

In the matter of an application for mandates in the nature of Writs of Certiorari and Mandamus in terms of Article 140 of the Constitution of Sri Lanka.

1. දුන්නර් පළාත් පෞද්ගලික බස් සංගමය,
(Inter Provincial Private Bus Association),
62/2, Kandy Road, Ihala Imbulgoda, Imbulgoda.
2. සම්ප්‍රද ලංකා පෞද්ගලික බස් සමාගම් සම්මේලනය,
(All Sri Lanka Private Bus Owners' Federation),
No.158/1, Bodhiraja Mawatha,
Colombo 11.

Petitioners

CA (Writ) Application No.18/2018

-vs-

1. Western Province Provincial Road Passenger Transport Authority,
No.89, 'Ranmagapaya',
Kaduwela Road, Battaramulla.
2. Thusitha Kularathna,
Chairman,
Western Province Provincial Road Passenger Transport Authority,
No.89, 'Ranmagapaya',
Kaduwela Road, Battaramulla.
3. Jagath Perera,
General Manager,
Western Province Provincial Road Passenger Transport Authority,
No.89, 'Ranmagapaya',
Kaduwela Road, Battaramulla.
4. Western Provincial Council,
No.204, Denzil Kobbekaduwa Mawatha,
Battaramulla.
5. Pradeep Yasarathne,
Chief Secretary,
Western Provincial Council,
No.32, Sir Marcus Fernando Mawatha, Colombo 07.
6. Hon.Isura Dewapriya,
Chief Minister,
Western Provincial Council,
Srawasthi Mandirya,
No.32, Sir Marcus Fernando Mawatha, Colombo 07.
7. Hon.K.C.Logeswaran
Governor, Western Province,
No.109, 5th Floor,
Rotunda Tower, Galle Road,
Colombo 3.
8. Rasika Abeydeera,
Secretary, Provincial Roads, Transport, Co-operative and Trade, Housing and Construction, Estate Infrastructure Facilities, Industry and Rural Development – Western Province,
No.89, 'Ranmagapaya',
Kaduwela Road, Battaramulla.
9. Hon.Lalith Wanigaratne,
Minister of Provincial Roads, Transport, Co-operative and Trade, Housing and Construction, Estate Infrastructure Facilities, Industry and Rural Development – Western Province,

No.89, 'Ranmagapaya',
Kaduwela Road, Battaramulla.

10. National Transport Commission,
No.241, Park Road,
Colombo 05.
11. Eng.M.A.P. Hemachandra,
Chairman,
National Transport Commission,
No.241, Park Road,
Colombo 05.
12. Dr.D.M.S.Dassanayake,
Director-General,
National Transport Commission,
No.241, Park Road,
Colombo 05.
13. Hon.Nimal Siripala de Silva,
Minister of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla, Sri Lanka.
14. G.S.Withanage,
Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla, Sri Lanka.
15. Hon.Attorney-General,
Department of the Attorney-General,
Colombo 12.

Respondents

CA 18/2018

Writ Application

Before : **P. Padman Surasena, J. (P/CA) &
A.L. Shiran Gooneratne, J.**

Counsel : N.M. Reyaz for the petitioner
Dr. Wijedasa Rajapakshe, PC for the 1st, 2nd,
3rd, 5th & 9th Respondents
Nayomi Kahawita, SSC for 10th and 15th
Respondents

Decided on : 28.03.2018

P. Padman Surasena, J. (P/CA)

Court heard the submissions of learned counsel for the petitioner, learned Senior State Counsel and learned President's Counsel for the Respondents. The primary complaint made by the petitioner is the fact that the 1st Respondent is issuing route permits for the buses operating in the expressway within the province. It is his submission that this route permits should have been issued by the 10th Respondent.

It was the contention of the learned President's Counsel for the 1st Respondent that the substantive prayer in the petition is the prayer 'd' of the petition which has only prayed for a Writ of Certiorari to quash the tender advertisement dated 15.11.2017 produced marked as **P 6**.

This Court observes that the petitioner has made this application in terms of article 140 of the constitution. It is stated in the caption of the application that this is an application for mandates in the nature of Writs of Certiorari and Mandamus. However, this Court observes that the petitioner has not prayed for a mandamus but has only prayed for a Writ of Certiorari to quash the tender advertisement dated 15.11.2017 marked P 6 (in prayer 'd').

In these circumstances, this Court identifies the main prayer in this application as prayer 'd' which has prayed for a Writ of Certiorari to quash the tender advertisement dated 15.11.2017. As has been pointed out by the learned President's Counsel for the 1st Respondent, the petitioner has not prayed for any writ to quash any decision made by any relevant authority with regard to the issuance of route permits.

Petitioner has not prayed for a writ of prohibition to restrain the 1st respondent from issuing route permits.

In these circumstances, it is the view of this Court that it would be either an academic or a futile exercise to grant only a writ of certiorari merely to quash the particular tender advertisement produced marked P 6.

This Court observes the fact that the 1st Respondent had previously also had not only published the tender notices but also had granted the similar route permits.

Further, this Court is of the view that the matters complained by the petitioner are really matters for the 10th Respondent to address and complain to Court if necessary. The 10th Respondent being the National Transport Commission has not so far agitated these matters in any appropriate forum.

Therefore, this Court is also not satisfied with the locus standi of the petitioner.

In these circumstances, this Court decides to refuse to issue notices on the Respondent. This application must stand dismissed without costs.

PRESIDENT OF THE COURT OF APPEAL

A.L. Shiran Gooneratne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

LA/-