

**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.*

**1. Roshan Damian Deen,**

President,  
Western Province Rugby football Union,  
No. 141/4, 1st Lane, Suhada Mawatha,  
Katuwawala,  
Battaramulla.

**And 6 Others**

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**CA/ Writ Application No:**

**CA/WRT/438/2024**

**PETITIONERS**

Vs.

**1. Harini Fernando**

Ministry of Sports and Youth Affairs,  
No.09, Philip Gunawardena Mawatha,  
Colombo 07.

**1A. Hon. (Dr.) Harini Amarasuriya,**

Minister of Women, Child, Youth Affairs  
and Sports,

Ministry of Sports and Youth Affairs,  
No.09, Philip Gunawardena Mawatha,  
Colombo 07.

**And 3 Others**

**RESPONDENTS**

Before: **M. T. MOHAMMED LAFFAR, J (President C/A)- Acting.  
K. P. FERNANDO, J.**

Counsel: M. A. Sumanthiran P.C. with Darshika Ariyanayagam for the  
Petitioners, instructed K. M. S. R. Perera.

Sumathi Dharmawardena A.S.G. with Avindra de Silva S.S.C. for  
the Respondents.

Supported on: 28. 04. 2025

Decided on: 20. 05. 2025

**MOHAMMED LAFFAR, J. (President of The Court of Appeal- Acting)**

The Petitioners are seeking, *inter alia*, writs of certiorari quashing the decision of the 3<sup>rd</sup> Respondent to table the draft amended constitution of Sri Lanka Rugby, quashing any amendments to the constitution of Sri Lanka Rugby, and a writ of prohibition prohibiting the 1<sup>st</sup> to 4<sup>th</sup> Respondents from causing any amendments to the said constitution. Moreover, the Petitioners are seeking interim orders preventing the 1<sup>st</sup> to 4<sup>th</sup> Respondents from causing any amendments to the said constitution.

On 10/07/2024, this Court issued formal notices on the Respondents and an interim order as prayed for in paragraph h) of the prayers to the Petition. Thereafter, limited objections were filed by the state on behalf of the Respondents. On 04/12/2024 the matter was settled on the terms set out below

1. The competent authority, the Director General of sports shall call an annual general meeting of Sri Lanka rugby in order to elect office bearers at the earliest.
2. The elected office bearers shall submit the amendments proposed by World Rugby to amend the constitution of the Sri Lanka rugby at a special general meeting which will be conducted on or before 28/01/2025.
3. The elected members of Sri Lanka Rugby shall place the amendments proposed by the World Rugby at the special general meeting agenda in order to adopt the said amendments.
4. A special general meeting and the AGM shall be conducted in terms of the provisions set out as per sports law, sports regulations and the provisions set out in the constitution of the Sri Lanka rugby

Accordingly, on 05/12/2024, the learned Counsel for the Petitioner informed Court that he had received instructions from the Petitioners to withdraw the application in terms of the settlement entered into on 04/12/2024. Accordingly, the application was dismissed and the proceedings were terminated.

On 05/02/2025, by way of motion and affidavit, the learned President's Counsel for the Petitioner informed Court that the 3<sup>rd</sup> Respondent, the Director General of Sports, had violated the undertaking given before this Court. Accordingly, this Court issued notice on the 3<sup>rd</sup> Respondent. Thereafter, the contempt proceedings were fixed for inquiry.

When the contempt proceedings were taken up for inquiry on 15/05/2025, the learned Additional Solicitor General appearing for the 3<sup>rd</sup> Respondent informed Court that the;

1. Contempt proceedings cannot be proceeded with as there is no proper rule issued by this Court under the provisions of Contempt of a Court, Tribunal or Institution Act, No. 8 Of 2024.
2. However, the 3<sup>rd</sup> Respondent has already complied with the said undertaking.

3. The 3<sup>rd</sup> Respondent could not fully comply with the undertaking due to the enjoining order issued by the District Court of Colombo in case bearing no DSP/10/2025

Moreover, the learned Additional Solicitor General informed Court that he is withdrawing the undertaking given to Court on the basis that the amendments to the Constitution of Sri Lanka Rugby are to be made on or before 23/05/2025, in accordance with the instructions given by World Rugby in its letter dated 12/05/2025. The said letter was submitted to Court by the learned Additional Solicitor General in open Court.

We heard the learned Additional Solicitor General for the 3<sup>rd</sup> Respondent and the learned President's Counsel for the Petitioner in this regard.

Under Section 9 of the Contempt of a Court, Tribunal or Institution Act, No. 8 of 2024, when an application is filed by way of a motion and affidavit, and the Court is satisfied that a *prima facie* case of contempt of Court has been established against the person alleged to have committed such contempt, the Court will issue a rule against the person concerned.

It is pertinent to note that, at the outset, the Petitioner, by way of a motion and affidavit, must satisfy the Court that there is a *prima facie* case of contempt of court against the Respondent. It is borne out from the case record that, inadvertently, the learned President's Counsel for the Petitioner has not satisfied this Court that there is a *prima facie* case against the 3<sup>rd</sup> Respondent. Moreover, there is no order by this Court stating that it is satisfied that a *prima facie* case has been made out against the 3<sup>rd</sup> Respondent.

