

**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 and Prohibition, under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CASE NO: CA/WRIT/158/20
& 159/20**

1. H. D Chaminda,
53/1A. Kathuruwatte.
Mudungoda
2. Nimal H. M. T.Bandara,
638/11, Vilhena Rd,
Gonawala, Kelaniya
3. Rukshika Pathberiya,
63, Eerahera,
Pepiliyawala
4. M. Ananthavel,
1/4B,
69 Farm Road,
Colombo-15
5. D. V. T. Jayath,
4-A, 4th Lane,
Telewala, Rathmalana
6. R. P. Welagedara,
Kuruduwatta Centre Road,
Nagoda, Kaluthara
7. M. P. Jayantha Pathmasiri,
Waddegama, Wewegama,
Kuliyapitiya

8. Thilini C. D. A. Gunawardana,
No. 3/40,
Kalidasa Rd, Matara
9. K. M. Parakrama B. Kothwala,
"Leela Wasa", Madugaha Watta,
Ulapane.
10. Thamaka Thambiripola,
241/2, Hendala Rd.
Wattala
11. Kithsiri Egodawatta,
6/7, Rapiyel Tenakoon Mw,
Parakandeniya,
Imbulgoda
12. R. Angela Dias,
85/1, Dehiwala Rd,
Boralessgamuwa
13. S. A. D. G. S. Ariyawardhana,
25, Piliyandala Rd,
Maharagama
14. Harshitha Ananda,
No. 607/B,
Yakkaduwa, Ja-Ela
15. S. S. Miskin,
296/3, Rankethyaya Road,
Makola
16. A.D. Prabath N Gunasekara,
189, Parakandeniya,
Imbulgoda

PETITIONERS

Vs.

1. W.P.C.Wickramaratne,
Auditor General,
No. 306/72, Polduwa Road,
Battaramulla
2. LTL Holdings (Pvt) Limited,
67, Park Street,
Colombo 2.
3. Ceylon Electricity Board,
No.50, Sri Chitapallam Gardner Mawatha,
Colombo 2.
4. Paradev (Pvt) Limited,
[Formerly known as 'LTL ESOT LTD']
No.65/10, Park Street.
Colombo 2.
5. Teckpro Investment Limited,
No. 67, Park Street,
Colombo 2.
6. Wasantha Perera,
Secretary,
Ministry of Power and Energy,
72, Ananda Coomaraswamy Mw.
Colombo 07.
7. LTL Transformers (Pvt) Ltd.,
No. 67, Park Street,
Colombo 2.
8. LTL Galvanizers (Pvt) Ltd.,
No. 67, Park Street,
Colombo 2.

9. Lanka Industrial Products Engineering (Pvt) Ltd.,
No. 67, Park Street,
Colombo 2.
10. Lakdhanavi Limited,
No. 67, Park Street,
Colombo 2
11. Pawan Danavi (Pvt) Ltd.,
No. 67, Park Street,
Colombo 2
12. Nividhu (Pvt) Ltd...
No. 67, Park Street,
Colombo 2
13. LTL Energy (Pvt) Ltd.,
No. 67, Park Street,
Colombo 2
14. Infra & Engineering (Pvt) Ltd..
No. 67, Park Street,
Colombo 2
15. Heladhanavi Ltd.,
No. 67, Park Street,
Colombo 2
16. Nividhu Assupiniella (Pvt) Ltd...
No. 67, Park Street,
Colombo 2
17. Asiatic Electric & Switchgear (Pvt) Ltd.,
E 21, Upper Ground Floor,
Naraina Vihar,
New Delhi,
110028,
India.

18. Raj Lanka Power Company Ltd...
Level 3, Arzed Chamber,
13, Bir Utamaro AK Khandakar Road,
Mohakhali C/A,
1212,
Dhaka,
Bangladesh.
19. Lakdhanavi Bangladesh Power Company
Ltd.,
Level 3, Arzed Chamber,
13, Bir Utamaro AK Khandakar Road,
Mohakhali C/A,
1212,
Dhaka,
Bangladesh.
20. Feni Lanka Power Ltd.,
Level 3, Arzed Chamber,
13, Bir Utamaro AK Khandakar Road,
Mohakali C/A,
1212.
Dhaka,
Bangladesh.
21. Bright International Power (Pte) Ltd.
Ward No.3,
8, Pioneer Sector 1.
628420,
Singapore.
22. Makarigad Hydro Power (Pvt Ltd.
Maharajgunj,
Kathmandu,
Nepal.

RESPONDENTS

Before: **M. T. MOHAMMED LAFFAR, J. and**
S. U. B. KARALLIYADDE, J.

Counsel: Sanjeewa Jayawardena, PC with Rukshan Senadeera and
Milhan Mohammed for the Petitioner

Milinda Gunathillaka, ASG, PC with N. Wigneswaran and
H. Opatha, Sc for the 1st, 3rd and 6th Respondents.

Dr. Romesh de Silva, PC with Niran Anketell, AAL instructed
by Julius & Creasy for the 2nd, 7th & 8th Respondents.

