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

In the matter of an Application for a mandate in the nature of a Writ of Certiorari and a Writ of Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. Writ Appln.
No. 573/2011.

Annamalai Muththappan Chettiar
Gropu Leader
Independent Group
No. 111, Hetti Veediya
Colombo - 12.

Petitioner.

Vs.

1. A. Senanayake,
Returning Officer,
Colombo Municipal Council
District of Colombo
Elections Office-Colombo
District (Municipal Council
Areas)
No. 395, Old Kotte Road
Rajagiriya.

And 79 others.

Respondents.

C.A. Writ Appln. No. 573/2011

**Before : Ranjith Silva, J (Acting P/C.A) &
H.N.J. Perera, J.**

**Counsel : Nihal Jayamanne, P.C., with Uditha Collure
for the Petitioner.**

Janak de Silva, A.D.S.G. for 1st, 2nd and
8th Respondents.

Faiz Musthapha, P.C. with Kushan De Alwis,
Faizer Musthapha, Kaushalya Nawaratne,
M. Dickmam, Isuru Balapatabendi and
Chamath Fernando for 61st Respondent.

Daya Pelpola for 62nd Respondent.

**Argued &
Decided on : 14.09.2011.**

Ranjith Silva, J.(Acting P/C.A)

Counsel heard in support of this application. The impugned decision of the Elections Returning Officer is based on Section 31(1)bbb. According to the Local Authorities Elections Amendment Act of No. 25/1990, it is required that a youth candidate must either file an affidavit signed by such youth candidate stating his date of birth or by producing the birth certificate. The words found in

the amending Act No. 25/1990 in Section 4(a) is as follows. "A certified copy of the birth certificate of every youth candidate whose names appears in the nomination paper or an affidavit signed by such youth candidate certifying his date of birth shall be attached to such nomination paper." In this instance it appears that no birth certificate had been attached and the affidavit does not contain the date of birth. It merely states that he is over 18 years. Therefore the nomination papers should be rejected. Now what we have to decide at this juncture is whether the two affidavits marked P5 and P6 which do not contain the date of birth and merely state that he is over 18 years is sufficient compliance with the law and whether substantial compliance is sufficient. The State furnished two judgments, in Ediriweera Returning officer Vs Kapukotuwa General Secretary, United National Party reported in 2003 1 S.L.R. at page 228, it is very clearly stated that strict compliance is necessary. The reason being; where is the limit, where is the demarcating line, where to draw the line if strict compliance is not insisted. For that reason, we refuse to issue notice.

ACTING PRESIDENT OF THE COURT OF APPEAL

H.N.J. Perera, J.

I agree,

JUDGE OF THE COURT OF APPEAL

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