

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

In the matter of an Application for a Writ of *Certiorari* and *Prohibition* under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No.

**CA/WRT/422/2020 &
CA/WRT/440/2020.**

1. Prof. D.G. Harendra de Silva
No. 25, Elias Place,
Colombo 09.
2. Dr. W.M. Sunil Rathnapriya
No. 7/1A, 3rd Lane,
Ratmalana.
3. Dr. U.M. Gunasekara
No. 7/4/1/1,
Perakum Mawatha,
Maharagama.

Petitioners in Application No 422/2020

1. Professor Narada Digagamini
Warnasuriya
6, Ebenezer Place,
Dehiwala.
2. Dr. Pushpitha Dharshana Sunil
Ubaysiri,

36, Elias Place,
Colombo 09.

Petitioners in Application No 440/2020

1. Hon. Pavithra Wanniarachchi
Minister of Health, Nutrition and
Indigenous Medicine,
Ministry of Health, Nutrition and
Indigenous Medicine,
Suwasiripaya.
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
2. Dr. Hemantha Perera
Purported Chairman
Purported Committee appointed
by the Minister of Health
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
3. Prof. Prashantha Wijesinghe
Purported Member
Purported Committee appointed
by the Minister of Health
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
4. Prof. Anula Wijesundara
Purported Member
Purported Committee appointed
by the Minister of Health
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
5. Dr. Maithri Chandrarathna
Purported Member

Purported Committee appointed
by the Minister of Health
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.

6. Dr. Dharshana Sirisena
Purported Member
Purported Committee appointed
by the Minister of Health
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
7. Prof. Vajira Dissanayake
Council Member
Sri Lanka Medical Council
No. 31, Norris Canal Road,
Colombo 10.
8. Sri Lanka Medical Council
No. 31, Norris Canal Road.
Colombo 10.
9. Dr. Ananda Hapugoda,
Registrar
Sri Lanka Medical Council,
No. 31, Norris Canal Road,
Colombo 10.
10. Prof. Bandula Wijesiriwardene
No.721/54, Birds Park Residencies,
Sri Nanda Mawatha, Madinnagoda,
Rajagiriya.
11. Dr. Dilrukshi Ruberu
No. 175/81, John Rodrigo Mawatha,
Katubedda,
Moratuwa
12. Dr. Vajira Senarathna
19, 2nd Lane, Koswaththa, Nawala.

13. Prof. Jayalath Jayawardane
2A, 6th Lane, Pagoda Road,
Nugeoda.

**Respondents in Application No's 422/2020 &
440/2020.**

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

Counsel: Upul Jayasuriya, P.C, with Sachira Andranannadi,
for the Petitioners in Application No 422/2020.

N. Pulle ASG P.C. for 1a Respondent in Application No
422/2020.

Romesh De Silva, P.C. with Niran Anketell instructed by
E. A. S. Edirisinghe for the 2nd to 6th Respondents in
Application No 422/2020.

Navin Marapana, P.C. with Ravindranath Dabare and
Uchitha Wickremasinghe for the 7th to 8th Respondents in
Application No 422/2020.

Shavinda Fernando P.C. with Ms. Bashini Hettiarachchi
and Umayanga Indatissa for the 9th, 10th, 11th, and 12th
Respondents in Application No 422/2020.

Sanjeewa Jayawardane for the Petitioners for
Application No 440/2020.

N. Pulle ASG P.C. for 1a Respondent in Application No
440/2020

Romesh De Silva, P.C. with Niran Anketell instructed by E. A. S. Edirisinghe for the 2nd to 6th Respondents in Application No 440/2020.

Navin Marapana, P.C. with Ravindranath Dabare and Uchitha Wickremasinghe for the 7th to 8th Respondents in Application No 440/2020.

Shavinda Fernando P.C. with Ms. Bashini Hettiarachchi and Umayanga Indatissa for the 9th, 10th, 11th, and 12th Respondents in Application No 440/2020.

