

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

1. All Ceylon Medical Officers'
Association,
No. 949/4,
Maradana Road,
Colombo 8.
2. Ekanayake Mudiyansele,
Jayantha Bandara,
Secretary,
All Ceylon Medical Officers'
Association,
No. 949/4,
Maradana Road,
Colombo 8.
Petitioners

CASE NO: CA/WRIT/222/2016

Vs.

1. Professor Asitha De Silva,
Senior Professor in Pharmacology,
Department of Pharmacology,
University of Kelaniya,
Kelaniya.
2. Dr. Rajitha Senarathne,
Minister of Health, Nutrition and
Indigenous Medicine,

Ministry of Health, Nutrition and
Indigenous Medicine,
Suwasiripaya,
385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
And 13 Others
Respondents

Before: Mahinda Samayawardhena, J.

Counsel: J.C. Weliamuna, P.C., with Thilini
Vidanagamage for the Petitioners.
Sanjeewa Jayawardena, P.C., with Charitha
Rupasinghe for the 7th-13th Respondents.
Manohara Jayasinghe, S.S.C., for the 1st and
2nd Respondents.

Decided on: 02.05.2019

Samayawardhena, J.

The petitioners filed this writ application about one week after filing the writ application No. CA/WRIT/208/2016 by some others challenging the same appointments, i.e. the appointments of the 1st respondent as a Member and the Chairman of the National Medicines Regulatory Authority (NMRA) by the 2nd respondent.

In CA/WRIT/208/2016 the petitioners in that case sought to quash the said appointments by a writ of certiorari.

The petitioners in the instant application, in addition to seeking to quash the said appointments by a writ of certiorari further seek by paragraph (d) of the prayer to the petition to issue “*A mandate in the nature of writ of quo warranto declaring that appointment of the 1st respondent as a member and chairman of the National Medicines Regulatory Authority is invalid.*”

This Court by the Judgment in CA/WRIT/208/2016 already quashed by way of certiorari the said appointments made by the document marked D subject to the amendment of the dates by the document marked R10.

It is the said document D, which has been marked by the petitioners in this case as P3.

According to section 5(1) of the National Medicines Regulatory Authority Act, No.5 of 2015 read with section 5(4), the Chairmanship ends with the end of being a member of the Authority.

It is now clear that both the Membership and the Chairmanship of the 1st respondent ended after the filing of this application on 13.05.2018, and fresh appointments have been made thereafter- vide page 33 of the Judgment in CA/WRIT/208/2016.

By going through the petition of this application carefully it is clear that the petitioners of this application also seek to challenge the appointment of the 1st respondent as a member by

P3 and the appointment of the 1st respondent as a Chairman based on P3.

I am unable to accept the submission of the learned President's Counsel for the petitioner that "*the instant application seeks a declaration in the nature of a quo warranto, to declare that the 1st respondent is not entitled to hold public office as a Member/Chairman of the NMRA*" in general—vide paragraph 20 of the written submission.

This matter and the connected matter-CA/WRIT/208/2016 were called together and argued together.

In the Judgment in CA/WRIT/208/2016 as the facts and the law were discussed extensively there is no necessity to repeat them here.

Hence I grant the relief in paragraph (c) of the prayer to the petition and *pro forma* quash the appointment of the 1st respondent as a Member of the NMRA by P3 and the appointment of the 1st respondent as the Chairman of the NMRA based on P3.

The quo warranto sought in paragraph (d) of the prayer to the petition which I quoted above is also to the same effect. Hence, to avoid any confusion, I refuse to issue the writ of quo warranto.

No costs.

Judge of the Court of Appeal