

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 *Prohibition* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No.

CA/WRT/0032/2025

1. Senarathne Ruvika Ridmani Silva
304, Horagala,
Kiriwaththuduwa,
Homagama.
2. Tharindu Asanka Matharage
304, Horagala,
Kiriwaththuduwa,
Homagama.

PETITIONERS

Vs.

1. Officer in Charge,
Secret Intelligence Unit,
Commission to Investigate Allegations of Bribery
or Corruption,
36, Malalasekara Mawatha,
Colombo 07.
2. Commission to Investigate Allegations of Bribery
or Corruption,
Office of the Bribery and Corruption Commission,
36, Malalasekara Mawatha,
Colombo 07.

3. Commissioner of Motor Traffic,
Department of Motor Traffic,
Elvitigala Mawatha,
Narahenpita,
Colombo 05.

4. Hon. Attorney General,
The Attorney Generals Department,
Colombo 12.

RESPONDENTS

Before: **M. T. Mohammed Laffar, J (Act.P/CA).**
K. M. S. Dissanayake, J.

Counsel: Shavindra Fernando, PC with S. Perera for the Petitioners.

A. Sammandaperuma with J. Ranathunga for the 1st and 2nd Respondents.

J. Gunasekara, SC for the 4th Respondent.

Supported on: 03/03/2025.

Decided on: 01/04/2025.

MOHAMMED LAFFAR, J (Act.P/CA).

The Petitioners are seeking, *inter alia*, a writ of certiorari quashing the order made by the 1st Respondent, Officer in Charge, Secret Intelligence Unit of Commission to Investigate Allegations of Bribery and Corruption, directing the Petitioners to produce the vehicle in dispute for investigation (P25) and a writ of Prohibition preventing the 1st Respondent from making any arrests on the Petitioners.

Moreover, the Petitioners are seeking several interim orders including the relief not to make any order to arrest the Petitioners until the final determination of this application.

When the matter was taken up for support on 27/01/2025, the learned Counsel for the 1st and 2nd Respondents raised a preliminary objection as to the maintainability of this application. It was contended by the Counsel for the 1st and 2nd Respondents that this Court lacks jurisdiction to entertain the present application, relying on the clear and unambiguous wording of Section 160 of the Anti Corruption Act No. 9 of 2023, which expressly vests exclusive jurisdiction in the Supreme Court, ousting the jurisdiction of this Court, in respect of any application seeking relief against the Anti Corruption Commission. The 1st and 2nd Respondents maintain that any challenge to the Commission's decisions, whether concerning investigations or the conduct of its officers acting in an official capacity, must be brought directly before the Supreme Court by way of a Writ application and the Petitioners' recourse to this Court is fundamentally misconceived in law.

It is submitted by the Petitioners that the jurisdiction of the Court of Appeal remains intact as their challenge is directed against the alleged *ultra vires* actions of the officers of the Anti Corruption Commission and not against the Commission itself. It is submitted that Section 160(1) of the Anti-Corruption Act, which vests exclusive jurisdiction in the Supreme Court for relief sought against the Commission, does not oust the jurisdiction of this court as the Commission is merely impleaded as a necessary party.

An excerpt of Section 160 of the Anti Corruption Act, No. 9 Of 2023 is as follows:

160. (1) The jurisdiction vested in the Court of Appeal by Article 140 of the Constitution shall, in respect of applications in which relief is sought against the Commission be exercised by the Supreme Court and not by the Court of Appeal.

(2) Subject to the provisions of subsection (1), no injunction or enjoining order shall be granted by any court restraining or staying, or having the effect of restraining or staying, the Commission, from commencing or continuing, the conduct of an investigation under this Act or from exercising any of the powers conferred on it by this Act or from giving any direction under this Act

The threshold issue before this Court concerns its jurisdiction to hear this matter in light of Section 160 of the Anti Corruption Act. This provision serves as an unequivocal ouster clause that modifies the ordinary jurisdictional framework of the Court of Appeal, established by Article 140 of the Constitution. The language of Section 160(1) is clear and mandatory and it transfers jurisdiction from this Court to the Supreme Court for any application seeking relief against the Commission.

The Petitioners have submitted that reliefs sought are against actions by officers of the Commission rather than the Commission itself. The officers in question were acting in their official capacity as agents of the Commission, exercising statutory powers delegated to them under the Act. The relationship between the Anti Corruption Commission and its officers may be likened to that of a ship and its crew. The Commission is the legal entity vested with statutory authority to navigate the waters of anti corruption investigations. The officers act under the Commission's command, carrying out its mission of steering, maintaining, and operating the vessel in accordance with its designated functions. Their actions were undertaken on behalf of and for the purposes of the Commission. To allow such challenges to proceed in this Court would permit litigants to circumvent Parliament's clear intent.

Section 160(2) reinforces this interpretation by expressly prohibiting any court from granting injunctions or enjoining orders that would restrain the Commission's investigative functions. This demonstrates Parliament's intention to shield the Commission's operations from judicial interference, except through Supreme Court review.

Having considered these factors, it is my view that this Court lacks jurisdiction to entertain the present application. The attempt to characterize the challenge as targeting individual officers rather than the Commission constitutes an impermissible effort to avoid the statutory ouster of this Court's jurisdiction. The proper forum for such grievances is the Supreme Court, as expressly provided by Section 160 of the Anti Corruption Act.

Accordingly, the preliminary objection is upheld. The application is dismissed for lack of jurisdiction, I make no order as to costs. The application is dismissed.

Application dismissed. No costs.

President of the Court of Appeal (Actg.)

K. M. S. DISSANAYAKE

I agree.

Judge of the Court of Appeal