Argued on: 04.05.2022, 26.05.2022, 06.06.2022,
20.06.2022, 20.09.2022, 03.10.2022,
11.10.2022, 12.10.2022.

Written Submissions on: 27.12.2022 by the Petitioners
02.12.2022 by the 2nd to 6th Respondents
17.11.2022 by the 7th to 8th Respondents
17.11.2022 by the 9th to 12th Respondents

03.01.2023 by the Petitioners
02.12.2022 by the 2nd to 6th Respondents
17.11.2022 by the 7th to 9th Respondents
17.11.2022 by the 10th to 13th Respondents

Decided on: 26.01.2023

MOHAMMED LAFFAR, J.

The Petitioners, in these Applications, under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka, have invoked the Writ Jurisdiction of this Court seeking, *inter-alia*;

1. To grant a mandate in the nature of Writs of Certiorari to quash the decisions of the 1st Respondent, revoking the appointment of the 1st Petitioner as President and a member of the Sri-Lanka Medical Council (hereinafter referred to as the SLMC), revoking the appointment of the 2nd and 3rd Petitioners as Council Members, as reflected in the letters dated 27-11-2020 marked as P8, P9 and P10 in Application No. Writ-422-20.
2. To grant a mandate in the nature of Writs of Certiorari to quash the decisions of the 1st Respondent, revoking the appointments of the 1st and 2nd Petitioners as Council Members of the SLMC, as reflected in the letters dated 27-11-2020 marked as P12 and P13 in Application No. Writ-440-20.
3. To grant a mandate in the nature of Writs of Certiorari, quashing the decision of the 1st Respondent, appointing the 7th Respondent as President of the SLMC as reflected in the letter dated 27-11-2020, produced as P14 (b) in Application No. Writ-440-20, as well as quashing the said letter per se;
4. To grant a mandate in the nature of a Writ of Certiorari, quashing the report of the committee comprising of the 2nd to 6th Respondents to inquire into complaints related to the SLMC, dated 10-11-2020, produced as P11 in Application No. 44-2020 and P7 in Application No. 422-2020.
5. To grant a mandate in the nature of Writs of Prohibition, preventing the 7th Respondent from assuming office or further functioning as the President of the SLMC, preventing any other members appointed in the room and in place of the Petitioners in both Applications, assuming office as members of the SLMC, restraining the 7th Respondent from holding any Council meetings and making any decisions whatsoever with regard to the affairs of the SLMC.

FACTUAL MATRIX IN A NUTSHELL:

In Application bearing No. 422-20, the 1st Petitioner was the President and the 2nd and 3rd Petitioners were members of the SLMC, and in Application No. 440-20, the 1st and 2nd Petitioners were members of the SLMC appointed by the then Minister of Health with effect from 21-01-2019 for five years.

The 1st Respondent is the Minister of Health, the 2nd Respondent is the Chairman and the 3rd to 6th Respondents are the members of the Committee appointed by the 1st Respondent for the purpose of inquiring into the complaints related to the SLMC. The 7th Respondent is the new President of the SLMC appointed by the 1st Respondent.

In terms of Section 12 of the Medical Ordinance, the 1st Petitioner of the Application bearing No. 422-20 was appointed as President and the other Petitioners in both Applications were appointed as members of the SLMC by the predecessor of the 1st Respondent for five years.

Thereupon, the 1st Respondent appointed a Committee comprising of the 2nd to 6th Respondents to inquire into certain complaints made against the SLMC. At the request of the said Committee, the SLMC submitted a report to the said Committee on 15-10-2020. Thereafter, the Committee submitted its report dated 10-11-2020 to the 1st Respondent. The 1st Respondent, in terms of the recommendations made by the Committee, having decided that the Petitioners in both Applications are responsible for allegations set out therein, by letters dated 27-11-2020 revoked the appointments of the Petitioners, and thereafter, by letter dated 27-11-2020 marked as P14 (b) appointed the 7th Respondent as the President of the SLMC. The 10th, 11th, 12th and 13th Added Respondents were also appointed as new members. The respective letters of revocation are annexed as P8, P9, P10, P12 and P13. The Petitioners state that revoking the appointment of the Petitioners and the appointment of the new President and new members are illegal, *ultra-vires*, unlawful, arbitrary and capricious.

