

**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, Prohibition
and Mandamus in terms of Article 140 read
with Article 126(3) of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

CA/WRIT/63/2022

1. S.P.Dias
54/6, Bogahahena Road,
Battaramulla.
2. M. Kaviratna,
No 9/723, 14" Lane,
Lake terrace,
Athurugiriya.
3. R.D.N.A Rupasinghe
48/18, Janatha Mawatha, Nawinna,
Maharagama.
4. S.P.A.D Rajapakse
65/16A, Wickramasinghe Mawatha,
Kumaragewatta, Thalangama South.
5. A.M.M.C. Adikari
29/12A, Vishakha Road, Colombo 04.
6. H.M.C.D.Rathnayake
291, Diddeniyawaththa, 2nd stage,
Dambokka, Boyagane.
7. D. S. L. De Silva
386. Galle Road, Dodanduwa.
8. S. Vathshalan
5/1, 9B, Peter's lane, Dehiwala.
9. J.S. Hewavithana
453/12, Thusharawanigasekara Mw,
Dangedara, Galle.
10. M.E.M. Mendis
20B, Badurakadawatta, Rupeewala,
Boossa.
11. L.P.A. Tillekeratne

- No.879/30, Waragoda Road,
Kelaniya.
12. J.H. Subasinghe
686/5, Havelock Road, Colombo 06.
 13. R.P.D.U.A. Rajapakse
40/44 Horana Road, Halpita,
Polgasowita.
 14. R.S. de Silva
142/1C, 2 Lane, Jayagath Mawatha,
Hokandara.
 15. D. L. H. M. M. Dayananda
491D, Lake Road, Avarihena,
Hokandara.
 16. S.C. Wijesiriwardena
721/54, Birds Park Residencies, Sri
Nanda Mawatha, Madinnagoda,
Rajagiriya.
 17. S.K. Ileperuma
331D, Sangabogama Road,
Angunawala, Peradeniya.
 18. M.U.D.Gunarathna
291/2B Circular Road,
Magalle, Galle.
 19. S.A. Lokuarachchi
418/16A, Weli Road,
Thalawathugoda.
 20. G.C.V. De Silva
36/1/1, Heeressagala Road,
Mulgampala, Kandy.
 21. C.I. Kannangara
No 71/1, Purana Road, Maharagama.
 22. C. J. Dharmaratne
No. 170/2, Wackwella Road, Galle.
 23. R. T. Jayasekara
23/39, Diyawanna Gardens,
Nugegoda.
 24. S. R. M. S. U. Udawattha
40/E/4, Kiribathkumbura.
 25. P. B. R. I. Siriwardhana

- Royal Park 2, Siriwardhana,
halathuoya, Kandy.
26. C.N. Jayasundara
No. 265/25, Lake road,
Borelasgamuwa.
27. R.M.M.N. Rathnayake
41/4, Soratha place, Gangodawila,
Nugegoda.
28. P. H. E. Sanjeeva
20/1 A, Hena Road,
Mount Lavinia.
29. Saman Kumara G. D.
No. 418, Korathota North, Kaduwela.
30. A.Colombage
74/1, Ihala Gammedda, Kahalla,
Katugastota.
31. S.C. Medagedara
224, Angammana, Gampola.
32. D.D. Walisinghe
109/4, Pallegama, Kandy Road,
Ampitiya.
33. K.H.P.T.N. De Silva
449-c-14, 2nd Lane, Vihara Mawatha,
Weliwita, Kaduwela.
34. V. P. R. S. de Mel
34/8B, Walawwatta Road, Nugegoda.
35. J.G.P. Nishshanka
122, Ganegoda, Akmeemana, Galle
36. R. Jagath
No. 32, Terrace Garden, Kundasale.
37. M.K.S.H Jayasena
1319/3, Wanamal Gardens,
Hokandara Road, Pannipitiya.
38. K. Abeywardana
34/8B, Walauwatta Road, Nugegoda.
39. W. A. P. S. R. Weerathna
Royal Gardens, Godakanda,
Karapitiya.
40. G. Gunasinghe

- No. 164/10, Nagarathna Mw, Bope,
Galle.
41. K.M.K. Indika
'NISHADI', Palatuwa, Matara.
42. W.D.T. Silva
No. 270/14F, Royal Gardens, Horana.
43. N.A.S.B.L.Ananda
6 "Ananda", Ledandukitha,
Alapaladeniya.
44. S.M.Goonetilleke
No. 20/1, Rodney Street, Borella,
Colombo 8.
45. C.D. Weerasinghe
40, Cambridge Place, Colombo 7.
46. P.A.D.O.P Appuhamy
6/2, 1/1, Vijitha Road, Nadimala,
Dehiwala.
47. P.A.D.M.P. Perera
212/7A, Nelum Place, Kalapaluwawa,
Rajagiriya.
48. S. G. S. Fernando
No. 71/3, Kaldemulla Road,
Moratuwa.
49. W.M.C.K. Samaraweera
No. 140, Koongahamula Junction,
Kengalla Road, Menikhinna.
50. M. M. T. C Bandara
Thushara, Kumbalporuwa,
Wariyapola.
51. D. Liyanapatabendi
BS/G/4, Mangala Road, Colombo 8.
52. S.R. Athulathmudali
316/ E, Galahitiyawa, Ganemulla.
53. S.A.C. Subasinghe
Ruwan, koshena,
Illukhena.
54. W.K.C. Sampath
939/3/E, Mahawatta,
Udawaththa Rd, Malabe.
55. S. P. Warnakulasuriya

129/1A, Moragahalanda Road,
Moraketiya, Pannipitiya.

PETITIONERS

Vs.

