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

In the matter of an Application for Order in the nature of Writs of Prohibition and Certiorari in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA-WRIT – 0506-19

D.Y Satharasinghe
No. 287 / A. Erawwala.
Pannipitiya.

Petitioner

Vs

1. Ceylon Electricity Board
   P.O. Box 50.
   Chittampalam A. Gardiner
   Mawatha,
   Colombo 02.

2. (a) Mr. Rakitha Jayawardane
   Chairman,
   Ceylon Electricity Board.

P.O. Box 50, Chittampalam A.

Gardiner Mawatha,

Colombo 02.

(b) Mr. Vijitha Herath

Chairman,

Ceylon Electricity Board.

P.O. Box 50, Chittampalam A.

Gardiner Mawatha,

Colombo 02

3. S.A.D.A. Peiris

Project Manager,

Ceylon Electricity Board

P.O. Box 50, Chittampalam A.

Gardiner Mawatha,

Colombo 02.

4. Mr. K. P. Premadasa

Divisional Secretary,

Divisional Secretariat,

Kesbewa.

5. (a) Mrs. A.D. Nakandala

Assistant Divisional Secretary,

Divisional Secretariat.

Kesbewa.

(b) Mrs. Purnima N.

Wickremarathne

Assistant Divisional Secretary,

Divisional Secretariat

Kesbewa.

6. Central Environmental Authority

No.104, Denzil Kobbakaduwa

Mawatha.

Battaramulla.

7. (a) Mr. Isuru Devapriya

Chairman,

Central Environmental Authority

104, Denzil Kobbakaduwa

Mawatha.

Battaramulla.

(b) Mr. Siripala Amarasinghe

Chairman,

Central Environmental Authority

104, Denzil Kobbakaduwa

Mawatha,

Battaramulla.

8. Public Utilities Commission of Sri Lanka

6th Floor, BOC Merchant Tower,

St. Michael's Road,

Colombo 03.

9. Prof. Kithsiri Liyanage

Chairman,

Public Utilities Commission of Sri Lanka

6th Floor, BOC Merchant Tower,

St. Michael's Road,

Colombo 03.

10. (a) Mr. Ravi Karunanayake

The Minister,

Ministry of Power and Energy

No. 72, Ananda Coomarasawamy

Mawatha,

Colombo 07.

(b) Mr. Mahinda Amaraweera

The Minister.

Ministry of Power and Energy.

No. 72, Ananda Coomarasawamy

Mawatha,

Colombo 07.

11. (a) Dr. B.M.S. Batagoda

Secretary to the Ministry of Power

and Energy

No. 72, Ananda Coomarasawamy

Mawatha,

Colombo 07.

(b) Ms. Wasantha Perera

Secretary to the Ministry of Power

and Energy,

No. 72, Ananda Coomarasawamy

Mawatha.

Colombo 07.

12. (a) Mr. Gayantha Karunathilake

The Minister of Lands

Mihikatha Madura, Land

Secretariat,

No. 1200/6, Rajamal Mawatha,

Battaramulla.

(b) Mr. S. M. Chandrasena

The Minister of Lands

Mihikatha Madura, Land

Secretariat,

No. 1200/6, Rajamal Mawatha,

Battaramulla.

13. (a) Mr. W. H. Karunarathne

The Secretary

The Ministry of Lands

Mihikatha Madura, Land

Secretariat,

No. 1200/6, Rajamal Mawatha,

Battaramulla.

(b) Mr. R.A.K.K Ranawaka

The Secretary

The Ministry of Lands

Mihikatha Madura, Land

Secretariat,

No. 1200/6, Rajamal Mawatha,

Battaramulla.

14. Mrs. R.M.C.M. Herath

Commissioner General of Lands

Mihikatha Madura, Land

Secretariat,

No. 1200/6, Rajamal Mawatha,

Battaramulla.

15. Hon. Attorney General

Attorney General's Department,

Colombo 12.

Respondents

Before: M. T. Mohammed Laffar, J.

S. U. B. Karalliyadde, J.

Counsel: Danuka K. Lakmal for the Petitioner

A.R.K. Wickramarathne, K.N.N. Samaraweera, Ms. P.H.A. Rishanthi and G.L.H.N.D. Gardiwasam for the 1st, 2nd and 3rd Respondents

Written submissions tendered on:

10.11.2022 by the 1st - 3rd Respondents

29.11.2022 by the Petitioner

Argued on: 04.10.2022

Decided on: 31.07.2023

S.U.B. Karalliyadde, J.