CONTENTION OF THE 1ST RESPONDENT.

The 1st Respondent prays that the Applications be dismissed on the basis, *inter-alia, that*;

1. The Supreme Court in SC/FR 119/2019, SC/FR/149 and 146/2019 has found fault with the SLMC for arbitrarily depriving medical students from obtaining provisional registration.
2. Under Section 19D of the Medical Ordinance, the 1st Respondent has the power to inquire into the affairs of the SLMC upon complaints being received.
3. The Petitioners had not raised any objections to the proceedings and had expressed their support to the Committee. The Petitioners were given adequate opportunity to present their case before the Committee.
4. There are specific findings against the former President of the SLMC by the Committee.
5. The revocations of the appointments of the Petitioners by the 1st Respondent are in terms of the findings of the Committee.

CONTENTION OF THE 2ND TO 6TH RESPONDENTS.

These Respondents state that the members of the SLMC had been granted adequate opportunities to address the matters concerned. Having considered the documents tendered by the SLMC and the oral explanations given by the members of the SLMC, the Committee prepared the Report, and therefore, the decisions of the 1st Respondent to revoke the appointments of the Petitioners are lawful and reasonable.

CONTENTION OF THE 7TH, 8TH AND 9TH RESPONDENTS.

1. The Petitioners were appointed to the SLMC at the pleasure of the 1st Respondent, and therefore, they can also be removed at the pleasure of the 1st Respondent (the Minister).
2. In terms of the provisions of the Medical Ordinance, the 1st Respondent has the power to appoint members to the SLMC and has the power to remove members from the SLMC.
3. The 1st Respondent has the power to appoint a Committee to inquire into the complaints made against the SLMC.
4. The reliefs prayed for in the Petitions are futile and the Petitioners have suppressed material facts in their Petitions.

Section 19D of the Medical (Amendment) Act No. 30 of 1987 empowered the 1st Respondent (Minister) to appoint a person to inquire into any complaints made against the SLMC and its performance, which reads thus;

“19D (1) The Minister may on receipt of a complaint in that behalf, direct any person to inquire into the affairs of the Medical Council and the performance by it, of its duties under this Ordinance.

(2) Where such inquiry as is referred to in subsection (1) is held, every member of the Medical Council, and every member of the staff of the Medical Council shall upon being requested to do so by the person holding the inquiry, furnish such information within his knowledge with regard to the work and affairs of the Medical Council and produce such registers or documents in his custody, as that person may require.”

In respect of the Applications in hand, by virtue of Section 19D of the said Act, the 1st Respondent had appointed a Committee comprising of the 2nd to 6th Respondents to inquire into the complaints leveled against the SLMC. As such, It is the view of this Court that the said Committee appointed by the 1st Respondent is in terms of the provisions of the Medical Ordinance.

However, it is alleged by the Petitioners that the conduct of the said Committee is unfair and in violation of the principles of natural justice. As per the Report of the Committee appointed by the 1st Respondent, the Government Medical Officers Association (hereinafter referred to as the GMOA) is the main complainant against the SLMC¹. It is pertinent to be noted that the 5th Respondent (Dr. Maithree Chandrarathna) who was a member of the said Committee was an active member of the Election Committee of the GMOA. The 6th Respondent (Dr. Dharshana Sirisena), a member of the Inquiry Committee was also an active member of the Specialist Transfer Board Committee of the GMOA. The President of the SLMC (1st Petitioner in 422-20) and a member of SLMC (3rd Petitioner in 422-20) raised these concerns with the 1st Respondent Minister by their respective letters marked as P5(a) and P5(b). The P5(a) reads as follows;

“.....in the proposed inquiry, the group that made allegations against the SLMC is also sitting in judgment. On the principle of natural justice, I earnestly request you to reconsider the composition

¹ Page 11 of the Report marked as P11.

of the proposed Committee to inquire into matters of SLMC and appoint independent, impartial and unbiased members such as retired senior judges and civil servants.....”