1. Asela Gunawardena
The Director General of Health
Services,
Ministry of Health, "Suwasiripaya",
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
2. G. Sudath K. Dharmaratne
Deputy Director General (MS)
I, And Member - Medical Specialist
Transfer Board, Ministry of Health,
Ministry of Health,
"Suwasiripaya", No. 385,
Rev. Baddegama Wimalawansa
Thero Mawatha,
Colombo 10.
3. Ayanthi Karunrathne
Actg. Director (Tertiary Care
Services), And Member - Medical
Specialist Transfer Board,
Ministry of Health, "Suwasiripaya",
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
4. Janaka Sugathadasa
Chairman - Health Services
Committee,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
5. N. Godakanda,
Member
Health Services Committee,

- Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
6. D. Swarnapala,
Member - Health Services
Committee,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
 7. L.A. Kalukapuarachchi
Secretary
Health Services Committee,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
 8. Jagath Balapatabendi,
Chairman - Public Service
Commission,
Public Service Commission,
No 1200 / 9,
Rajamalwatta Road, Battaramulla.
 9. Indrani Sugathadasa,
Member - Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
 10. T.R.C. Ruberu,
Member - Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
 11. Ahamod Lebbe Mohamed Saleem,
Member – Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.

12. Leelasena Liyanagama,
Member- Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
13. Dian Gomes,
Member – Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
14. Dilith Jayaweera,
Member – Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
15. W.H.Piyadasa,
Member - Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
16. Suntharam Arumainayaham,
Member - Public Service
Commission,
Public Service Commission,
No 1200 / 9, Rajamalwatta Road,
Battaramulla.
17. S.H. Munasinghe
Secretary – Ministry of Health,
Ministry of Health,
"Suwasiripaya", No.385,
Rev. Baddegama Wimalawansa
Thero Mawatha, Colombo10.
18. K.P.Dissanayake
19. S. Vinothan
20. A.A.P.A Wijayagoonawardana
21. D.P.Liyanagama

22. K.Anushan
23. R.S. Mohamed
24. G.P. Samarasinghe
25. M.A.B.M Gunawardena
26. Chamara Berugodaarachchi
27. H.M.M. Prasanthie
28. J. Jansan
29. P.T. Gamage
30. M.P.K. Dassanayake
31. S. Yogasundaram
32. A.Noyalton
33. P.D.S.A.N. Appuhamy
34. S. Pratheep
35. W.S. Rathnaweera
36. T. Gowribahan
37. C.S.Fernando
38. G.G.A.K Kulathunga
39. L.R.A.B Jayaratne
40. H.K.C. Lakmal
41. D.P.C.K.A. Lal
42. P.L.S. Pathberiya
43. S.M.S.G. Gunarathna
44. M.G.D.G. Wijewardana
45. S.N. Samarakkody
46. L.P. Ruwanpura
47. W.C.V. Peiris
48. K.M.B.M. Weerasinghe
49. W.D.N.C. Piyarathna
50. K.P.N.G. Ranasinghe
51. P.T.M. Rodrigo
52. R.J.C. Ranasinghe
53. J.G.T.U. Jayawickrama
54. D. P. Liyanage
55. H.M.U.I.K. Herath
56. U.H. Hewawitharana
57. R.L. Malavige
58. J.D. Karunarathna
59. B.G. Jayawickrama
60. H.C. Nawarathne
61. M.G.S.P. Dias

62. R.K.S.I. Karunarathna
63. Tithira Jayaweera
64. R.S. Wijenayake
65. G. Pakeerathan
66. K.A.R. Gajaweera
67. S.G. Rajakulenthiran
68. A.P.N De Vas Goonewardane
69. A.H.T. Wasantha Kumara
70. Nallathamby Sivashangar S. Suthagar
71. D. Rupasinghe
72. N.S. Malwatte Mohotti
73. P.Liyanage
74. M.N.Y.F Wijegoonewardene
75. N.A.N Perera
76. Dv Vipulaguna
77. M.S. Lokuge
78. K.Krishakeesen
79. D.G. Punchihewa
80. D.P. Hettiarachchi
81. U.P. Meegama
82. A.T.C. Prabhath Kumara
83. P. Ketheeswaranathan
84. I.L. Mahil
85. N.H. Cooray
86. N. R. Warnakula
87. D.L.M.N. Liyanage
88. A. M. A. S. Ambanwala
89. A.G.T. Darshani
90. E.M.S.B. Ekanayake
91. M.S. Dangampola
92. D.S.S Arachchige
93. H.A.D.M.P Ariyasinghe
94. H.S. Gunasekara
95. N.S.I. Dharamsena
96. L.M. Hannadige
97. C.T.K. Fernando
98. Chittahari Abhayanayaka
99. N.J. Nawarathna
100. T.A.E.S. Thalagala

101. M.T.M. Ashfaq
102. K.M.K. Lakmal
103. A.J.M.K. Jayasundara
104. B.S Sebastianpillai
105. T. Sivakumar
106. W.J.P.P.Wijayatunge
107. Priyankara Gunaweera
108. Sunishka Ponnampereuma
109. Kamala Jegu
110. M.M. Senanayaka
111. G.K.K. Ariyasinghe
112. Y.Sasikumar
113. S. Sabapathippillai
114. D.A.A.D. Dedigama
115. M.I.Mohamed Rifath
116. S.P. Pahalagamage
117. K.H.N. Kumarasiri
118. P. Manoharan
119. H.M.M. Perera
120. S.G. Kumarasiri
121. Shanjeeban Ponnudurai
122. M.H.M.T.S Perera
123. A.A.S Cooray.
124. S.A.U Perera
125. G.K.K. Ariyasinghe
126. S.D.A.L Singhapura
127. R.Rohan Kumar
128. U.G.D.S Manawasingha
129. H.K.K.T. Duminda
130. K.N.M Gunapala
131. C.T. Karunatileke
132. P.P.R. Siriwardena
133. C.D.Weihena Epa
134. D.M.H.M.K. Dassanayake
135. A.H.K Bulegoda
136. S.M.P.Wickramarachchi
137. B.G.N.T. Somaratna
138. D.A. Jayawardana
139. M.A.E.Amarasena
140. S.C. Athapatthu.