By this Writ Application, the Petitioner challenges the decision of the Ceylon Electricity Board, the 1st Respondent (the CEB) to draw a High-Tension Electricity Transmission Cable of 220 kV over the land the Petitioner is residing. By that cable, it is proposed to transmit electricity from Polpitiya Grid Substation to Pannipitiya Grid Substation. The project is funded by a loan obtained from the Asian Development Bank (R16). The project proposes to strengthen the National Transmission Network. The 1st – 3rd Respondents on behalf of the CEB averred in their statement of objections that the project is nearly in completion and all that remains to be done to energize the project is the felling/pruning of eight coconut trees in the land of the Petitioner. The 1st Respondent constructed two massive electricity towers to draw the electricity cable over the Petitioner's land and if the transmission cable is to be drawn on a different route avoiding the Petitioner's land, it would require to remove of 14 conductors already fixed over her land and the said electricity towers to be dismantled and reinstalled in an alternative location which causes a heavy loss. Admittedly this project is a 'prescribed project' within the meaning of the National Environmental Act, No.47 of 1980 (as amended) (the Act) and therefore being the licensee, the CEB should have followed the provisions in Part IV C of the Act to obtain the approval for the implementation of the project from the project approving agency, the 6th Respondent, the Central Environmental Authority (the CEA) as provided by section 23AA of the Act. The Petitioner alleges that the 1st Respondent failed to follow the procedure prescribed by law in obtaining the approval for the project. The Respondents deny that allegation of

the Petitioner. In order to obtain the license, the CEA should have required the CEB to submit an Initial Environmental Examination Report (the IEER) regarding the project for granting its approval (Section 23BB (1) of the Act). Once the approval was granted, as stipulated in section 23BB (4) of the Act, the approval should have been published in the Gazette and one newspaper each in Sinhala, Tamil, and English languages. Since the Petitioner objected to drawing the electricity cable over her land, in terms of paragraph 3 of item 3 of Schedule1 of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended) (the SLE Act) upon reference made by the CEB, the Divisional Secretary of Kesbewa (the 4th Respondent) where the land is situated should have held an inquiry regarding the objections of the Petitioner. The provisions of the Act and the SLE Act, in a nutshell, are as far as applicable to this Writ Application are as abovementioned.

The Petitioner tendered to Court an amended petition on 27.05.2020. The position of the learned Counsel appearing for the Respondents is that it has not been accepted by Court and therefore the Respondent's statement of objections, documents attached thereto, and written submissions have been tendered to Court responding to the original petition. On that basis, the Respondents strongly objected to Court acting upon the amended petition and requested to determine the action based on the original petition. When perusing the journal entries dated 27.05.2020, it is clear that after the amended petition was filed, the Court acting on it has directed to issue notices on the added Respondents mentioned in the caption in the amended petition. Furthermore, the Court has reserved the rights of the Respondents to file their objections for the amended petition. That shows that the Court has accepted and acted upon the amended petition. Therefore, the Court cannot accept the position of the learned Counsel appearing for the Respondents that the amended petition has not been accepted by the Court.

The substantive reliefs sought by the Petitioner in the amended petition are,

b) issue a mandate in the nature of a Writ of Certiorari to quash the decisions of the 4th Respondent contained in the purported documents marked P-19 and P-24.

c) issue a mandate in the nature of a Writ of Prohibition preventing anyone or more of the Respondents and /or their employees, servants or anyone acting under them from obtaining Way Leave over the premises bearing 287/A, Erewwala, Pannnipitiya (the property of the Petitioner) for the construction of the proposed 220 kV Transmission Line from Polpitiya to Pannipitiya.

d) issue a mandate in the nature of a Writ of Prohibition preventing the Respondent from constructing and/or erecting the impugned 220kV Transmission Line from Polpitiya to Pannipitiya over the premises of the Petitioner bearing 287/A, Erewwala, Pannipitiya without following the procedure set out in law.