It appears that the 1st Respondent has not responded to those letters. At this juncture, as submitted by the learned President’s Counsel for the Petitioners, a reasonable question arises as to whether the persons who have an interest in the complaint made against the SLMC can sit in judgment against the latter.

In **Tirathai Public Co. Ld., v. Ceylon Electricity Board and Others**,² the Supreme Court observed that,

“One of the principle rules of natural justice is nemo judex in causa sua i.e. no man may be a judge in his own cause, to ensure fairness in decision making and the rule against bias.

Accordingly, a judge is disqualified from determining any case in which he may actually be or fairly suspected to be biased. The rule also applies in scenarios where there is an intermingling of functions whereby an adjudicator had been involved in the case in a different capacity.”

The maxim *nemo judex in causa sua* succinctly explained by Browne Wilkinson, L.J. in **In Re Pinochet**,³ in the following way:

“The fundamental principle is that a man may not be a judge in his own cause. This principle, as developed by the courts, has two very similar but not identical implications. First it may be applied literally: if a judge is in fact a party to the litigation or has a financial or proprietary interest in its outcome then he is indeed sitting as a judge in his own cause. In that case, the mere fact that he is a party to the action or has a financial or proprietary interest in its outcome is sufficient to cause his automatic disqualification. The second application of the principle is where a judge is not a party to the suit and does not have a financial interest in its outcome, but in some other way his conduct or behavior may give rise to a suspicion that he is not impartial, for example because of his friendship with a party. This second type of case is not strictly speaking an application of the principle that a man must not be judge in his own cause, since the judge will not normally

² SC/FR 108/2016, Supreme Court Minutes of 11.10.2018. Vide page 15.

³ [1999] UKHL 52

be himself benefiting, but providing a benefit for another by failing to be impartial.” (Emphasis added)

In **Geeganage Vs. Director General of Customs**⁴, Gunawardana, J. held that;

The principle that no man shall be the judge in his own cause (nemo judex in causa sua potest) is based on this rule against bias and is intended to ensure that decision-makers are as independent as is practicable. The rule of bias, which is a variant if not the same thing as the principle of "nemo judex in causa sua" which means literally that no man shall be a judge in own cause. But as a rule of natural justice that maxim has a wider connotation and prevents any person suspected of being biased from deciding a matter.”

His Lordship further observed that;

“.....my own view is that when the Petitioner objected to the 2nd Respondent Inquiring into the matter, the 2nd Respondent should have stepped down with a good grace, for justice must be rooted in confidence.”

In the case of **Neidra Fernando Vs. Ceylon Tourist Board**⁵ Gunawardana, J. observed that;

“The rule against bias is a doctrine which requires that no man should be the Judge in his own cause. The petitioner had a right to a fair hearing. The inquiring officer must appear to be free from bias which is a concomitant of that right. It is true that the Chairman had not personally decided the matter, but he had appointed the inquiring officer who did make the decision or the recommendation. Bias being insidious one rarely has to or is able to prove actual bias. I think appearances are everything, justice must be seen to be done.”

The Indian Supreme Court in **G.N. Nayak Vs. Goe University and Ors**⁶ enunciated that;

⁴ 2001 (3) SLR-179.

⁵ 2002 (3) SLR-169.

⁶ Case No. Appeal (Civil) 821 of 2002, Ruma Pal J.

".....It must be a prejudice that is not founded on reason and actuated by self-interest whether pecuniary or personal. Because of this element of personal interest, bias is also seen as an extension of the principle of natural justice that no man should be a judge in his own cause....)