141. D.M.U.P. Dissanayake
142. G.V.T. Pushpakumari
143. W.C. Vithana
144. P.E.K.B Ranathunga
145. M.H.B Ariyaratne
146. M.K.D.R.B Dayaratne
147. P.C. Liyanage
148. M.U.T. Perera
149. S. Maniharan
150. I.L. Rathnayaka
151. W.M.K.B. Wijetunga
152. Arasaratnam Elangovan
153. B.C.S. Perera
154. Ameen Izzath
155. M. M. S. Senathunga
156. Jithma Ruwini Fonseka
157. M.T.R. Jayatunge
158. W.N. Dananjika
159. R. S. Abeywickrama
160. M. Saamir Mohideen
161. A.D.S. Nandasiri
162. M.A.N.P Dilruvan
163. S. Ganeshamoorthy
164. W.M.S.B Thilakarathne
165. D.H.B Ubayawansa
166. O.C.J Perera
167. D.T. Goonesekera
168. E.D.R Edirisinghe
169. T.Kiriella
170. W.M. Visira Sirinandana
171. M. Vakeeswaran
172. J.A.G.P Sooriyasena
173. N. Pratheep
174. Paramanathan Sajeevan
175. Ganesharajah
176. J. Sabanadesan
177. H.S. Gajaweera
178. T.H.H Pieris
179. T.D.P Kuruppu
180. Ananda Kodituwakku

181. S. Madanasinghage
182. K.A.O Tharuka
183. Dulari Rubasinghe
184. J.A.P.T Jayakody
185. S. N. Roshanth
186. R. Ratnaranjith
187. Subasini Nadarajah
188. M.D.Kalyani
189. S.S.P.Thamby
190. Sutharcini Subramaniam
191. W.A.N.D Wickramasinghe
192. G.L.L.N.Perera
193. Y.M.S.P.Y.Bandara
194. T.Shanmugapriya
195. S.B Hettiarachchi
196. Mayoorathy
Saravanabavanthan
197. A.G.M.Juraij
198. H.M.U.K.Herath
199. L.V.Kothalawala
200. P.N. Hettiarachchi
201. Nilmini Narangammana
202. P.A.L. Wijayanayaka
203. Gemunu Udayasiri Rambukwella
204. U.P.N.P Ranaweera
205. R. B. Hapuarachchi
206. U.L.N.S Liyanage
207. N.B.N Padmakumara
208. L.N.P Samarasinghe
209. N.Parthipan
210. A.Rajendra
211. M.Anton Suthaharan
212. K.S.J. Chaminda
213. T.G. Rajakulenthiran
214. P.S.K Witharana
215. U.M.C.S. Wijesinghe
216. K.D.U.I. Karunasena
217. D.N. Gunasekara
218. A.K.D.L. Wijesekara
219. L.H.D.S. Pradeep

220. G.I.D.K. Dharmaratna
221. D.M.S.V. Dissanayake
ALL C/O The Director General of
Health Services, Ministry of
Health, "Suwasiripaya",
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.
222. B. Nageswaran
223. Sivarathi
224. S. K. Wattuhewa
225. J.T.K. Dharmasena
226. L. B. A. R. Jayaratne
227. M.N.N.M. Saheer
228. A.N. Dissanayaka
229. D. Selvapalan
230. H.G. Duminda Tharaka
Gunarathna
231. H. P. C. Dharmadasa
232. A. Garambepola
233. S. Sivatheepan
234. R.G.A.I. Rajapakshe
235. W.G.C. Sampath
236. M.N.J.M. Perera
237. Thileepan Gowshiga
238. R. Senthuran
239. Tharanga Gunarathna
240. B.M. Munasinghe
241. Kad Krishantha
242. H.M.S.K. Bandara
243. D.A.D.J. Kulatissa
244. Nimalshantha D.A.I.D.
245. Nadeeshya Dulanjalee Welikala
246. Ydrn Gunaratne
247. T.W.P.S. Senevirathna
248. U.R.R. Attanayake
249. L.I. Wijesinghe
250. S. Skantan
251. P. Jayawardana
252. G.A.R.R. Ranamuni

253. D.M.P.D.B Dissanayake
254. P. Priyathasan A.
255. Jude Prashanthan
256. J.M.A.J Jayakadu
257. D.M.S.R Gunathilaka
258. S.P. Lokuliyana
259. G.P.N Pradeep
260. M.D.A Wujewardana
261. V. Sujeev
262. S. Ramanathan
263. T.T Mahapatune
264. P.M Waduge
265. M. Aruna
266. A.H.L. Gayathrika
267. R.M.M.K.Amarasinghe
268. Thangarajah Kogulan
269. B.M Dayananda
270. N.M.T.C.Jayasekara
271. R.G.D.C. Isanka Hasani
Siriwardane
272. T. Jeyakanth
273. Thanabalasingam Vaikunthan
274. P. G. I.S Wickramatunga
275. C.P.H Withana
276. L.S Kularatne
277. I.N Jayasinghe
278. T.V. Manawadu
279. H .L. Thushari
280. M.R.D.N Sugathadasa
281. I.A Liyanage
282. J.A.M.A. Jayatilake
283. W.B.U. Priyadharshana
284. R. Rajanthi
285. D.P.K.E. Diyalagoda
286. M.N.T.D. Gunaratne
287. W. D. D. I. Shanthakumara
288. J. T. Sivashankar
289. J. Hamsananthy
290. M. B. A. Ghouse
291. J. I. N. C. Karunaratne