The document marked P-19 is a letter sent by the 4th Respondent dated 09.09.2015 after holding an inquiry in terms of paragraph 3 of item 3 of Schedule1 of the SLE Act to the CEB with copies to the Petitioner and some other persons who failed to give wayleave for drawing the electricity cable over their lands/buildings. By that letter, the 4th Respondent has decided that it is necessary for the CEB to install and keep installed the electricity cable over the properties of the objectors after conducting a site inspection. P-24 is a letter dated 12.04.2016 written by the 4th Respondent to the CEB after revisiting the decision mentioned in P-19. By that letter, the 4th Respondent has confirmed his earlier decision mentioned in P-19. The Petitioner argues that the

decision taken to draw the electricity cable over her land is illegal, unlawful, arbitrary, capricious, ultra vires, against the principles of Natural Justice and totally contrary to the principles of reasonableness and therefore she is entitled to the Writs as prayed for in the amended petition. At the argument, the learned Counsel appearing for both parties made oral submissions and in addition to the oral submissions, both parties filed written submissions.

The learned Counsel for the Petitioner argues that the reliefs sought by the Petitioner should be granted on four grounds. Firstly, the CEB failed to produce any document to establish that the Supplementary IEER in May 2018 has been approved by the CEA. After the approval of the CEA was granted in April 2014 for the project, the CEB submitted four Supplementary IEERs for the approval of the CEA as there were deviations in the route of the cable line in certain areas. Those four Supplementary IEERs were in December 2014, 2016, 2017 and May 2018. The Supplementary IEER in December 2014 affected the Erawwala area in Kesbewa Divisional Secretariat where the Petitioner is residing. The Supplementary IEERs in 2016 and 2017 addressed the deviations in the Divisional Secretariat areas of Seethawaka and Dehiowita. The Supplementary IEER in May 2018 included some further alterations to the Supplementary IEER in December 2014 in the Kesbewa Divisional Secretariat area. Even though the Petitioner's land was affected by the Supplementary IEER in December 2014 it was not affected by the IEER in April 2014. IEER and all supplementary IEERs were approved by the CEA. The IEER in April 2014 and the Supplementary IEER in December 2014 were approved by the CEA on 22.04.2015 (R-18). The Supplementary IEERs prepared to address the deviations in Seethawaka and Dehiowita Divisional Secretariat areas were approved by the CEA on 01.06.2016 and 15.05.2017 respectively (R-19). The supplementary IEER in May 2018 submitted to

the CEA on 04.06.2018 addressed some further slight changes in the route of the original cable line in order to meet some technical requirements, and objections of the affected parties as well as to avoid the landslide-prone areas (R-33). It was approved on 05.06.2018 and the validity of its approval was extended until 22.04.2021 (R-19). The Court therefore cannot agree with the argument of the learned Counsel appearing for the Petitioner that the CEB failed to obtain the approval of the CEA for the Supplementary IEER in May 2018.

The learned Counsel appearing for the Petitioner argued that the Respondents have not followed the correct procedure in approving the Supplementary IEER in May 2018. That argument is based on the fact that in the '**summary of proposed deviations**' mentioned in Table 1 on page 3 of Supplementary IEER in May 2018 marked as R-33, the Kesbawa Divisional Secretariat area has not been mentioned. The deviation affecting the Petitioner's land is mentioned under the numerical number 22 in that Table. There, it has been stated that the land which the deviation mentioned under the numerical number 22 is situated in the Homagama Divisional Secretariat area. On that premise, the learned Counsel for the Petitioner argued that the deviation affecting the Petitioner's land has been done without obtaining the recommendations of the Divisional Secretary of Kesbewa. Even though in Table 1 it has been stated that the land mentioned under number 22 is situated in the Divisional Secretary area of Homagama when considering the fact that the Petitioner has protested for granting wayleave and participated in the inquiries held by the Divisional Secretary of Kesbewa in that regards the Court can conclude that the land mentioned under 22 is the Petitioner's land situated in Kesbewa Divisional Secretariat area and it has been stated inadvertently in Table 1 that the land is situated in the Homagama Divisional Secretary area for the reason that from the numerical number 13 downwards, all the lands are situated in the Homagama

area. In Table 2 on page 4 of R-33, four deviations are mentioned out of 22 deviations in Table 1 as significant deviations and required to obtain the approval of the CEA. It has not been mentioned in R-33 that the deviation mentioned under number 22 in Table 1 requires the approval. In terms of section 23EE of the Act, where any alterations are being made to any prescribed project for which approval had been granted, the Statutory Board who obtained such approval, shall inform the appropriate project approving agency of such alterations and **where necessary** obtain fresh approval in respect of any alterations that are intended to be made to such prescribed project for which approval had already been granted. Accordingly, it is apparent that not all alterations made to an approved project require to be approved again and consequently be published in the Gazette and newspapers as per section 23BB (4). Since the deviation affecting the Petitioner's land is not included in Table 2 and it is within the approved corridor of the cable line and it is not a significant deviation, it is clear that the angle points 100 - 101 of the cable line on the Petitioner's land to change to B37/0 - B38/0 does not require the approval of the CEA. In the document marked as P-34 dated 25.09.2019 sent by the CEB to the Petitioner, the CEB has stated that since the deviations were minor, they have implemented the deviations based on the recommendations given by the Divisional Secretary on 09.09.2015 (P-19).