In **Metropolitan Properties Ltd. v. Lannon** ⁷. Lord Denning observed that;

". . . the Court looks at the impression that would be given to other people. Even if he was as impartial as could be, nevertheless if right-minded persons would think that, in the circumstances, there was a real likelihood of bias on his part, then he should not sit".

In the light of the above judicial literature, it is abundantly clear that it is not merely of importance, but of fundamental importance that justice should not only be done but must manifestly and undoubtedly be seen to be done.

In those circumstances, it is the considered view of this Court that the impugned inquiry report marked P11 is liable to be set aside *in limine* on the ground of bias alone as the 5th and 6th Respondents who are the members of the complainant (GMOA) against the SLMC, were judges of the said Report.

Having scrutinized the minutes of the Committee, it is clear that the inquiry was concluded in a very short period. The Petitioners were not charged, the copies of the complaints were not handed over to the Petitioners, statements were not recorded from the Petitioners, formal evidence was not adduced, adequate opportunities were not granted to the Petitioners to adduce evidence, and to cross-examine the witnesses/complainants who made the complaints against the SLMC. In these circumstances, it appears to this Court that the impugned Report marked P11 is incomplete, biased and against the basic principles of natural justice. The task of the Committee was only facts finding, even that was not discharged within the scope of the principles of natural justice. Besides, it is significant to note that there were no allegations or inquiry against the Petitioners. The Committee was appointed to inquire into the purported allegations against the SLMC.

⁷ 1968 3 ALL ER 304

It is pertinent to be noted that the 1st Respondent by letter dated 27-11-2020 revoked the appointments of the Petitioners purely on the recommendation of the Committee, which reads thus;

“.....The Committee after affording opportunities to make representations from the relevant representatives of SLMC concluded that you are responsible for the aforesaid allegations and failed to perform your duties in an impartial and transparent manner.....The Committee further concluded that the responsible Council members should be terminated to restore the independence and functions of SLMC.....Therefore, based on the recommendation of the above Committee, by virtue of the powers vested in me as the Minister of Health, under the Medical Ordinance and the other relevant laws, your current appointment made under section 12 (1) (f) as a member of the SLMC is revoked with immediate defect....”

The attention of this Court is drawn to the facts that;

1. The Committee totally failed to adhere to the principle of natural justice and rule of law in holding the inquiry.
2. As I have already observed, the report is biased.
3. The Report has not made any specific findings or recommendations that any particular Council member or Officer of the SLMC should be responsible and/or terminated.
4. The Committee recommended that an independent legal opinion should be sought as to whether action should be taken against the President and other members of the SLMC. There is no material before Court that the 1st Respondent had obtained legal opinion before revoking the appointments.
5. On page 21 of the Report, the Committee recommended that the Minister may request the President of the SLMC and the Council to show cause for the lapses which led to this blatant violation of the Medical Ordinance. There are no materials before Court to substantiate the fact that the Minister had complied with this recommendation.
6. On page 38 of the Report, the Committee had held that the SLMC is responsible (not the Petitioners) for postponing the due ERPM Examination in March 2020.

In these circumstances, I am unable to understand the basis upon which the 1st Respondent has selected only the Petitioners to strip them of their appointments, whilst the committee finds that the entire SLMC is responsible for the purported allegations. This Court is mindful of the fact that, subsequently, the 1st Respondent has appointed the 7th Respondent as the new President of the SLMC, who is also a member of the SLMC against whom the Committee had made recommendations. The attention of this Court is drawn to the report dated 15-10-2020 marked as P10 (a), dispatched by the SLMC to the Committee appointed, signed by the 7th Respondent along with the three other members of the SLMC wherein the 7th Respondent has admitted the fact that the SLMC is responsible for all its decisions. The said Report is re-produced as follows;

“In reference to the TORs submitted by the Committee to inquire on SLMC-related complaints dated 06-10-2020 addressed to the President and the members of the Sri Lanka Medical Council through the Registrar was discussed at the Special Council meeting convened on 9th October 2020 to discuss the issue related to the de-recognition of three Universities as requested by the Hon. Minister of Health.