292. K.C.M. Perera
293. N.H.S Nadeeka
294. N.D.W. Widanapathirana
295. A.K.P.J. Arumapperuma
296. W. N. D. Perera
297. O.D.S Rupananda
298. K.A.M.P Gunathilake
299. C.M. Wickramaarachchi
300. W. A. C. N. Fernando
301. J.A.L.L. Jagoda
302. K.G.N.S. Karunaratne
303. U.M.R.D.Y. Bandara
304. M. F. M. Makarim
305. S. Pavithra
306. A.M Farook
307. K.M.L Rathnakumara
308. V. Shanmuhathas
309. M.Pathman
310. S.A.Sathananthan
311. T.M.U Liyanage
312. W.A.A.S.Wickramasinghe
313. G.M.D. Perera
314. N.A. Nimanka Wujeyawardhane
315. G.M.O Fernando
316. C.R. Maddumarachchi
317. M.N. Mahesha
318. Pamoda Kamaladasa
319. M.R.F. Shireen
320. Thanuja Priyami Alahakoon
321. M.N.F Mufeena
322. R.L. Abeynayaka
323. B. Thanushah
324. P.S.D.Herath
325. K.P.L.Madushani
326. Vithiya Ratnasamy
327. L. Piranavan
328. H.D.J De Zoysa
329. G. Sakthilingham
330. R.A Raiyees
331. R.G.V.K. Rajapakse

- 332. S.K.B.Kumaragama
- 333. R.S.P.Gamage
- 334. V.Sivanthiran
- 335. B.K.L.N. Balasuriya
- 336. P.H.N.I. Bandara
- 337. H.P.S. Damayanthi
- 338. A.A.K. Jayanath
- 339. D.N. Walpola
- 340. N.M.P. Warnasoriya
- 341. S.H Dissanayake
- 342. D.S.N Malintha
- 343. Wijesinghe
- 344. K.A.C Iroshini
- 345. A.M.B.D Bandara
- 346. H.M.P Rangana
- 347. J.M.D.S.A Seneviratne
- 348. K.K Ajith
- 349. A.S Hennayake
- 350. N. Gallage
- 351. L.B.W.I.G. Dharmapriya
- 352. K.D.C. Fernando
- 353. S.H.Gunatilaka
- 354. P.T. Kahandawala Aracchhige
- 355. S.Lv Dahanayake
- 356. T.C.N.R.Peiris
- 357. E. M. K. Ekanayaka
- 358. K.K.D Jeevani
- 359. U.P.A.L.A. Gunarathne
- 360. S.A.A Prabuddhi
- 361. S. Mahathevan
- 362. W.S. Rupasinghe
- 363. Selvaskanthan
- 364. Gayani Samaratunge
- 365. D.M.P.K.Dissanayake
- 366. W.M.K.N Wasala
- 367. N.H.A.S. J. Perera
- 368. S.M.D.A.C.S.Dissanayake
- 369. Dodampe Gamage Nishantha
- 370. Amila Alawathugoda
- 371. M.M. Ahlam

372. Y. Thineshkumar
373. P.D.J. Bernard
374. K.Karunayokiny
375. I.L.M.Safeek
376. S.Pirasathi
377. A.N. Abayagunawardana
378. U.D.N. Prasad
379. D.S.A. Kumarasinghe
380. M. G. P. B. Maduranga
381. S.P.M.L.R Piyarathne
382. Sincy S.M. Samarawickrama
383. J.M.S.Jayasekara
384. R. M. H. K. Rasnayaka
385. W.A.N.D. Weerasooriya
386. H.M.P. Whathurusingha
387. K.D.T Dilrusksi
388. Sudheera Fernando
389. M. D. Samaranayake
390. T.Yogeswaran
391. H.W.S Priyadarshani
392. W.R.A.M Pemasiri
393. J.M.V.V. Jayawardhane
394. M.M.D.R.Jayawardhane
395. K. Ganeshananth
396. H.O. Kalambarachchi
397. W.A.S.Wuesooriya
398. T. Arikaran
399. I.D.H.P.K. Abeysundara
400. U.Hj.P Dayarathn
401. E.G.A.K Kusumitha
402. K.M.S Lakmin
403. I.T.E Kanakkahewa
404. H.M.L.Y Herath
405. D.I.V Fernando
406. A.G.T.A Kariyawasam
407. A.V.I. Chandimal
408. N.C.R.J.A.D Dargini
409. P. Lohithalingam
410. M. Pravinson
411. W.U.C. Alwis

412. M. Mathurageethan
413. Chanaka Sandharuwan Ekanayake
414. D. D Karunasagara
415. Thileepkumar
416. M.A.Clakmal
417. Sanjeeva Vidanapathirana
418. K.G.M.W. Bandara
419. D.S.Indrajith
420. U.A Buddika
421. R.A.R.M.Premachandra
422. L. A. Kumudumala
423. G. A. C. Gamakaranage
424. M.N.Dilhani
425. P.L.M.Hemali
426. R.M.P.A Rathnayake
427. M.P Munasinghe
428. W.P. N. M. Jayaweera
429. J.L.S.M. Jayawardane
430. T.M. Amal Jayathilake
431. M.M.W.R.Manchanayake
432. E.A.M.K.D. Morawakkorala
433. A.Kankanamge
434. Nishani Anjarika Kodithuwakku
435. G.H.P.Gayani Dsgamlaksha
436. S. Wickramasuriya
437. S. Vinothika
438. L.A.H.A Albert
439. W.M.A.S De Silva
440. P.W.G.A.N Jayathilaka
441. K.Kopinath
442. M.A.D.N Munasinghe
443. P.G.G. Sanjeevani
444. S.M.I Seneviraine
445. H. N. Warapperuma
446. S.D.P.S Senanayake
447. M.G. P.S. De Silva
448. R.A.D.L.M.K. Ranwala
449. J. A. S. Rupasinghe
450. A.K.H. Athukorala
451. B.A.D.Jayanthan