The second ground which the learned Counsel appearing for the Petitioner argues that the Writs as prayed for in the amended Petition should be issued is that the newspaper notices (R-9) published under section 23BB (4) after the approval was granted for the implementation of the project are dated 15th July 2015 and thus have no relevancy to the Supplementary IEER in May 2018 marked as R-33. The IEER in April has been approved by the CEA on 22.04.2015 (R-18). The paper notices marked as R-9 relate to

the IEER in April and not to the Supplementary IEER in May 2018 submitted for deviations. There is no requirement in the Act to publish the notices in the newspapers in respect of the Supplementary IEERs. Since the notices have been published in the newspapers (R-9) after the IEER was approved, that argument of the learned Counsel for the Petitioner is devoid of merits.

The third ground, which the learned Counsel appearing for the Petitioner argued that the Writs should be issued was that there is no evidence to satisfy the Court that the approval of the CEA for the IEER in April 2014 has been published in the Gazette as required by section 23BB (4) of the Act. Even though the approval has not been published in the Gazette it has been published in newspapers (X-4) as required. The intention of the Legislature to require the approval to be published in the Gazette and in the newspapers is to make the public aware of the project. In terms of section 23BB (5) of the Act, once the publication is done, the IEER becomes a public document for the purposes of sections 74 and 76 of the Evidence Ordinance and shall be open for inspection by the public. In the instant action, there is no evidence before Court that nonpublication of the approval in the Gazette caused any prejudice to the Petitioner. The Court can be satisfied that she was aware of the project in or around 2014 (averment 6 of the amended petition) and had preferred objections against IEERs as provided by law.

In ***Environmental Foundation Ltd. vs. Central Environmental Authority and Others,***[1] Siripavan J. held that-

[1] (2006) 3 Sri LR 57

"Where a statute requires the power to be exercised in a certain form, the neglect of that form renders the exercise of the power ultra vires. It has been the consistent approach of the court in the exercise of its power of judicial review, that it will not interfere with the exercise of a discretionary power vested in the executive or administrative agency **except on limited grounds.**" [emphasis added]

In ***Heather Therese Mundy vs. Central Environmental Authority and others***[2], Fernando J. referred to the exercise of the discretionary remedy of Writ jurisdiction and the duty of the Court to balance the right of development against the rights of the individuals and held that -

"Although the Court of Appeal seemed to agree that the rights of the Appellants had been infringed, that their sacrifice had not been duly recognized and that the Court should minimize as much as possible the effect on their rights, nevertheless it felt obliged to choose between two options only: to grant relief or to dismiss the applications. The Court did not take note of the impact of the fundamental rights on its writ jurisdiction... If it is permissible in the exercise of judicial discretion to require a humble villager to forego his right to a fair procedure before he is compelled to sacrifice a modest plot of land and a little hut because they are of "extremely negligible" value in relation to a multi-billion-rupee national project, it is nevertheless not equitable to disregard totally the infringement of his rights: the smaller the value of his property, the greater his right to compensation. I hold that the deviations proposed by the RDA were alterations requiring CEA approval after compliance with the prescribed

[2] (SC Appeal 58/2003) (decided 20 January 2004)

procedures and the principles of natural justice; **that despite the lack of such approval, the refusal of relief by way of writ, in the exercise of the Court's discretion was justified**; but that the Appellants ought to have been compensated for the infringement of their rights under Article 12(1) and the principles of natural justice." [emphasis added]

In ***Heather Therese Mundy vs. Central Environmental Authority and others***[3], the Court of Appeal dismissed the Writ application holding that:

> "[When balancing the competing interests] the conclusion necessarily has to be made in favour of the larger interests of the community who would benefit immensely by the construction of the proposed expressway ... the adoption of the Combined Trace would undoubtedly result in irreversible damage to the eco-system in the Bolgoda Wetland area. Therefore, **the only option** is to adopt the Final Trace which ... will result only in the displacement of affected people in that area ... the obligation to the society as a whole must predominate over the obligation to a group of individuals, who are so unfortunately affected by the construction of the expressway. " [emphasis added]

