agree.

JUDGE OF THE COURT OF APPEAL

Kwk/-