452. Nalaka Kankanamge
453. S.D.S. Gangahawatte
454. R. Dhanushan
455. S.M.D.P Senarath
456. S.A.C. Nandasiri
457. E.G.U.N. Gunarathna
458. P.A Kiriella K. Vaasuthevaa
459. L. M. L. De Silva
460. A.A.M.S Siddique
461. B.P. Wijesinghe
462. W.A.C Lakmali
463. D.A.H Samadhi
464. R.L.S.K De Silva
465. N.N.V Dias Rajakaruna
466. P. G. W. S. Samaranayake
467. R.A.S.P. Gunarathn
468. D.G.K Kumuduni
469. M.Y.N Mohammed
470. W.K.N.W. Withana
471. A.Kumarasiri
472. P.C.K. Rohanage
473. P.S.M Jayasekara
474. V.A.T.D Perera
475. K. Pratheepa
476. P.A.N.T Wuesinghe
477. A.K. Udenika
478. W.M.M Boteju
479. S. Ragavan
480. E.C.M.O.W.R.M.B.
Chandrasekara K.
481. A. A. I. Perera
482. Y.H.H. Gunathilake
483. M.N. Muthukumarasamy
484. P. K. B. Gamage
485. A. D. G.S. B. Pigera
486. B. K. Kachchakaduge
487. R. Shamila
488. A. V.U. A. A. Ranasinghe
489. K.M.S. N. K. Peiris
490. M. W.D. W.L. Ganga

491. V. Kaluarachchi
492. M. P.D. J. Mapatuna
493. A. K.N. Dilina
494. H. M. S. L. Jayasekara
495. Jayalath J.A.V.S.
496. R.Sutharshan
497. J.M. Pradeepa Sanjeewa
498. C.M.B.Herath
499. R. N. Perera
500. S. Sijethara
501. Jeyarajah Rajeevan
502. H.M. Sajith Tharanga Bandara
503. M.P.M.H. Madushanka
504. M. Theeparuban
505. E. C. Wijayawickrama
506. A.M.R.K Atapattu
507. N.K. T.S Sandaruwan
508. Y.N. Godakanda
509. I.L. D.M De Alwis
510. W.A.B Weerakoon
511. D.S.K Kotigala
512. A.M.A.K.Gamarasekara
513. N. Elily
514. R.M.L. J. Sameera
515. R.M.U Rajakaruna
516. Y.Prasanthan
517. Tiromi Rupasinghe
518. S. G. Wijesekera
519. E. Wijesiriwardana
520. L.D.P Tharanga
521. W.T.Piyasiri
522. R.A. Y. Malinda
523. Pradeepa Bandara
524. Sampath Ranaweera
525. S.K. G.S. Kurera
526. Lahiru P. Hettige
527. D.G. D.S Gamage
528. K.K.Senarathna
529. D.M.M.A.K Dissanayake
530. N. Jayawickrama

531. K.G.N Kanishka
532. D. Duleera
533. M. Muhunthan
534. R.Thayaparren
535. Jayantha T. Vitharana
536. V.P. Wijesundara
537. L.S.A. Hewage
538. A. J Paranagama
539. D.M.C.S Dasanayake
540. P. R. Pitagampalage
541. P. C. Amaraweera
542. S.S.L De Silva
543. M.R Illeperuma
544. P. Kalaventhana
545. B.A.L.S Kumara
546. B. Parthipan
547. P.C.I. Wijesinghe
548. Thamayanthy Kunabalasingam
549. K.M.J.B.Kallora
550. S.P.P Kumara
551. L.A.D. N.Udayan
552. I W.A.N Warnasuriya
553. K.D.N.U.D Jayasena
554. D.V.M. Dias
555. W.A.S.A Wijayalath
556. G. Hartheek
557. D.S.P.K.H. Premachandra
558. M.S.K Cooray
559. A.T Sriyasinghe
560. M. Manojkumar
561. K.M.V.C. Bandara
562. K.P.M.S. Hemachandra
563. C. T. Weeraratne
564. S. Rojitha
565. U.A.M.D. Silva
566. P. G. P. L. Abhayarathna
567. C.S. Wijesundara
568. T.C.W. Muthukumarana
569. K.N.H. Wadige
570. M.A.K. Mallawa Arachchi

- 571. K.M.S.K. Bandaranayake
- 572. D. M. P. Saman Kumara
- 573. T. Peduruhewa
- 574. S.G.A.D. Tharanga
- 575. B. Geethanchaly
- 576. S.M. Ashhar
- 577. P.M.A. Ahamed
- 578. T.M.N.M. Tennakoon
- 579. A.P.G.S. Aththanayake
- 580. K.M. Lakmali Kaushalya
Mihirani
- 581. H.S.P. Fernando
- 582. Charith Udagedara
- 583. H.T.C. Wanniarachchhige
- 584. P.M Hewamalage
- 585. A. Tharshiny
- 586. A.M.B.W.M.R.N.N.Ekneligoda
- 587. G.B.A.M. Rathnasiri
- 588. J.P. Kariyawasam
- 589. S.D. Silva
- 590. Isuru Chathuranga Vithanage
- 591. R. Samararathna
- 592. W.R.P. De Alwis
- 593. A.R Fernando
- 594. J.P. Rankothkumbura
- 595. K. Sivasuganthan
- 596. S.I.K Karunananda
- 597. R.W.M.S.B.Kumburegedara
- 598. P.A.S Pathigoda
- 599. R.Kamalraj
- 600. L. C. Silva
- 601. Mohamed Mafaz
- 602. D.C.R Kodituwakku
- 603. J.F. Mirza
- 604. W.P.M. Ranawella
- 605. K.A.S.D Nanayakkara
- 606. P.M.N.S Ekanayake
- 607. P.C Erangika
- 608. C.S.R Gamage
- 609. M.N. Nazeer