The Court referred to ***Goa Foundation v Konkan Railway Corporation***[4] where it was held that a public project (a railway line) of great magnitude undertaken for meeting the aspirations of a section of the people cannot be defeated on account of "extremely negligible" damage to a few persons and cited ***R v Gateshead Metropolitan Borough Council, ex p Nichol***[5] and ***Clive Lewis on Judicial Remedies in Public Law***[6] to the effect that "the interest of the applicant had to be measured against the needs of good

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[3]CA Application 688/2002
[4] AIR 1992 Bombay 471,
[5](1988) 87 LGR 435
[6]2nd edition, 2000, Page 347-349

administration which include need for speed, finality in decision-making and the public interest and held that "the court should be cautious when exercising the discretionary remedy of Writ jurisdiction where a project of public importance had already commenced and resources have been committed towards its implementation and the feasibility of quashing a decision leading to unbudgeted expenditure".

In ***K.M. Denawaka vs Ceylon Electricity Board Case***[7], Mahinda Samayawardhena J. held that

> "The petitioner does not say that the national environmental authority did not publish the approved project in three national newspapers but only complains of non-publication in the Gazette. This is a technical unintentional breach of a provision of a statute which has not caused any prejudice to the Petitioner. Hence the Court need not quash the decision on that ground. That shall not be taken to mean that the Court condones such act on the part of the authorities."

The learned State Counsel appearing for the Respondents emphasized the urgency of completing this project referring to the breakdowns in the supply of electricity in the country in November/ December 2021 and also on the magnitude of the expected economic benefit of this project to this country (R-35 and R-17). Further, it is of higher significance to take into consideration the facts that the two Towers had already been constructed, the quantum of financial consequences for the State, the objective of the prescribed project to provide efficient electricity supply with the aim of strengthening the national transmission network and that the project is implemented under the financial support of Asian Development Bank (R-33). Since this Court identifies the matters of common benefit as opposed to individual benefit in the light of the above-

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[7] No. CA/WRIT/330/2016

mentioned pronouncements of the superior courts and the Petitioner has not been prejudiced by the non-publication of the approval in the Gazette, it is suggested to pay adequate compensation according to a valuation of a Government Valuer. The Court can be satisfied that the compensation assessed by the Government Valuer is reasonable and adequate and therefore, it is decided that this is not a fit case to exercise Writ jurisdiction and issue Writs as prayed by the Petitioner.

Fourthly, the learned Counsel appearing for the Petitioner argued that the inquiry held in terms of paragraph 3 of item 3 of Schedule 1 of SLE Act was not properly held as it was held by the Assistant Divisional Secretary even though it should have been held by the Divisional Secretary. The Court can observe that even though the recommendations in P-19 were the recommendations of the Divisional Secretary of Kesbewa, the inquiry regarding the objections of the Petitioner has been held by the Assistant Divisional Secretary (P-20). In terms of section 6.2 (g) of the Guidelines on Wayleave and Felling or Lopping of Trees issued by Public Utilities Commission of Sri Lanka, Version 3.0 Reference: PUC/E/RA/GUI/01 dated 17th October 2013, even if the inquiries, hearings, meetings were conducted by an officer other than the Divisional Secretary, the final decision on the matter shall be taken by the Divisional Secretary him/herself.

In ***Gunaratne vs Chandrananda De Silva***[8], U. De. Z. Gunawardana J. held that

> "another principle which is as basic as it is rudimentary is embedded in the legal maxim: "*Delegatus Non Potest Delegare*", which means that a statutory power must be exercised only by the body or officer in whom it has been

[8] (1998) 3 SLR 265, Page 283

reposed or confided unless sub delegation of the power is authorized by express words or necessary implication". [emphasis added]

