

**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  
Mandamus under Article 140 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

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1. T.M. Samantha Lalinda  
Priyadharshaka  
Mountainholt Estate  
Ambalanwatte, Galle.
2. D. Kushani Poorna De Silva  
"Kushani", Pinidiyamulla Rd  
Payagala.
3. Anoja Erandi Munasinghe  
"Shriyani", Munasinghagoda  
Maggona.
4. M.D. Udaya Priyankara  
Gunathilaka  
No. 58, Tissa Road,  
Wadduwa.
5. N.D. Indunil Ruwini  
Wijayatilake  
Kurunduwatte Road,  
Uggalbada, Kalutara North.
6. Don Pradeep Janaka  
Edirisinghe  
"Church View", Katugoda,  
Waga.

7. U.C. Renuka Ranatunga  
"Piyananda", Marapona,  
Ratnapura.
8. K.A.C. Ananda  
Wickramanayake  
Nilapaladeniya Watta,  
Alawwa Rd, Warakapola.

**PETITIONERS**

**C.A. Application No. 1047/2008 (Writ)**

**Vs**

1. Sabaragamuwa University of Sri Lanka.  
P.O. Box 02, Belihuloya.
2. Prof. Mahinda S. Rupasinghe  
Vice Chancellor  
Sabaragamuwa University of Sri Lanka, P.O. Box 02,  
Belihuloya.
3. Ven. Galagama Buddhananda Thero.
4. Father Nicholas Fernando
5. M.M. Rafeek
6. Piyatissa Ranasinghe
7. L.D. Warnasuriya
8. C.J.R. Samarawickrama
9. C.J. Gunaseela
10. Dr. P.B.A. Jayalath
11. Prof. M.U. Jayasekera
12. Dr. A.A.Y. Amarasinghe
13. Prof. K.B. Palipane
14. Mrs. J.A.S. Jayakody

15. Mr. D.A.I. Dayaratne
16. Mr. H.M.S. Priyanath  
Members of the Council  
Sabaragamuwa University of Sri  
Lanka, P.O. Box 02,  
Belihuloya.
17. D. Jasinghe  
Director, External Degrees  
Programs and Extension  
Services Unit, Sabaragamuwa  
University of Sri Lanka,  
P.O. Box 02, Belihuloya.
18. University Grants Commission  
No. 20, Ward Place,  
Colombo 07.
19. Prof. S.V.D.G. Samaranayake  
Chairman, University Grants  
Commission, No. 20, Ward Place  
Colombo 07.
20. Prof. M.T.M. Jiffry  
Vice Chairman, University  
Grants Commission, No. 20,  
Ward Place, Colombo 07.
21. Prof. Carlo Fonseka
22. Prof. Rohan Rajapakse
23. Prof. S.K. Sitampalam
24. Prof. S.B.S. Abayakoon
25. Prof. H. Janaka De Silva  
Members of the University  
Grants Commission, No. 20,  
Ward Place, Colombo 07.

**RESPONDENTS**

**BEFORE**

: Deepali Wijesundera J.

**COUNSEL**

: Jagath Wickramanayake with

M.Doss for the Petitioners.

Chaya Sri Nammuni S.C. for the  
Respondents.

**ARGUED ON**

: 09<sup>th</sup> October, 2014

**DECIDED ON**

: 28<sup>th</sup> September, 2015

**Deepali Wijesundera J.**

The petitioners have filed this application seeking writs of Certiorari to quash the decision of the respondents refusing to permit the petitioners to continue the final year course leading to the award of B.Sc. Agri Business Management (General) External Degree and for a writ of Mandamus directing the respondents to permit the petitioners to continue the final year of the said degree course.

In September 2003 the 1<sup>st</sup> respondent has announced the commencement of Agri Business Management Courses offering certificate and diploma course in Agri Business Management which provided that a successful completion of the above would entitle

students for a final year course of B.Sc. in Agri Business Management (General) External Degree. The official prospectus issued by the 1<sup>st</sup> respondent is marked as **P1** and a letter sent by the Director External Degree Programs and Extension Services Unit Sabaragamuwa University to the Manager Human Resources Seylan Bank is marked as **P1(a)**. 1<sup>st</sup> to 8<sup>th</sup>. Petitioners have enrolled themselves to the above program and successfully completed the certificate and diploma stages in Agri Business Management in February 2006 this certificates are marked as **P6(a)** to **P6(f)**. The respondents had failed to commence the final year offering the B.Sc. in Agri Business Management as promised at the beginning of the course. The petitioners have written to the respondents for which no response was received after which they have complained to the Ombudsman and the Human Rights Commission. The Ombudsman having concluded the inquiry recommended to the University Grants Commission the 18<sup>th</sup> respondent to grant approval for the 1<sup>st</sup> respondent to conduct the B.Sc. Agri Business Management External Degree Course. The HRC though said the petitioners' human rights have not been violated had recommended to the 1<sup>st</sup> and 18<sup>th</sup> respondents to conduct the external degree program.

The learned counsel for the petitioners stated that the Senate and the University council had initially granted approval for the External Degree Program which can be seen in the minutes of the council

meeting produced as **2R3** with the statement of objections of the respondents. The degree program tabled in the 18<sup>th</sup> respondent's commission by the 1<sup>st</sup> respondent was later withdrawn owing to pressure and agitations by the internal students of the university. The petitioners stated that the aforesaid decision of the 1<sup>st</sup> respondent had been made arbitrarily and without affording a fair hearing to the petitioners who were already registered as students of the course in Agri Business Management.

