

**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 Certiorari and  
Mandamus under and in terms of Article  
140 of the Constitution of the Democratic  
Socialist Republic of Sri Lanka*

**Court of Appeal Case No.  
CA/WRT/451/19**

1. Puhulwella Hewage Kumaralal Gamini  
2010P, Bankuwatta,  
Palenwatta, Pannipitiya.

2. Champika Shiran Nandasena  
246/2, Kekirideniya Road,  
Hewagama, Kaduwela.

3. R.M.Lohitha Upul Chandana  
243/34, Hiripitiya  
Pannipitiya.

4. W.K.Sugath Wijithasiri  
172/2, Gampaha Aluthgama,  
Gampaha.

5. D.N.I.Liyanage 504/38A,  
Kuruduwatta Road, Thanthirimulla,  
Panadura.

6. W.N.Amaranath  
231/2A, Jayanthi Mawatha,  
Himbutana,  
Mulleriyawa New Town.

7. S.A.Salinda Wimalasooriya  
22/13, Sappuwalta, Polgahawela.

8. Ruwan Piyumsiri Herathge  
336/17, Gajaba Mawatha,  
Ihalakaraghamuna, Kadawatha.

9. Disanayaka Kumara Thilaka  
Siriwardana

245/D, Dollar Park,  
Kandy Road, Kirillawala, Weboda.

10. W.V.P.N.Jayasinghe,  
No. 10, Sri Wijaya Sri Mawatha,  
Medagama, Gampaha.

11. K.M.P.C.Jayasundara  
23/2, Pamunuwila, Gonawala (W.P)

12. Dulanga Asela Jayalath Pathirana  
148/5, Justin Dias Mawatha,  
Egodauyana,  
Moratuwa.

#### **PETITIONERS**

1. Sri Lanka Rupavahini Corporation  
P.O. Box 2204, Independence Square,  
Colombo 07.

2. Inoka Sathyangani Keerthinanda  
Chairperson,  
Sri Lanka Rupavahini Corporation,

2A. Dr. Nihal Jayathilaka  
Chairman,  
Sri Lanka Rupavahini Corporation,

2B. Reginald Cooray  
Chairman,  
Sri Lanka Rupavahini Corporation,

2C. W.D Ganegala,  
Chairman,  
Sri Lanka Rupavahini Corporation,

3. Saranga Wijayarathne,  
Director General  
Sri Lanka Rupavahini Corporation

3A. Ajith Naragala  
Director General,  
Sri Lanka Rupavahini Corporation

3B. Jayampathy Bandara Heenkenda  
Director General,  
Sri Lanka Rupavahini Corporation

3C. Ajantha Senavirathna,  
Director General,  
Sri Lanka Rupavahini Corporation

4. Tissa Hewawitharana,  
Board member,  
Sri Lanka Rupavahini Corporation

4A. Indika Liyanahewage  
Board member,  
Sri Lanka Rupavahini Corporation

4B. Indika Jayarathne  
Board member,  
Sri Lanka Rupavahini Corporation

4C. Prasanna Hennayake  
Board Member,  
Sri Lanka Rupavahini Corporation,

4D. P.K.S Subhodhani  
Board member,  
Sri Lanka Rupavahini Corporation,

5. Anusha Gokula Fernando,  
Board member,  
Sri Lanka Rupavahini Corporation

SA. Manjula Makumbura  
Board member,  
Sri Lanka Rupavahini Corporation

SB. Jayantha Dharmadasa  
Board member,  
Sri Lanka Rupavahini Corporation,

5C. P.K.S Subhodhani  
Board member,  
Sri Lanka Rupavahini Corporation,

5D. H. H. Kasthuriarachchi  
Board member,  
Sri Lanka Rupavahini Corporation,

5E. Depal Chandrarathne  
Board member,  
Sri Lanka Rupavahini Corporation,

6. R.M.A Rathnayake,  
Board member,  
Sri Lanka Rupavahini Corporation,

6A. H.H. Kasthuriarachchi  
Board member,  
Sri Lanka Rupavahini Corporation,

6B. S.R.VW.M.R.P Sathkumara  
Board member,  
Sri Lanka Rupavahini Corporation,

*All of*  
P.O. Box 2204, Independence Square,  
Colombo 07.

7. General S HS Kottegoda,  
Secretary, Ministry of Defence  
1S/5, Baladaksha Mawatha, Colombo  
03.

7A. General (Retd) G.D.H. Kamal  
Gunaratne,  
Secretary, Ministry of Defense,  
15/5, Baladaksha Mawatha, Colombo  
03.

7B. Jagath P. Wijeweera,  
Secretary,

Ministry of Mass Media,  
163, Asi Disi Madura, Kirulapone  
Mawatha,  
Polhengoda, Colombo 05.