The Council appointed a sub-committee to study the issues related to the TORs and to prepare the relevant documents for submission to the said committee. The sub-committee wishes to furnish the following facts, sequence of events and related documents.

The sub-committee wishes to state that the SLMC takes all its decisions at its’ Council meetings either by unanimous or majority decision. Thus all decisions made by the members of the council are binding in nature.”

In these circumstances, it is abundantly clear that there is no basis for the 1st Respondent to penalize the Petitioners and appoint the 7th Respondent as the new President.

It appears to this Court that the reasons set out in the letters of revocation are palpably erroneous, devoid of merits and against the recommendations of the Committee. There are no findings by the Supreme Court in application Nos. SC/FR 119/2019, SC/FR/149 and 146/2019 against the Petitioners. The findings of the Supreme Court are against the SLMC, and therefore, there is a duty cast upon the Committee to ascertain the members who are responsible for the allegations, which was not done.

There are no findings either by the Supreme Court or Committee against the Petitioners.

I further observe that if the 1st Respondent is of the opinion that the Petitioners are responsible for the allegations, the 1st Respondent could have easily called for explanations, issued a charge sheet and held a formal inquiry prior to the removal. No such actions had been taken prior to the removal of the Petitioners from their positions in the SLMC which is a blatant disregard of the principles of natural justice and rule of law. Since there is no specific provision in the Medical Ordinance, empowering the Minister to revoke the appointments of the members of SLMC, if a member is corrupt to the limit of abusing his position in the Council, there is no option for the Minister but to adhere to the principles of natural justice before revoking his appointment. It is observed by this Court that, even if there are provisions in law, empowering the authorities to remove a member from his position, the authorities can do so only within the scope of the principles of natural justice. The recommendation of the Committee was that the responsible officers and Council members should be terminated to restore the independence and function of SLMC⁸. It appears to this Court that, in terms of the recommendation of the Committee, the 1st Respondent has not taken any steps to ascertain the responsible Officers or Council members. Moreover, I am inclined to accept the submissions of the learned President's Counsel for the Petitioners that the 1st Respondent (The Minister) has not complied with the recommendation made by the Committee requesting the President and the Council to hold the election immediately for the four vacant posts.

I shall now deal with the doctrine of pleasure advanced by the learned President's Counsel for the 7th, 8th and 9th Respondents. The learned President's Counsel submits that the Petitioners were appointed to the SLMC at the pleasure of the predecessor of the 1st Respondent Minister, and therefore, they can also be removed at the pleasure of the 1st Respondent Minister.

At this point, the attention of this Court is drawn to the letters of revocation wherein it is stated that appointments of the Petitioners are revoked on the basis that they are responsible for the allegations leveled against the SLMC and failed to perform their duties. In short, the Petitioners have been removed from their posts by the 1st Respondent only

⁸ Page 9 of the report marked P11.

on the basis that they have been found guilty of purported allegations leveled against the SLMC. As such, the principle of pleasure does apply to the facts and circumstances of these applications unless the said allegations are proved within the ambit of natural justice and rule of law. It is to be noted that the Petitioners are eminent medical practitioners.

His Lordship H.N.G. Fernando, CJ, in the case of **Sri-Parakrama Thero Vs. The Minister of Education**⁹ at pages 509 and 510 referred to the principle laid down by Lord Reid in **Ridge Vs. Baldwin**¹⁰ and observed as follows;

“cases of dismissal appear to fall into three categories:-

- 1. Dismissal of a servant by his master,*
- 2. Dismissal from an office held during pleasure,*
- 3. Dismissal from an office where there must be something against the man to warrant his dismissal.”*

It is pertinent to note that the principle of pleasure will apply to the person who falls under the 2nd category. The Petitioners in these applications are falling under the 3rd category where they have been dismissed upon certain purported allegations, and therefore, the doctrine of pleasure will not apply to the Petitioners of these applications.

