

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

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

CA/WRIT/53/2021

1. Center for Environmental Justice (Guarantee Limited)
No. 20/A, Kuruppu Road, Colombo 08.
2. Withanage Don Hemantha Ranjith Sisira Kumara
Executive Director,
Center for Environmental Justice,
20 A, Kuruppu Road, Colombo 08.
3. Hettiarachchige Dushantha Kumara Wasala Hettiarachchi
No. 7 A, Temple Road,
Mugunuwatawana, Madampe.
4. Sunith Nishantha Mendis Abeysekara
Kalyaniwatta, Dansala, Madampe.
5. Ven. Madawachiye Sumeda Thero
47, Sri Samayawardhanaramaya,
Suduwella, Madampe.
6. Gunathilake Siriwardana Suranga Rathnathilake
144, Suduwella, Madampe.

Petitioners

Vs.

1. Geological Survey and Mines Bureau
569, Epitamulla Road, Pitakotte.

1A. Mr. Sajana De Silva
Director General,
Geological Survey and Mines Bureau,
569, Epitamulla Road, Pitakotte.

2. Central Environmental Authority
No. 104, Denzil Kobbekaduwa Mawatha,
Battaramulla.

2A. Mr. P.B. Hemantha Jayasinghe
Director General,
Central Environmental Authority,
No. 104, Denzil Kobbekaduwa Mawatha,
Battaramulla.

3. Hon. Mahinda Amaraweera
Minister of Environment,
Ministry of Environment,

“Sobadam Piyasa”,
416/C/1, Robert Gunawardana Mawatha,
Battaramulla.

4. Mr. C.D. Wickramaratne
Inspector General of Police,
Police Headquarters,
Colombo 01.

4A. W.P. Ranjith Abeynayake
Inspector of Police, Madampe.

5. Mr. Jayantha Wickramasinghe
Chairman,
Coconut Development Authority,
45 B 307, Colombo 05.
6. Mr. Hettiarachchige Chamalka Randil
Hettiarachchi
No. 174, Weda Mawatha,
Madahathhiniya,
Marawila.
7. Hon. Attorney General
Attorney General's Department,
Colombo 12.
8. Ms. N.G. Senavirathna
Director,
North Western Environmental Authority,
North Western Provincial Office,
No. 150, Kandy Road,
Kurunegala.
9. Dr. Sandaya Herath
Medical Officer of Health,
Office of the Medical Officer of Health,
Madampe.
10. Water Resources Board
Hector Kobbakaduwa Avenue,
Colombo 07.

Respondents

Before: Sobhitha Rajakaruna J.
Dhammika Ganepola J.

Counsel: Ravindranath Dabare with Savanthi Ponnampereuma, Nilmal Wickramasinghe and Hansanie Imalka for the Petitioners.

Ikram Mohammed, PC with Clifford Fernando for the 6th Respondent instructed by S.M. Dissanayake Associates.

Madubashini Sri Meththa, SC for all the Respondents except the 6th Respondent.

Decided on: 02.03.2022

Sobhitha Rajakaruna J.

Heard the learned Counsel for the Petitioners in support of this application and the learned Counsel for the Respondents opposing this application.

Court observes that after filing this application, a joint inspection has been carried out in order to identify the areas in question and to affect remedial measures. The learned State Counsel has submitted a report after the said joint survey on 19.05.2021. Subsequently, the learned State Counsel has submitted a comprehensive report along with the motion filed on 08.10.2021 and accordingly, the learned State Counsel submits that most of the matters averred in the petition have been looked into by the authorities and remedial steps have been taken.

The learned Counsel for the Petitioners disagreeing with the position taken by the Respondents submits that there are many incidents where the authorities have violated the law.

The reasons in support of a Judgement in a case must be cogent and succinct. The reasons to exercise the power on the statue should be reflected in the impugned proceedings. Merely giving a sequence of evidence in the body of the petition is not sufficient as the Judgement of this case should finally be focused on the prayer of the petition of the Petitioner.

Petitioners in the prayer of the petition seek for Orders in the nature of Writ of Mandamus directing Respondents to perform their statutory and regulatory duties under various sections of several statues, which in our view is a very broad plea to be made in this kind of judicial review application.

In our view such reliefs always should combine with an actual incident or with a live fact especially in a judicial review application since this Court makes Orders of specific nature as empowered under Article 140 of the Constitution. Further, such Orders should be in relation to a specific decision or act of the authorities identified carefully in the pleadings.

It is not for this Court to consider whether the public authority is right or wrong but the role of this Court is to consider whether the public authority has exceeded their powers. I have observed in my Order dated 03.02.2022 in CA/WRIT/45/2022 that this Court cannot be the Judge of giving directions to a Government intervening to the role of ruling the country.

In the circumstances, we are of the unanimous view that none of the reliefs prayed for in the prayer of the petition could be granted even after a full hearing of this case due to the ill-fated mode of formulating the prayer of the petition of the Petitioner.

Therefore, we are not inclined to issue notice on the Respondents and we proceed to refuse this application.

Judge of the Court of Appeal

Dhammika Ganepola J.

I agree.

Judge of the Court of Appeal