

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

In the matter of an application for mandates in the
nature of writ mandamus and writ of Certiorari
under Article 140 of the Constitution.

CA Writ Application No.45/2018

Wedasinghe Arachchige Dinesh Udaya Kumara
Wedasinghe
301/, Gamunu Mawatha
Kiribathgoda.

Petitioner.

Vs.

1. Dompe Pradeshiya Sabhawa
Kirindiwela.

And others.

C. A. 45/2018

Writ Application

BEFORE : **P. Padman Surasena, J (P/CA)**
A. L. Shiran Gooneratne, J

COUNSEL : Panduka Keerthinanda, Asthika Devendra, Dinusha
with Rangana De Silva for the Petitioner.
Arosha De Silva with Lasanthi Perera for the 1st and
2nd Respondent.

SUPPORTED AND
DECIDED ON : 23.02.2018

Padman Surasena, J (P/CA)

In this case, the Petitioner in his application seeks many reliefs. However, learned Counsel for the Petitioner when queried by this Court, informed this Court that his main prayers are "J" and "K". It is to be noted that granting of other prayers would only facilitate the granting of final and main prayers set out in "J" and "K". Therefore, if this court cannot grant the prayers in "J" and "K", the other prayers would be of no use to the petitioner. Prayer "J" is for a writ of mandamus to direct the 1st 2nd 3rd Respondents to issue a trade license to the petitioner in relation to the metal quarry for the period commencing on 20.09.2017 to 19.12.2017.

Since that time period has already lapsed this Court is not in a position to practically compel the respondents to issue a trade license to the petitioner for that period. On the other hand even if the respondents issue the trade license as requested by prayer "J" it would, for obvious reasons, be of no use for the petitioner.

This Court observes that the decision by the 1st respondent not to grant a trade license to the petitioner for the year 2017 had been based on public complaints. Learned counsel for the 1st respondent tenders for perusal of this

Learned Counsel for the 1st respondent informs this Court a decision with regard to that application is yet to be taken by the 1st respondent. Therefore, this Court is not in a position to consider the prayer "K" also.

In these circumstances, this Court sees no legal basis to issue notices on the respondents. Therefore, this Court decides to refuse to issue notices on the respondent. The application is hereby dismissed.

Learned Counsel for the 1st respondent is directed to file by way of a motion, a certified copy of the report of the Medical Officer of Health in the registry within a week from today.

PRESIDENT OF THE COURT OF APPEAL

A. L. Shiran Gooneratne, J

I agree

JUDGE OF THE COURT OF APPEAL

YD/

court a copy of the report tendered by the Medical Officer of Health of the area.

The document produced marked **P-21** shows that the 1st respondent had requested the petitioner to produce certain reports in order to consider the issuance of trade license for the year 2018.

This Court also observes that the document produced marked **P-21** is dated 24.01.2018. It appears that it is thereafter (i.e. after the Petitioner has received the letter **P-21**, that the Petitioner had applied for a trade licenses by the application dated 29.01.2018.

Prayer "K" is for a writ of mandamus to compel the respondents to issue a trade license to the petitioner for the year 2018. Petitioner has applied for a trade license for the year 2018, by the application marked **P-22** which is dated 29.01.2018. This Court observes that the petitioner has filed the amended Petition on the same date (i.e. on 29.01.2018).

This Court also observes that the petitioner has filed this application on 19.01.2018, and that he had not applied for a trade license by that time. Therefore, the petitioner's amended petition is misconceived in law.