It is borne out from the journal entry dated 05/02/2025 that, when the President's Counsel for the Petitioner informed Court of an alleged violation by the 3<sup>rd</sup> Respondent, this Court immediately issued notice on the Respondent and fixed a date for rule

returnable on 24/03/2025, an approach contrary to the procedure set out in the said Act.

Be that as it may, when considering the factual circumstances, it is observed that after the 3<sup>rd</sup> Respondent gave an undertaking to hold the Annual General Meeting, an enjoining order was issued by the District Court of Colombo in Case No. DSP/10/2025, preventing the 3<sup>rd</sup> Respondent from conducting the said meeting.

Upon a careful consideration of the factual circumstances, it is evident that the 3<sup>rd</sup> Respondent did not possess the *mens rea* or intention to willfully violate the undertaking previously given to this Court. Rather, the 3<sup>rd</sup> Respondent was legally restrained from acting in compliance with the said undertaking due to an enjoining order issued by the District Court of Colombo in Case No. DSP/10/2025, which explicitly prohibited the conduct of the Annual General Meeting.

Therefore, the non compliance with the terms of settlement and the undertaking given to this Court cannot be attributed to any deliberate or purposeful act on the part of the 3<sup>rd</sup> Respondent. It is clear that the 3<sup>rd</sup> Respondent was stopped by a subsisting order of the District Court, which was beyond his control.

In these circumstances, this Court is of the view that no *prima facie* case of contempt of court has been established against the 3<sup>rd</sup> Respondent. Accordingly, the purported rule issued by this Court is hereby recalled.

Further, the learned Additional Solicitor General, appearing on behalf of the State, brought to the attention of this Court that, as per the communication issued by World Rugby dated 12/05/2025, failure to amend the Constitution of Sri Lanka Rugby on or before 23/05/2025 will result in the suspension of Sri Lanka Rugby from the international rugby community. Such a suspension would severely impair the country's representation and participation in international rugby events, and cause irreparable damage to the sport's future in Sri Lanka.

It is pertinent to observe that while Sri Lanka may not yet rival global rugby giants such as the All Blacks or Springboks, the nation's rugby program stands at a critical juncture in its growth and development. This Court notes the fact that rugby is a sport gaining increasing momentum and public interest within the country especially with particular interest in the Schools Rugby arena, and that this period presents a significant opportunity for Sri Lanka to further integrate into the international rugby community.

In this context, the Court is mindful of the national interest at stake in the present situation. The letter issued by World Rugby, dated 12/05/2025, indicates that failure to amend the Constitution of Sri Lanka Rugby on or before 23/05/2025 would lead to Sri Lanka's suspension from international rugby. Such a consequence would be detrimental not only to the sport but also to the country's reputation and prospects on the global stage.

Therefore, in view of the broader public interest and the necessary to preserve Sri Lanka's standing in international rugby, this Court accepts that the withdrawal of the undertaking by the Respondents, albeit a deviation from the earlier position, is justified under the circumstances. The urgency and gravity of the potential suspension provide sufficient basis for allowing the constitutional amendments to proceed, in accordance with the requirements set out by World Rugby.

I also wish to emphasize that relief under writ jurisdiction is not granted as of right. In the case of **Jayaweera v Assistant Commissioner of Agrarian Services Ratnapura**<sup>1</sup> it was stated as per Jayasuriya, J

*"a petitioner who is seeking relief in an application for the issue of a writ of Certiorari is not entitled to relief as a matter of course, as a matter of right or as a matter of routine, even if he is entitled to relief, still the Court has a discretion to deny his relief having regard to his conduct, delay, laches, waiver, submission to jurisdiction, - are all valid impediments which stand against the right of relief."*

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<sup>1</sup> 1996 2SLR 70

It is well established that writs are discretionary remedies, and not granted as of right. In exercising its discretion, this Court must consider not only whether a legal duty has been breached by the authority concerned, but also the broader context and implications of granting such relief. Writs are not to be issued in isolation or in a vacuum, rather, the Court is required to evaluate the overall impact of its judgments, including the potential effects on third parties and the wider society. The Court must therefore balance the alleged infringement of legal duty with the public interest and the practical consequences that may follow from judicial intervention.

Presently, where the State has chosen to withdraw the undertaking for reasons grounded in national interest and international compliance, the Court is of the view that such withdrawal cannot be prevented by judicial intervention, particularly when it is neither unlawful nor made *mala fides*.

For the foregoing reasons the purported rule issued by this court against the 3<sup>rd</sup> Respondent is recalled. The application to withdraw the undertaking given by the respondents and/or the terms of settlement, is allowed. Since the main application has already been dismissed, the proceedings are terminated without costs. Moreover the contempt proceedings are also dismissed.

Proceedings are terminated. No costs.

**President of the Court of Appeal (Actg)**

**K. P. Fernando, J.**

I agree.

**Judge of the Court of Appeal**