

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 Writs of
Certiorari Mandamus and Prohibition in
terms of Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

C A (Writ) Application No. 222 / 2017

1. B.B.K. Bandara,
Mahagama,
Kuruwithenna,
Mahiyanganaya.

2. K M Manjula Piyathilaka,
"Kumudu",
Gasgolla,

Jagulla,

Haliela.

3. W M M M Wickramasinghe,

Amunumulla,

Kotamuduna,

Passara.

4. R M Gamini Padmasiri,

No. 76,

Ululla,

Denigama,

Mahiyanganaya.

5. W M H K Kumara,

Ritigaha Arawa,

Uraniya,

Mahiyanganaya.

6. D M Nirasha Kalpani,

6/2,

Bo Sewana,

Mailagasthenna,

Badulla.

7. R M Shalini,

No. 90/A,

Dalada Ela Road,

Badulla.

8. R M Ishanthi Wathsala,

Idamegama,

Uruwelthenna,

Uva Paranagama.

9. E M. Champika Sri Prabath,

Naranwelduwa,

Boralanda,

Welimada.

10. R M Shyamali

Thusharika Rathnayake,

No. 6/ 162,

Senevigama,

Arawatta,

Mahiyanganaya.

11. R M Anusha Nirangika

Rathnayake,

18/C/1,

Nelligaswatta,

Orubendiwewa,

Arawatta,

Mahiyanganaya.

12. W M Manel Wasala,

No. 8/ 1/8,

Badulla Road,

Demodara.

PETITIONERS

-Vs-

1. Mohan R A Ratwatte

Chairman,

2. Rajaratnam Gnanasekaran

Member,

3. M M Vijitha Peiris

Member,

4. Danushka Weligama

Member

5. R M T B Hathiyaldeniya

Secretary,

the 1st to 5th Respondents of;

Public Service Commission of

Uva Province,

No. 14/4,

Peelipothagama Road,

Pinarawa,

Badulla.

6. M P Jayasinghe,

Governor of Uva Province,

The Office of the Governor,

King's Street,

Badulla.

7. Chamara Sampath

Dasanayaka,

Chief Minister of Uva
Province (Also the Minister of
Education of Uva Province),
King's Street,
Badulla.

8. Gamini Rajakaruna,
Chief Secretary of Uva
Province,
King's Street,
Badulla.

9. G A M S P Ambanwala,
Secretary to the Ministry of
Education of Uva Province,
Ministry of Education of Uva
Province,
King's Street,
Badulla.

10. W M N J

Pushpakumara,

Commissioner General of

Examinations,

Department of Examinations,

Pelawatta,

Battaramulla.

RESPONDENTS

Before: P. Padman Surasena J (P/CA)

A L Shiran Gooneratna J

Counsel: Shantha Jayawardhana with Chamara Nanayakkarawasam for
the Petitioners

Nayomi Kahawita SSC for the Respondents

Argued on: 2018-01-29

Decided on: 2018-05-09

JUDGMENT

P Padman Surasena J

The Petitioners are unemployed graduates who claim a legitimate expectation that the examination to fill 500 vacancies for teachers, existing in Sinhala medium schools in Uva province, would be filled as has been advertised in the advertisement dated 2017-01-27. A copy of the said newspaper advertisement has been produced marked **P 1**. The said advertisement **P 1** has stated that the method of recruitment is the school-based method as provided for in the service minutes of the Sri Lanka Teachers Service. The said service minutes published in the Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka bearing No. 1885/38 dated 2014-10-23 has been produced marked **P 2 (b)**.

The said Gazette has specificied a method of recruitment and has particularly specified the method of Examination for the selection of candidates for appointment.

The said Gazette has categorically stated that the conducting authority of the written examination is the Commissioner General of examinations.

It is the position of the Petitioners that this is a public examination within the meaning of Public Examinations Ordinance.

The respondents do not dispute the fact that this examination had not been conducted as per the method set out in the said Gazette.

Learned Senior State Counsel appearing for the Respondents relied on the document produced marked **R 5** to argue that the Governor of Uva Province had amended the said Gazette. It is her argument that the impugned exam was conducted as per the said amended service minutes. When inquired by this Court as to when that amendment was effected to the said Gazette, the learned Senior State Counsel was unable to provide a specific answer to Court in that regard.

The document, the Senior State Counsel relied upon, when taken without the hand written part (the purported amendment, which has been made by some handwriting entered at the end of the Gazette without any date), is the same Gazette that the Petitioners rely on.

Further, this Court observes that the amendments referred to in the newspaper advertisement calling for applications (**P 1**) are amendments, which would be made to the said service minutes published in the said Gazette.

The said Gazette has been issued by the Secretary to the Ministry of Education on the orders of the Public Service Commission. Thus, it is the View of this Court that it is not open for the Governor to amend the said Gazette. Thus, this Court is not inclined to accept the impugned hand written insertion as an amendment that has been promulgated to the relevant Gazette.

For the foregoing reasons, it is difficult for this Court to resist the thought that the purported amendment is a part, somebody has inserted by handwriting after the authorities had realized that the impugned

examinations had not been conducted as per the method set out in the said newspaper advertisement (**P 1**).

Therefore, this Court is of the opinion that the Petitioners are entitled to succeed.

In these circumstances, this Court issues;

1. a Writ of Prohibition, prohibiting the 1st to 9th Respondents and/or any one or more of them from making recruitments to the Teachers' Service in Uva Province based on the said examination held on 09.04.2017 pursuant to the advertisement marked **P 1**,
2. a Writ of Mandamus directing the 10th Respondent to organize and conduct a written examination afresh in accordance with the Service Minute of the Sri Lanka Teachers' Service marked **P 2 (a)** and **P (2) (b)** for the recruitments contemplated by **P 1**;
3. a Writ of Mandamus directing the 1st to 9th Respondents to take necessary steps for the conduct of a written examination afresh by the 10th Respondent, in accordance with the Service Minute of the Sri

Lanka Teachers' Service marked **P 2 (a)** and **P 2 (b)** for recruitments contemplated by **P 1**;

4. a Writ of Certiorari to quash the results of the written examination held on 09.04.2017 pursuant to the advertisement marked **P 1**;

Application is allowed.

PRESIDENT OF THE COURT OF APPEAL

A L SHIRAN GOONERATNA J

I agree,

JUDGE OF THE COURT OF APPEAL