

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

Brian Peter Obeysekera,
No. 212,
Lake Drive,
Colombo 8.
Petitioner

CASE NO: CA/WRIT/306/2015

Vs.

1. Ranjith Chandrasekara,
President,
Sri Lanka Schools Rugby Football
Association,
(Director of Education-National
Schools),
Ministry of Education,
Isurupaya,
Battaramulla,
And Six Others.
Respondents

Before: Mahinda Samayawardhena, J.
Counsel: Harsha Soza, P.C., with Rajindh Perera for the
Petitioner.
Hiran de Alwis for the Respondents.
Decided on: 06.03.2019

Samayawardhena, J.

The petitioner filed this application seeking a mandate in the nature of a writ of certiorari to quash the decision of the Sri Lanka Schools Rugby Football Association contained in the letter marked X6 dated 10.03.2015 whereby the petitioner was banned from attending the first two Under 20 Seven League Rugby Tournament matches in which St. Joseph's College was participating.

The petitioner, has attended (it appears, as an officer of the Sports Committee of St. Joseph's College) the quarter final match on 01.02.2015 between St. Joseph's College and Isipathana College played at the Royal College Complex, Colombo 7. Isipathana College has won.

The petitioner in paragraphs 19 and 20 of the petition states that in the wake of the defeat of his College, a false allegation has been made to the Sri Lanka Schools Rugby Football Association that the petitioner abused the 4th respondent referee. That means, the petitioner knew on that day that there was an (unfounded) allegation against him that he abused the referee.

Then in paragraph 21 of the petition the petitioner states that the Sri Lanka Schools Rugby Football Association sent the letter X4 to the 5th respondent-Principal of his College (St. Joseph's College) requesting the Principal to inform among others the petitioner to attend an inquiry at the Royal College Conference Room on 12.02.2015 at 6.00 pm regarding an incident of abuse of the referee at the said match.

The petitioner in paragraph 23 admits that the Principal "duly informed of the said inquiry".

However, in paragraph 24 of the petition, the petitioner says that he did not attend the said inquiry because he did not abuse the referee, nor did he have any reason to think that the inquiry was related to him, and also he did not know anybody else abusing the referee.

According to paragraph 2 of X6, at the inquiry held on 12.02.2015, (among others) the Master in Charge, the Chief Coach and the Assistant Coach of St. Joseph's College have participated.

Thereafter the petitioner through his lawyers has sent a strongly worded letter dated 18.02.2015 to the 2nd respondent-Secretary of the Sri Lanka Schools Rugby Football Association stating *inter alia* that:

This letter serves to put you and all those behind you and those from whom you take instructions that my client will not hesitate to take stern action and sue you and others responsible for damages in the event there is an attempt on your part to discredit and or harm my client's reputation directly or indirectly by naming him in any inquiry or

publication regarding this matter without proper investigation and cogent evidence.

It is clear from the above letter that the petitioner was not willing to cooperate with the inquiry. Why I say so is that, if he wanted to clear his name, without sending such a threatening letter, he could have asked the Sri Lanka Schools Rugby Football Association to give him another opportunity to place his side of the story before coming to a conclusion, as by that time, no decision has been taken by the Sri Lanka Schools Rugby Football Association regarding the alleged incident.

Not being overawed by such threat, the Sri Lanka Schools Rugby Football Association has sent X6 dated 10.03.2015 to the Principal of the St. Joseph's College stating that abusing the referee is an offence in accordance with the Rules of the Under 20 Seven League Rugby Tournament 2015 signed by all the Principals of the Colleges, and therefore the Disciplinary Committee of the Sri Lanka Schools Rugby Football Association decided to ban the petitioner from attending the first two matches of the said Tournament. In that letter the Principal has been asked to convey it to the petitioner and also further asked the principal not to issue tickets to the petitioner to watch the said first two matches.

The petitioner in paragraph 27 of the petition states that he was informed of the said ban and he complied with the said ban under protest.

It is after more than four months, the petitioner has filed this writ application challenging the decision in X6.

The learned counsel for the respondents has taken up several preliminary objections to the maintainability of this application including that invocation of writ jurisdiction of this Court challenging the said decision is completely misconceived in law. There is a great substance in that argument.

However, I think, I can dispose of this matter on more fundamental principles of law.

It is common ground that writ jurisdiction of this Court cannot be invoked as of right. It is a discretionary relief. In that regard, the conduct of the party applying for writ is intensely relevant. The petitioner may be completely innocent, but he cannot keep it to himself and decide his own case. There is a complainant (the referee) and a complaint. He knew it at least after the first date of the inquiry to which the representatives of his school participated. But he did not want to intervene and vindicate his name. He will have to blame himself for it. After he was informed of the punishment—a ban for two matches—he says he complied. At least at that time no attempt has been made seeking an opportunity to place facts before the Association.

In any event, if the petitioner was not satisfied with the said finding and punishment, there is a procedure to appeal against such decisions. This is stated in page 11 of the Hand Book 2014 of the Sri Lanka Schools Rugby Football Association marked R2. That has not been followed by the petitioner. The petitioner cannot come straightaway before this Court challenging the decision of the Sri Lanka Schools Rugby Football Association by way of a writ, which is a public law remedy involving public duty. When there is an alternative remedy writ will not generally lie. The argument of the learned President's

Counsel for the petitioner in that regard is that only schools can appeal according to that procedure. If it is true, the petitioner should have through the school which he represented (St. Joseph's) preferred the appeal. This has not been done.

I dismiss the application of the petitioner with costs which I fix at Rs.25,000/=.

Judge of the Court of Appeal