610. R.K.L.H. Randeny
611. N.J.Abeynayake
612. R.L. Senadeera
613. W.K.Chaminda
614. A.A.K.N.Athauda
615. G.Mahilrajan
616. C.Athauda
617. Dhanushka Mahathanthila
618. Chanaka Pataly Nissanka
619. M.A.V. Sanjeewani
620. H.P.Hettiarachchi
621. B.W.B.Rathninda
622. R.N.R.Arachchi
623. P.H.D.A Prashani
624. G.L. Gayani
625. M.Stephan
626. G.R. Sandakelum
627. W.D.Duminda
628. A.Kirishangar
629. D.P.K. Samaraweera
630. T.W. Pathirana
631. W.A.R. V. Weragoda
632. K.V.A.R Lakmal
633. G.C.K.Yapa
634. P.V. H.K. Lanka
635. P.G. R.S. Rathnayaka
636. D.S.D.Jagoda
637. M.S.F.Mafasa
638. U.A.G.Punyajeeva
639. B.M. L.S. Basnayake
640. S.M Hettiarachchi
641. R. Manmathen
642. P.G.N.S Jayathilake
643. L.B.N Chandramal
644. J. Sashikaran
645. K.G. Gamage
646. M.T.C. Perera
647. A.A.D.N.S. Adikari
648. A.D.S.R.T Siriwardena
649. R.D.H.Ramanayake

650. M. F. Z. Zanooz
 651. S.M.G.S.Manchanayake
 652. E.A.P. M. Premarathne
 653. M.A.M.I Obris
 654. S.J Jayanetti
 655. A.E.N.S.K Liyanage
 656. M.G.R.R Muhandiram
 657. N. Dishanthan
 658. K.A.N Chanaka
 659. M. H. P. Godakandage
 660. A.W.T.N.Peiris
 661. K.G.K.Ubeysekara
 662. Anuradha Perera
 663. D.I.J. Munasinge
 664. I.L. Jayaweera
 665. H. M.A.H. Karunaratne
 666. L.P.P.Godakandaarachchci
 667. T.D.R.N Perera
 668. S. N. Jayasuriya
 669. A.P.U.Irosha
 670. D.C.L. Wickramarathne
 671. D.L.D.C.Liyanage
 672. W.A.H.P.Wijesinghe
 673. L.B.H.C.Jayasinghe
 674. K.A.C.R.Wijesekara
 675. Thakshagini
 676. M.W.S.C.Dileka
 677. P.M.H. Colomboge
 678. V.H.Withanage
- ALL C/O The Director General of
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No.385,Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo10.
679. Dharshana Sirisena
Member - Medical Specialist
Transfer Board, Ministry of
Health,"Suwasiripaya", No. 385,
Rev. Baddegama Wimalawansa

Thero Mawatha, Colombo 10.
680. Rasika Gunapala
Member - Medical Specialist
Transfer Board, Ministry of
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RESPONDENTS

Before: Sobhitha Rajakaruna J.
Dhammika Ganepola J.

Counsel: Manohara De Silva P.C. with Rajeev Amarasuriya and Sumudu
Nanayakkara for the Petitioners
Manohara Jayasinghe D.S.G. with Abigail Jayakody S.C. for the 1st to 7th, 679th
and 680th Respondents

Argued on: 09.11.2022, 22.11.2022, 08.12.2022, 16.12.2022, 12.01.2023, 02.11.2023

Written submissions: Petitioners - 17.10.2023
1st to 7th, 679th and 680th Respondents - 11.10.2023

Decided on: 05.02.2024

Sobhitha Rajakaruna J.

It is an admitted fact among the parties that the Petitioners at the time of filling the instant Application were in the Medical Officer Grade and none were in the Specialist Medical Officer Grade. The Petitioners state that all transfers including Annual Transfers of Officers belonging to the Sri Lanka Medical Service have to be done according to a scheme approved by the Public Service Commission ('PSC') and the delegated power of the PSC in this regard now vests with the Health Services Committee ('Committee') of the PSC. The Petitioner's alleged grievance is that the Grade Medical Officers are transferred through the impugned

Replacement List and such transfers are made without a transfer scheme for Grade Medical Officers that has been approved by the said Committee of the PSC. In view of such, the Petitioners contend that several letters/notices and relevant lists pertaining to the said Replacement List for the Specialist Medical Officers are ultra vires; made out of jurisdiction and are a complete nullity in law.

It appears that only Specialist Grade Medical Officers can apply for the Specialist Grade Annual Transfer List which is generally finalized and published before the end of each year. The 1st to 7th, 679th and 680th Respondents ('Respondents') contend that the vacancies in the Specialist Annual Transfer List are filled based on the exigencies of service and also to accommodate those who have served two or more years in remote areas who are entitled to apply for transfers as per their choice. The Respondents further contend that after finalizing the Annual Transfer List certain posts remain vacant due to various reasons such as;

- (i) Officers obtaining overseas leave or vacating their respective posts while the Annual Transfer List is being processed.
- (ii) the release of Officers to other institutions i.e.: Universities, Army hospital, Navy hospital etc.

It is noted that the vacancies arising upon reasons similar to the above are filled through a Replacement List. The learned Deputy Solicitor General ('DSG') who appears for the said Respondents emphasizes the importance of the Replacement List and the necessity of implementing the said List to overcome several anomalies that lead to undermining the entire healthcare system. The learned DSG lists out such instances as below. (Vide- written submissions of the said Respondents, pages 6-7).

- A) There are certain hospitals where there is a very grave demand for a more qualified Acting Consultant because that hospital caters to a large population;*
- B) The hospital is situated in an area where there is a high incidence of a particular disease which requires a continuous and uninterrupted presence of a more qualified Acting Consultant*
- C) The hospital is in a remote area and there aren't neighboring hospitals which can be accessed by the residents of that area.*

D) The hospital is a Teaching Hospital which necessarily requires the more experienced Acting Consultants as medical students/interns attend these hospitals for training and experience.

E) The hospital does not have a second Medical Officer who has expertise in that field which means the sudden departure of the Medical Officer would there disrupt the services of that facility.

Further, the learned DSG argues that it would not make sense to send a mere Senior Registrar to respective hospitals for reasons similar to the above as;

a) A Senior Registrar does not have the experience and capability to handle the challenges of such hospitals

b) As Senior Registrars have to travel abroad to complete their foreign training, there could be a situation where these stations fall vacant once again within a short period of time. Thus, there would be no continuity of service in these areas.