Uditha Egalahewa, PC with Vishwa Vimukthi instructed
by Sanjaya Fonseka for the 9th Respondent.

Buddhika Illangathilaka, AAL with Ruwantha Cooray,
and N. Nafath, instructed by Ramzi Bacha, for
the 10th 13th & 15th Respondents.

Kuvera de Soysa, PC with Pasindu Bandara, for the
11th to 12th Respondents.

Oral Submissions on: 31.08.2022

Decided on: 10.10.2022.

MOHAMMED LAFFAR, J.

The Petitioners in Applications bearing Nos' WRT-158-20 and WRT 159-20 are seeking *inter alia*, a mandate in the nature of a Writ of Certiorari quashing any decisions of the 1st Respondent to assume jurisdiction over the auditing of the 2nd Respondent Company and/or of the 7th to 22nd Respondents, to act or function as the Auditor of the 2nd Respondent Company and/or the 7th to 22nd Companies.

On 10/07/2020 this Court issued Interim Orders as prayed for in paragraphs (H), (I), (J), (K), and (L) of the prayers to the Petition, which reads thus;

H) Until the final determination of this Application, issue an Interim Order staying the appointment of the 1st Respondent as the Auditor of the 2nd Respondent Company and/or of the 7th to the 22nd Companies, if any;

I) Until the final determination of this Application, issue an Interim Order staying any and all the decisions of the 1st Respondent and/or his servants and/or agents thereof to assume jurisdiction over the auditing of the 2nd Respondent Company and/or of the 7th to the 22nd Companies, and/or to act or function as the Auditor/s of the 2nd Respondent company and/or of the 7th to the 22nd Companies, in patent violation of the provisions in Article 154(1) of the Constitution, as amended by the 19th Amendment to the Constitution;

J) Until the final determination of this Application, issue an Interim Order staying and suspending the letters issued and/or caused to have been issued by the 1st Respondent, dated 14.12.2015, produced marked P-12, and letters dated 25.01.2019, produced marked P-16(a) to P-16(j), *per se and simpliciter*;

K) Until the final determination of this Application, issue an Interim Order restraining the 1st Respondent and/or his servants and/or agents thereof from wrongfully assuming jurisdiction over the auditing of the 2nd Respondent Company and/or of the 7th to the 22nd Respondent Companies, in patent violation of the provisions of Article 154(1) of the Constitution, as amended by the 19th Amendment to the Constitution;

L) Until the final determination of this Application, issue an Interim Order restraining the 2nd Respondent and/or the 3rd to 5th Respondent and/or any one or more of them from appointing the 1st Respondent as the Auditor of the 2nd Respondent Company and/or of the 7th to the 22nd Respondent Companies, in violation of the provisions of the Constitution and the law.

When these matters were taken up for submissions on 31/08/2022 as to the preliminary objections raised by the learned Additional Solicitor General, who is appearing for the 1st, 3rd and 6th Respondents as to the maintainability of these Applications, the learned President's Counsel appearing for the Petitioner submitted that until the date of the promulgation of the 20th Amendment to the Constitution, the 1st Respondent had no jurisdiction whatsoever to audit the financial statements or accounts of the 2nd Respondent in respect of any date or period prior to the 29/10/2020, which is the date on which the Speaker of Parliament certified the said Amendment, and on which date it came to effect. The learned President's Counsel for the Petitioner submitted that the Auditor General who is the 1st Respondent of these Applications assumes jurisdiction from 29/10/2020 to audit the 2nd Respondent Company.

At this juncture, the learned Additional Solicitor General submitted that in terms of the forgoing submissions of the learned President's Counsel for the Petitioners, the Interim Orders issued by this Court against the 1st Respondent preventing him from auditing the financial position of the 2nd Respondent are liable to be vacated. We heard the learned President's Counsel for the Petitioner and the learned President's Counsel of the 2nd Respondents in this regard. We heard the learned Additional Solicitor General as well.

The Interim Orders as prayed for in the prayers to the Petition have been issued on the application made by the learned President's Counsel for the Petitioners restraining the 1st Respondent from auditing the financial statements and accounts of the 2nd Respondent and 7th to 22nd Respondents. Since, it is the contention of the learned President's Counsel for the Petitioner, that after the promulgation of the 20th Amendment to the Constitution, the 1st Respondent assumes jurisdiction from 29/10/2020 to audit the accounts of the 2nd Respondent Company, it appears to this Court that the Petitioners are not pursuing to extend the

said Interim Orders that is issued in favour of the 2nd Respondent. In this scenario, the learned Counsel for the 2nd Respondent has no right to object the vacation of the said Interim Orders, and the said Interim Orders are liable to be vacated forthwith.

In these circumstances, it is the view of this Court that the Interim Orders issued against the 1st Respondent preventing him from auditing the accounts of the 2nd Respondent are liable to be vacated. Thus, the Interim Orders issued against the 1st Respondent retraining him from auditing the 2nd Respondent Company are vacated.

JUDGE OF THE COURT OF APPEAL

S. U. B. KARALLIYADDE, J.

I agree.

JUDGE OF THE COURT OF APPEAL