

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

CA Writ 220/2016

Port junk Dealers Association
No. 8/4/5, Bristol Complex,
Sir Rasik Fared Mawatha, Colombo 01.

Waligama Palliya Gurunasekera Udaya
Senake DeSilva
No. 90/2, Deva Kotikawatta, New Town,
Mullariyawa.

Kudagama Liyanage Nalindrasiri
No. 48, Sumitrerama Mawatha, Kotahana, Colombo.

Petitioners

Vs.

Marine Environment Protection Authority
No. 758, Baseline Rd, Colombo 09.

Rear Admiral, Rohana Perera, Chairman
Marine Environment Protection Authority
No. 758, Baseline Rd, Colombo 09.

Sri Lanka Ports Authority
No. 19, Chaithya Rd, Colombo 01.

Chulanada Perera
Director General of Customs,
Customs House, No 40 Main Street,
Colombo 11.

Respondent

CA 220/2016 WRIT

BEFORE : Vijith K. Malalgoda, PC. J(P/CA) &
P. Padman Surasena, J.

COUNSEL : Dulindra Weerasuriya PC with Chamith Marapana &
Iranga Gunawardena for the petitioners.
Vikum De Abrew DSG for the State.

DECIDED ON : 25.07.2016

VIJITH K. MALALGODA, PC. J(P/CA)

Heard counsel in support of this application and the learned DSG representing the 1st & 2nd respondents.

Petitioners have come before this Court complaining of certain amounts being charged by the 1st respondent with regard to facilities provided by the petitioners to the ships arrived at the Port. The petitioners have relied on the regulations that they have produced marked P 10 and submits that according to the schedule to the said regulation there are amounts which the 1st respondent can charge from the suppliers when they are being issued with licences to carry out their duties. However, he has not submitted before us an advertisement which was published annually by the 1st respondent whereby the 1st respondent had called for applications from the organizations who are interested in supplying services for removal of oil waste garbage and sludge from ships arrived at the Port. The regulation relied upon by the petitioner which was produced marked P 10 refers to bunkering regulations. We see a difference between the said regulations and the services supplied by the petitioner into this petition. As observed by us the relevant provision of the Act i.e. Marine Pollution Act No. 35 of 2008 by Section 21, 28 the 1st

respondent is empowered to outsource duties entrusted to the said respondent.

As observed by us the said advertisement had been published by the 1st respondent under the provisions of Section 21 there is no fees structure referred to in the act or in regulation which is before this Court. As submitted by the learned Deputy Solicitor General the services of the petitioners supplied are purely contractual and we observe that they have agreed to provide said services on payment of charges referred to in the attached fees structure provided to the petitioners when they applied to register under the said regulation.

As observed by us the said advertisement is suppressed by the petitioner before this Court.

Under these circumstances, we see no reasons to issue notices in this application. Therefore, Notices are refused.

PRESIDENT OF THE COURT OF APPEAL

P. PADMAN SURASENA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-