Sub-delegation is the process by which an official or entity that has been granted powers by a higher authority further delegates all or part of such powers to another official or entity. The objective of sub-delegation in administrative law is to provide for the effective and efficient administration of public affairs by distributing the workload and/or decision-making responsibilities. The Court can observe that in terms of section 6.2(g) of the PUCSL Guidelines, the Divisional Secretary is entitled to sub-delegate his power to conduct inquiries, hearings and meetings under paragraph 3 of item 3 of Schedule1 of the SLE Act to any other competent officer. However, the final decision on the matter shall be taken by the Divisional Secretary himself/herself. The document marked as P-20 includes the details of the site inspection conducted by the Assistant Divisional Secretary and her recommendations at the conclusion of the inspection. The document marked P-19 is the final decision made by the Divisional Secretary which is alleged by the Petitioner that it is a copy of the recommendations in P20 of the Assistant Divisional Secretary. Since the Divisional Secretary has adopted the same recommendations after examining the P-20 report submitted to him by his Assistant Divisional Secretary, it does not support the contention that the Divisional Secretary has reduced himself to a rubber stamp. Nevertheless, the court can observe that due to the continuing objections posed by the affected parties, the Divisional Secretary has conducted a fresh inquiry by himself and made the same final decision (P-24). Upon perusing the documents marked as P-19, P-24 and P-24A, the Court can be satisfied that the Petitioner also had participated in the inquiry held by the 4th Respondent, the Divisional Secretary. Therefore, the Court can be satisfied that a proper inquiry has been held by the 4th Respondent according to the PUCSL Guidelines, SLE Act adhering

to the principles of Natural Justice and the decisions of the Divisional Secretary marked as P-19 and P-24 are valid in law.

The learned Counsel for the 1st-3rd Respondents raised objections about the maintainability of this action on the ground of an inordinate delay of more than 3 years on the part of the Petitioner in filing this Writ Application. The Petitioner is seeking to issue a mandate in the nature of the Writ of Certiorari to quash the decisions of the 4th Respondent contained in the purported documents marked P-19 and P-24. While the decision mentioned in P-19 has been taken on 09.09.2015 the decision in P-24 has been taken on 24.04.2016. This action has been instituted on 20.11.2019. The Petitioner has not explained the delay to the satisfaction of the Court.

In ***Balangoda Plantations PLC vs Minister of Lands and Land Development***[9], Gooneratne J. while referring to the judgement of Sharvananda, J. in ***Biso Menika v. C.R. De Alwis***[10], held that

> "one need to at this point also keep in mind that prerogative writs are not granted by courts as a matter of course. Inordinate delay in filing a writ application would disentitle a party for a remedy by way of Writ of Certiorari. Writs like other applications for review are discretionary remedies of court."

In ***Hitibandara Attapattu Mudiyanselage Ananda Parakrama Kumara Aigama v Commissioner General of Inland Revenue***[11], Arjuna Obeyesekere. J observed that;

> "The first is that an application for a Writ must be filed without delay. The second is that where there is a delay on the face of the application, such delay

[9] S.C. (Writ) 01/2014
[10] (1982) 1 Sri LR 368
[11] CA Writ Application No: 108/2019

must be explained to the satisfaction of the Court. The third is that delay can be ignored if the act complained of is manifestly illegal. such as a decision of a statutory authority made in excess of jurisdiction. The fourth is the nature of the acts that have taken place during the time period between the impugned decision or act and the filing of the application. These factors are relevant when determining whether an application should be dismissed on account of the Petitioner being guilty of delay."

In the instant action, this Court cannot see that the impugned decisions are manifestly illegal or made in excess of jurisdiction.

In ***Issadeen v. The Commissioner of National Housing***[12], Bandaranayake J. (as then Her Ladyship was) dealing with a belated application for a Writ of Certiorari observed-

"It is however to be noted that delay could defeat equity. Although there is no statutory provision in this country restricting the time limits in filing an application for judicial review and the case law of this country is indicative of the inclination of the Court to be generous in finding a good and valid reason for allowing late applications, I am of the view there should be proper justification given in explaining the delay in filing such belated applications. In fact, regarding the writ of certiorari, a basic characteristic of the writ is that there should not be an unjustifiable delay in applying for the remedy."

These considerations are particularly relevant to the facts and the circumstances of the action at hand in which the Petitioner has not only failed to invoke the jurisdiction of this Court within a reasonable period of time but has also neglected to provide a

[12] (2000)3 2 SLR 10, Page 15

reasonable explanation for the delay. In such circumstances, I hold that the Petitioner is guilty of laches.

Considering all the above-stated facts and circumstances, I hold that the Petitioner is not entitled to the reliefs sought in the Petition. Hence, I dismiss the Writ Application. No costs ordered.

JUDGE OF THE COURT OF APPEAL

M.T. MOHAMMED LAFFAR, J.

I agree.

JUDGE OF THE COURT OF APPEAL