7C. Anusha Palpita  
Secretary,  
Ministry of Mass Media,  
163, Asi Disi Madura, Kirulapone  
Mawatha, Polhengoda, Colombo 05.

8. R.A.L Nandana,  
94/2, Paraththa Road, Keselwatta,  
Panadura.

9. M.I Sihamudeen,  
72/21, Kosal Street, Colombo 08.

10. Ranjan Jayathissa,  
140J, Kadaboda, Delgoda.

11. Nalin de Silva,  
135/1, Eliot Road, Galle.

12. Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

#### **RESPONDENTS**

13. Nuwan Gamage,  
Board member,  
Sri Lanka Rupavahini Corporation,

13A. Prof. Chandana Rathnayake  
Board member,  
Sri Lanka Rupavahini Corporation,

14. Indika Liyanahewage  
Board Member,  
Sri Lanka Rupavahini Corporation,

14A. S.D.W Gunawardana, Board  
member,  
Sri Lanka Rupavahini Corporation,

14B. Rakitha Abayagunawardana, Board  
member,  
Sri Lanka Rupavahini Corporation,

15. Ravi Kalupahana  
Board member,  
Sri Lanka Rupavahini Corporation,

15A. Jayantha Dharmadasa  
Board member,  
Sri Lanka Rupavahini Corporation,

15B. Hudson Samarasinghe  
Board member,  
Sri Lanka Rupavahini Corporation,

16. Chandrapala Liyanage  
Board member,  
Sri Lanka Rupavahini Corporation,

16A. Abdeen  
Board member,  
Sri Lanka Rupavahini Corporation,

17. Prof. D. M Ajith Dissanayake  
Board member,

18. Nirosha Samanmali  
Board Secretary  
Sri Lanka Rupavahini Corporation,

*All of*  
P.O. Box 2204, Independence Square,  
Colombo 07.

**ADDED RESPONDENTS**

Before: **M. T. MOHAMMED LAFFAR, J.**

Counsel:

Ravindranath Dabare with Hansani Imalka for the Petitioner

Rasika Dissanayake for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 13<sup>th</sup> and 2C, 3C, 5E, 13A, 14B, 16A and 18<sup>th</sup> Respondents

Rajeev Amarasuriya with M. R. Bandara and Sumudu Nanayakkara for the 8<sup>th</sup> to 11<sup>th</sup> Respondents

Avanthi Weerakoon, SC for 7C and 12<sup>th</sup> Respondents

Argued on : 12.12.2022

Written Submissions on:

15.02.2023 (by the 8<sup>th</sup> to 11<sup>th</sup> Respondents)

14.02.2023 (by the Petitioner)

Decided on: 19.06.2023

**MOHAMMED LAFFAR, J.**

The Petitioner instituted the instant application by petition dated 10.10.2019 and has sought inter alia an order in the nature of a writ of *Certiorari* quashing the purported appointments of the 8<sup>th</sup> to 11<sup>th</sup> Respondents as per document marked 'P21', a declaration that the appointments of the 8<sup>th</sup> to 11<sup>th</sup> Respondents which were made arbitrarily, unreasonably and capaciously are null and void and an order in the nature of a writ of *Mandamus* directing and/or compelling the 1<sup>st</sup> to 7<sup>th</sup> Respondents to suspend the operation/validity of the document marked 'P21' and withdraw/reverse all actions decisions based on the document marked 'P21'. The Petitioners have also sought an interim relief preventing the operation of the aforesaid document 'P21'.

This Application relates to the recruitment process held as a part of the organizational restructuring of Sri Lanka Rupavahini Corporation, the 1<sup>st</sup> Respondent, in 2007. Accordingly, the 1<sup>st</sup> Respondent engaged in the appointment of required Technical Administrators as published by way of Staff Notice No. 1221 dated 11.03.2013 (marked 'P2' to the Petition). The 8<sup>th</sup> to 11<sup>th</sup> Respondents received their promotion to the post of Technical Administrator with effect from 01.08.2014, on 02.09.2019 and have been actively performing their functions in the said post. They have also received

increments and other perquisites of employment as they progressed in seniority. These promotions are now challenged by the Petitioners. It is also submitted to this Court that all the Petitioners are in the post of Technical Administrator (Grade 2).

The 8<sup>th</sup> to 11<sup>th</sup> Respondents filed their limited Statement of Objections to the Petition on 27.11.2019 to which the Petitioners tendered their Statement of Counter Objections on 05.12.2019. When the matter was heard on 12.12.2022, the learned Counsel for the 8<sup>th</sup> to 11<sup>th</sup> Respondents raised several preliminary objections as addressed in their limited Statement of Objections; regarding the maintainability of the application as it was submitted that the relief sought are grossly misconceived in law and cannot be granted. Parties were then permitted to file written submissions on 15.02.2023 on the said preliminary objections.