The Supreme Court of India, in the case of **B.P. Singhal vs Union of India & Anr**¹¹ held that; as per R.V. Raveendran J;

“There is a distinction between the doctrine of pleasure as it existed in a feudal set-up and the doctrine of pleasure in a democracy governed by rule of law. In a nineteenth-century feudal set-up, the unfettered power and discretion of the Crown were not an alien concept. However, in a democracy governed by the Rule of Law, where arbitrariness in any form is eschewed, no Government or Authority has the right to do what it pleases. The doctrine of pleasure does not mean a licence to act arbitrarily, capriciously or whimsically. It is presumed that discretionary powers conferred in absolute and unfettered terms on any public authority will necessarily and obviously be exercised reasonably and for the public good.

⁹ 71 NLR 506.

¹⁰ 1963 2AER 66.

¹¹ Writ Petition (Civil) No. 296 of 2004. Decided on 07-05-2010

The withdrawal of presidential pleasure under Article 156, cannot be an unfettered discretion, nor can it be arbitrary, capricious, unreasonable or malafide. The power of removal should be used only if there is material to demonstrate misbehavior, impropriety or incapacity. In other words, that removal should be only on the existence of grounds which are similar to those prescribed for impeachment in the case of other constitutional functionaries.”

In these respects, I hold that the Minister has acted in mala-fide, arbitrarily and capriciously revoking the appointments of the Petitioners of the SLMC, the Petitioners were not heard before such removal, and as such, the Minister did not adhere to the rule of natural justice and *audi alteram partem*.

The preliminary objections raised by the learned President’s Counsel for the 7th, 8th 9th Respondents, stating that the reliefs prayed for are futile and the Petitioners have suppressed material facts in their applications, are devoid of merits.

For the foregoing reasons,

1. Writs of Certiorari to quash the decisions of the 1st Respondent, revoking the appointment of the 1st Petitioner as President and a member of the Sri-Lanka Medical Council, revoking the appointments of the 2nd and 3rd Petitioners as Council Members, as reflected in the letters dated 27-11-2020 marked as P8, P9 and P10 in Application No. Writ-422-20, are issued.
2. Writs of Certiorari to quash the decisions of the 1st Respondent, revoking the appointments of the 1st and 2nd Petitioners as Council Members of the SLMC, as reflected in the letters dated 27-11-2020 marked as P12 and P13 in Application No. Writ-440-20, are issued.
3. Writs of Certiorari, quashing the decision of the 1st Respondent, and the letter dated 27-11-2020, produced as P14 (b) in application No. Writ-440-20, appointing the 7th Respondent as President of the SLMC as reflected in P14 (b) are issued.
4. Writs of Certiorari quashing the decision of the 1st Respondent appointing the 10th, 11th, 12th and 13th added Respondents as members of the SLMC are issued.

5. A Writ of Certiorari, quashing the report of the committee comprising of the 2nd to 6th Respondents to inquire into complaints related to the SLMC, dated 10-11-2020, produced as P11 in Application No. 440-2020 and P7 in Application No. 422-2020, is issued.

6. Writs of Prohibition, preventing the 7th Respondent from assuming office or further functioning as the President of the SLMC, preventing the 10th, 11th, 12th and 13th added Respondents, assuming office as members of the SLMC, restraining the 7th Respondent from holding any Council meetings and making any decisions whatsoever with regard to the affairs of the SLMC, are issued.

The Petitioners are entitled to the reliefs as prayed for in the prayers to the applications.

The parties should bear their own costs.

Applications allowed.

JUDGE OF THE COURT OF APPEAL

S. U. B. KARALLIYADDE, J.

I agree.

JUDGE OF THE COURT OF APPEAL