The petitioners stated that they had a legitimate expectation to complete the external degree in Agri Business Management. Referring to the **P1** prospectus the petitioners stated the words '*proposed external degree*' as averd by the 1<sup>st</sup> respondent specifically implies that on completion of the diploma they would be eligible for a B.Sc. external degree. The petitioners also referred to the letter marked **P1(a)** which clearly indicated an offer of a B.Sc. external degree in Agri Business Management upon completion of the diploma. The petitioners argued that this conduct of the respondent has given rise to a reasonable and legitimate expectation in the petitioners that they would be offered an external degree in Agri Business Management. Citing the judgments in **Council of Civil Service Union vs Minister of Civil Service (1985) AC 374** and **Wickramaratne vs jayaratne (2001) 3 SLR 161** and **R vs Inland Revenue Commissioners ex.p camacq Corp (1990) 1 WLR**

191 stated that legitimate expectations were engineered by the conduct of the respondents.

The petitioners further stated that by initially obtaining approval for the external degree program and later moving to withdraw the same on the grounds of student agitations by the 1<sup>st</sup> respondent without giving a hearing to the petitioners is a violation of the rules of Natural Justice by the respondents. The petitioners cited the judgments in **Cooper vs Wandsworth Board of Works (1863) 143 ER 414**, **Fernando vs Jayaratne 78 NLR 123** and stated decision of the 1<sup>st</sup> respondent to withdraw the proposal of external degree program from the 18<sup>th</sup> respondent commission is in breach of the principles of Natural Justice and therefore is invalid in law. The petitioners also stated that the 1<sup>st</sup> respondent has abused its discretion in doing so.

The learned counsel for the respondents submitted that students were not enrolled for the third year since the third year awards a degree for which the approval of the 18<sup>th</sup> respondent the UGC was required and this program had not been passed by the UGC, and that the petitioners were students who had completed the first two years and had obtained the diplomas after completion.

The respondents stated after the petitioners filed the instant application the 1<sup>st</sup> respondent have formulated an external degree course in B.A. in Agri Business Management which was willing to absorb the petitioners.

The respondents stated the document **P1** is only a prospectus which merely highlights the intention of the course to be launched for which the 1<sup>st</sup> respondent obtained council and Senate approval, and **P1(a)** is a letter sent by the 1<sup>st</sup> respondent calling for students for the said course.

Referring to **1R1** the respondents stated applications were called only for the first and second years and that there is no mention of a third year. Respondents stated for a degree program, approval of the UGC is needed under *Sec. 29(1) and (9) of the Universities Act*.

Respondents further stated that the respondents have now commenced a new program and to compel the respondents to allow the petitioners to a third year is futile since this course does not exist now. Citing the judgments in **A.G. Peiris vs K.V.M. Gunasekera** and



**another 66 NLR 498** stated that it was held writs will not be issued if it is futile.

The petitioners have applied for the Diploma Course and the external degree program based on the prospectus **P1** which indicates the course the petitioners were getting enrolled. Although the respondents argued that **P1** merely highlights the intention of the course and is an outline of what is sought to be done the petitioners applications were made based on **P1** which gave an assurance to the applicants what they will be getting once their applications are accepted. This gave petitioners a legitimate expectation to complete the external degree in Agri Business Management. The respondents in paragraph 14 of their objections filed have stated thus;

*“The respondents while admitting the averments contained in paragraph 18 of the Petition further states that the course has indeed continued towards the completion of the Diploma stage as promised in the Prospectus marked P1. The Respondents further state that they were faced with serious difficulties in continuing the program to a degree level due to protests by the internal students and had no*

*choice but to decide against the introduction of the degree stage”.*

This clearly indicates that they intended to offer the external degree once the diploma stage was completed.

The document marked **P1(a)** specifically states that the external degree in Agri Business Management will be offered after the conclusion of the diploma course. The respondents tried to distort what the letter **P1(a)** indicates by saying “document **P1a** was sent to companies advertising the first phase of the program enrolling only for the first and second years”.

**P1 (a) states thus;**

*This programme has a new approach contrary to other external degree programmes in this country. The procedure of this course is as the follows.*

**1<sup>st</sup> step:** *After successfully completing the first year, student is offered the Professional Development Certificate in Agri Business Management (PDC).*

**2<sup>nd</sup> step:** *After successfully completing the second year, student is offered the Diploma in Professional Studies in Agri Business Management (DPS).*

***3<sup>rd</sup> step: After successfully completing the third year, student is offered the B.Sc. in Agri Business Management.***

This very clearly indicates that an external degree programme was offered to the petitioners when they applied. The respondents tried very hard to mislead this court on both these documents which very clearly stated that the 3<sup>rd</sup> step is an external degree in Agri Business Management. The petitioners enrolled themselves to the degree programme offered by the 1<sup>st</sup> respondent intending to obtain a B.Sc. external degree in Agri Business Management.

The 1<sup>st</sup> respondent had initially obtained approval for the external degree program in the Senate and the council and submitted the proposal for the approval of the 18<sup>th</sup> respondent the UGC, but later it was withdrawn on the ground of student agitation. The petitioners who enrolled for the Diploma program expecting to continue with the external degree in the third year was not given a hearing on the change of program, this amounts to a breach of the principles of Natural Justice.

The decision made by the 1<sup>st</sup> respondent to withdraw his proposal for the external degree program without taking into account the loss

caused to the petitioners amounts to an abuse of its discretion to decide on academic matters of the university and amounts to *Ultra Vires*.

For the reasons stated above I decide to issue a mandate in the nature of a writ of Certiorari to quash the decision of the respondents to withdraw the external degree program and also issue a writ of Mandamus to compel the respondents to commence the said external degree program as prayed for by the petitioners in this petition.

**JUDGE OF THE COURT OF APPEAL**