The 8<sup>th</sup> to 11<sup>th</sup> Respondents contend that the prayers *inter alia*, (b), (c), (d) and (e) of the Petition dated 10.10.2019 cannot be granted by this Court. Hence the said prayers are considered as follows

Prayer (b) of the Petition reads as follows:

*"b) Grant an order in the nature of a Writ of Certiorari quashing the purported appointments of the 8th to 11th Respondents as per document marked P-21 which were backdated"*

Upon perusal of the aforesaid document marked 'P21' issued by the Additional Secretary (Administration) of the Ministry of Mass Media on 26.08.2019, it is evident that the said document is merely a letter by which the Ministry has expressed that it has no objection to the decision taken by the Board of Directors of the 1<sup>st</sup> Respondent on 26.02.2019. The said letter does not appoint the 8<sup>th</sup> to 11<sup>th</sup> Respondents to the relevant post as submitted by the Petitioners. It is also noted that the issuer of the said letter, the Additional Secretary (Administration) of the Ministry of Mass Media is not a party to this action.

Further, it is submitted to this Court that in terms of Sec. 11(a) of the Sri Lanka Rupavahini Corporation Act No. 6 of 1982 the power of appointment of its officers is vested in the Board of the 1<sup>st</sup> Respondent i.e. Sri Lanka Rupavahini Corporation. In fact, I observe that the principal decision impugned by the Petitioners is reflected in document marked 'P17' and not 'P21'.



Therefore, I observe that a Writ of *Certiorari* cannot be granted quashing the purported appointments of the 8<sup>th</sup> to 11<sup>th</sup> Respondents as per document marked 'P21' since the said document does not convey any decision and/or appointments.

Based on the same document marked 'P21', the Petitioners by prayer (d) have also sought the following relief:

*"d) Grant an order in the nature of a Writ of Mandamus directing and/or compelling the 1<sup>st</sup> to 7<sup>th</sup> Respondents to suspend the operation/ Validity of the document marked P21 and withdraw/reverse all actions /decisions based on the document marked P21"*

As morefully observed above, I see no reason to suspend the operation/validity of the document marked 'P21' and therefore I am not inclined to grant a Writ of *Mandamus* against the said 'no objection' letter.

The Petitioners have also sought interim relief based on the said document. Prayer (e) of the Petition in this regard reads as follows:

*e) Grant and issue an interim order preventing the operation of the document marked P- 21 and decisions based on it until the hearing and the final determination of this application*

In addition to the factors considered and analyzed hereinabove with regard to the document marked 'P21', in the absence of appropriate and relevant final substantive reliefs and grant of the interim relief as prayed for carrying the effect of final relief, it is my considered view that the Petitioners are not entitled to any interim relief.

Prayer (c) of the Petition reads as follows:

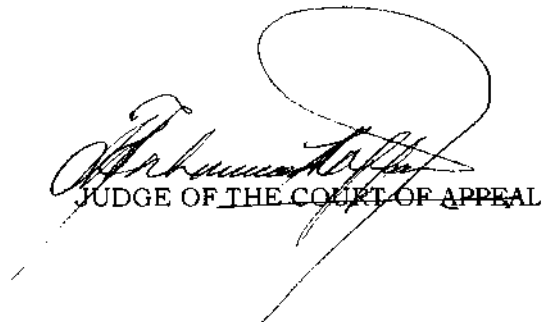
*"c) A Declaration that the appointments of the 8<sup>th</sup> to 11<sup>th</sup> Respondents which were made arbitrarily, unreasonably and capaciously are null and void"*

In terms of Article 140 of the Constitution, this Court is only empowered to issue writs and not declarations. Particularly the jurisdiction of this court encompasses the grant and issue according to law, orders in the nature of Writs of *Certiorari*, *Prohibition*, *Procedendo*, *Mandamus* and *Quo Warranto*. Therefore, this Court is not possessed with the jurisdiction to issue "declarations" in the form that has been sought by the Petitioners

As such, I hold that the Petitioners are not entitled to any relief as the relief sought are manifestly misconceived in law. It is also noted that even if the document marked 'P21' is suspended as prayed for by the Petitioners, it will not serve any purpose whatsoever.

For the above reasons, I uphold the Preliminary Objections raised by the 8<sup>th</sup> to 11<sup>th</sup> Respondents and refuse to issue the formal notices and grant the interim relief prayed for. I dismiss the Application of the Petitioners and make no Order as to the costs of this Application.

*Application dismissed.*



JUDGE OF THE COURT OF APPEAL