Thus, it is observed that filling the vacancies through the Replacement List is meant to maintain service continuity at respective hospitals until such vacancies are permanently filled through the Annual Transfers during the ensuing year. The Respondents have highlighted the requirement of filling such vacancies among Officers very much similar to Specialists who have returned to the Country after completing foreign training.

As it appears to me, the Petitioners as well as the Respondents concede that there are three categories of Medical Officers as mentioned below:

(1) **Category ‘A’** - The Officers who have returned after foreign training and possess the Board Certification.

(2) **Category ‘B’** - The Officers who have returned after foreign training but are awaiting Board Certification.

(3) **Category ‘C’** - The Officers who have completed all the basic examinations and are awaiting to travel abroad for foreign training (it is noted that they usually stay for a short period and leave the Country for foreign training at their earliest)

Out of the above three categories, the Officers who fall under the categories ‘A’ and ‘B’ remain in a station/post until the Annual Transfer takes place for the following year. The contention of the Respondents is that the Officers in the above categories ‘A’ and ‘B’ are assigned to several posts that have become vacant and which cannot be filled until the Annual Transfers

for the ensuing year takes place. According to the Respondents the relevant vacancies are usually identified at the duty stations in remote areas where there is no single Board Certified Specialist. It was further submitted on behalf of the said Respondents that the vacancies that occur after implementing the Annual Transfers need to be filled to assist/support the existing Specialists but not to fill the 1st or 2nd posts permanently at the respective stations. Anyhow, if no Officer is available from the above category 'A' or 'B', an Officer from the above category 'C' will be offered such an essential post based on her/his seniority.

The learned DSG strenuously argued that the 1st to 3rd Respondents should be able to take necessary steps under the exigencies of service to fill the vacancies that occur in several stations due to one or more reasons mentioned above for the smooth functioning of the health sector without uninterrupted services. It is noted that the assignment of Officers to respective stations/posts through the Replacement List is a mere temporary arrangement without giving them a higher title or remuneration. Such assignments seem to be valid only for a short period.

Anyhow the Petitioners contend that filling a vacancy through the Replacement List violates the Constitution of the Republic and such an act would be ultra vires. The Petitioners argue that under and in terms of Article 55(3) of the Constitution, the appointment, promotion, transfer, disciplinary control and dismissal of Public Officers are vested in the PSC. The power concerning all transfers including Annual Transfers that need to be carried out according to a scheme approved by the PSC, has been delegated to the said Committee of the PSC. The Petitioners argue that alleged transfers made through the Replacement List have not been approved by the said Committee and those are outside the Annual Transfers. Further, the Petitioners contend that filling the vacancies of the respective posts using the word 'assignment' will eventually fall within the umbrella of the word 'transfer'.

As opposed to such arguments, the Respondents submit that the respective assignments under a Replacement List are temporary/interim measures and those are most certainly not 'transfers'. The Respondents' argument is based on the fact that the Medical Officers who fall within the aforementioned categories 'A', 'B' and 'C' are Officers who have not been absorbed as Specialist Grade Medical Officers and as such they are not eligible to be transferred under the Annual Transfer Scheme. The Respondents have given reasons for the necessity of bifurcating the Replacement List by creating one list which contains the stations to which

only Acting Consultants can apply and a second list which includes stations to which only Senior Registrars can apply. At the hearing, the learned DSG having regard to the alleged undeniable reality submitted that certain vacancies could not be filled with fully qualified Specialists and such stations require the services of an Acting Consultant. One aspect of the rationale for such bifurcation seems to be the requirement of assigning the Medical Officers who have returned to Sri Lanka after foreign training, as a temporary measure, until they become eligible to apply under the Annual Transfer List. The Respondents complain that the Petitioners have filed the instant Application to avoid them being posted to stations in remote areas.

This Court simply cannot overlook the fact that impoverished patients would ultimately be benefited from the assignment or transfer of an adequate number of well-qualified Medical Officers, meeting both academic and administrative criteria, to stations where their services are vital. Similarly, as submitted by the learned DSG, the difficulties faced by the Authorities who are responsible for the Administration in the Health Sector in this regard also need to be taken into consideration. Likewise, this Court needs to take cognizance of the aforesaid urgent requirements in the health sector that elaborated by the learned DSG. This imminent requirement of assignment or transfer of such Officers exists perhaps until the Annual Transfer List is published for the ensuing year. In the absence of an appropriate scheme or a scheme properly approved by the PSC, a question arises as to how the relevant authorities of the Ministry of Health should face the instances elaborated by the learned DSG who emphasized the importance of maintaining the Health Service without any interruption, especially in remote areas and the highly populated administrative areas.

There is no doubt that the powers of transferring Officers belonging to the Sri Lanka Medical Service including Annual Transfers are vested in the said Committee of the PSC. However, given the Gazette Extraordinary No.2004/49 (dated 01.02.2017) such transfers need to be carried out according to a scheme approved by the PSC. Based on the submissions made by the learned DSG and the learned President's Counsel for the Petitioners, it is implied that no adequate scheme for Transfers of the Officers of the Sri Lanka Medical Service has been approved as yet by the PSC. Anyhow, I need to draw my attention to the provisions in Chapter XVIII of the Procedural Rules ('Rules'), published in Gazette Extraordinary

No.2310/29 dated 14.12.2022, which deals with the Transfers of Public Officers. In terms of Clause 250 (VI), the Transfers made on the exigencies of service shall not include the scope of an Annual Transfer Committee. Furthermore, the provisions relating to transfers on exigencies of service by an Appointing Authority or the Authority with delegated power are declared in Clauses 258 to 262 of the said Rules.

I must now consider whether the alleged transfers or assignments carried out through a Replacement List come under the above category of exigencies of service and whether such transfers or assignments need to be approved by the committee of the PSC. On a careful perusal of the learned DSG's reasons (for implementing a Replacement List) which is reproduced in *italics* above in this judgement, it is observed that those reasons are well within the category of exigencies of service. It is noted that even the transfers made on exigencies of service ought to be made by the Appointing Authority or the Authority with delegated powers as stipulated in the above Clause 258 of the Rules. However, Officers who fall in the above categories 'A' and 'B' (which is within the three categories of Medical Officers as mentioned above) are either not serving in any duty station or temporarily serving in a station soon after returning to the Country after foreign training. An Officer who completes his foreign training returns to the Country usually after remaining overseas for several months. Once such Officers return to the Country, unlike the other Public Servants attached to various Government Departments cannot report to the same station where he was serving just before he left for foreign training. This is due to the fact that the nature of the service rendered by the said Officers and the related administrative arrangements are distinct to such of other Public Officers. Moreover, those Officers return to the Island with added qualifications compelling them to assume duties in a higher grade than the one they were originally holding. Similarly, this criteria applies even to the Officers who are awaiting Board Certification after foreign training.

In light of the above, I take the view that the assigning of an Officer, who returns to the Country after foreign training or after obtaining Board Certification, to a particular station, certainly would not involve a change in his duty station. The reason for such, in my view, is that an Officer who return to the Country with a feather on his cap with an added qualification would not have been serving at a specific duty station at the time of returning to the Country

to necessitate a change of station. This is a unique feature embedded in the Officers of the Sri Lanka Medical Service. In order to effect a transfer, the change of a duty station is an essential element. Hence, posting the Officers who are within the aforesaid categories 'A' and 'B' to various stations cannot be assumed as transfers reflected in Chapter XVIII of the said Rules. In my view, this is somewhat similar to an assignment of a station for a newly recruited Medical Officer and no different opinion can be formed due to the reason that some of those Officers are currently serving at several stations. This is merely because the respective Officers are serving at relevant stations only on a temporary basis and only until they reach their expected Grade.

Based on the submissions made on behalf of the Petitioners, it is abundantly clear that the Petitioners at the time of filling the instant Application were awaiting Board Certification or a permanent station as a consequence of completing their overseas training. In other words, they have arrived in the Country at a stage where they could not apply for Annual Transfers. Hence, the Ministry of Health will be compelled to post the Petitioners to appropriate stations under exigencies of service until they would be entitled to apply for Annual Transfers.

Therefore, I hold that there is no legal impediment for the time being for the Ministry of Health to assign the Petitioners in the instant Application to various stations through the impugned Replacement List. I have arrived at the said conclusion only based on the facts and circumstances of this Case and it should not be an impediment for any of the Petitioners to challenge their individual assignments/posts upon reasonable and lawful grounds. Furthermore, the criteria that will be adopted by the Authorities for such assignments or postings is open to be challenged by any party if their interests are affected based on specific grounds. I have found that the Petitioners have not explained to the Court as to whether their personal interests have been affected consequent to the Replacement List. In this regard, I am inclined to accept the arguments raised on behalf of the Respondents that the Petitioners have failed to adduce a credible argument as to why the said Replacement List or the said bifurcation is irrational and unfair. Additionally, I need to stress here that my above conclusion does not absolve the lack of an appropriate scheme for transfers of the Officers belonging to the Sri Lanka Medical Service.

Moreover, this Court is compelled to take cognizance of the fact that the learned DSG represents the Committee of the PSC which does not raise any objections against the impugned Replacement List. In other words, the Attorney General in the instant Application amplifies the version of the said Committee of the PSC. It is paramount to note that the said Committee by way of a letter dated 13.07.2018 ('R4') has informed the Secretary of the Ministry of Health that there is no necessity to obtain approval from the said Committee in reference to the Replacement List. I am mindful that, this Court is not competent to inquire into, or pronounce upon or in any manner call into question any order or decision made by the PSC or the said Committee under Article 61A of the Constitution.

In addition to the above, I am unable to make a sufficient assessment of the present status relating to each Officer from among the above-named 55 Petitioners. It can be easily assumed that some of the Petitioners have already left the Country for foreign training or assumed duties of higher Grades. The impugned Replacement List marked 'P7' and 'P9' were to be effective for the year 2022. This Court on 12.01.2023 has decided that the Interim Order issued on 09.03.2022 has no impediment for the Ministry of Health to advertise the Annual Transfers of Specialist Medical Officers and to proceed accordingly based on the criteria adopted for the year 2022. Further, this Court has taken the expressed view that the Interim Order issued in this case will have no impediment for the Director General of Health Services to give effect to any transfers which in his opinion fall within the category of exigencies of services. Both the above orders have not been challenged by the Petitioners up to date.

Since this Court suspended the impugned Replacement List 'P7' and 'P9' until the final determination of this Case, I take the view that no prejudice can be caused to the Petitioners in reference to the Annual Transfers which may have been effected for the year 2023. Thus, I am reasonably compelled to assume that the interest of several Petitioners upon the instant Application have now substantially changed. This is because some of the Petitioners may have applied for Annual Transfers for the year 2023 or some of the Petitioners would have by now become eligible even for the Annual Transfers for the year 2024. Therefore, a reasonable question arises as to whether it is a futile exercise for this Court to review impugned decisions contained in the said 'P7' and 'P9'. Nevertheless, I am of the view that there is no necessity

for me to examine such questions at length as I have already reached a conclusion in this Judgement on the effect of the impugned Replacement List.

Anyhow, considering all the circumstances of this Case, I take the view that the Petitioners are not entitled to any of the reliefs as prayed for in the prayer of the Petition. I am not convinced with the Petitioner's Application based on Article 126(3) of the Constitution as it does not appear to me that there is prima facie evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV of the Constitution by a party to the instant Application. Hence, I proceed to dismiss the instant Application.

Application is dismissed

Judge of the Court of Appeal

Dhammika Ganepola J.

I agree.

Judge of the Court of Appeal