

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

*In the matter of an Application for
Orders in the nature of Writs of
Certiorari, Prohibition and Mandamus
under Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

A. A. F. Farween
275/3A, Megoda Kolonnawa,
Wellampitiya.

CA (Writ) App. No. 811/2025

PETITIONER

Vs.

1. Secretary,
Judicial Service Commission,
Superior Courts Complex,
Colombo 12.
2. Hon. Attorney General
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: S. U. B. Karalliyadde, J

Dr. D. F. H. Gunawardhana, J.

Counsel:

Farhana Azeez for the Petitioner.

Prabhashanee Jayasekara, S.C. for the 2nd Respondent.

Supported on: 28.08.2025

Order delivered on: 10.09.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner claims that she is still married to the brother of a judicial officer, and she alleges that there had been certain disputes between her husband and the Petitioner. Consequently, there are certain litigations arising from those disputes. However, the Petitioner alleges that the said judicial officer who is the brother of her husband, had given an affidavit to the Judicial Service Commission (herein after referred to as “JSC”) incriminating her husband, and she had received a copy thereof. Since the said document is a vital document for her pending litigations, she had made attempts to obtain a certified copy thereof from the JSC, which they had refused. Therefore, the Petitioner seeks a *Writ of Mandamus* from this Court, compelling the 1st Respondent to release the said document or the connected information. This was supported before us, and the following arguments were advanced.

Arguments

The thrust of the submission advanced by Ms. Azeez is that the Petitioner is seeking to obtain a *Writ of Mandamus*, compelling the Secretary of the JSC to issue certain certified copies which are relevant to be produced as evidence in several cases.

However, upon questioning, it was her position that her client the Petitioner did not make any application under the Right to Information Act No. 12 of 2016 (herein after referred to as “RTI Act”), since certain documents are relating to the conduct of a judicial officer, and therefore, is something confidential.

On the other hand, Ms. Jayasekara, having vehemently objected to the issuance of notice, brought to our attention that when there are alternative remedies provided by the statutory law, a *Writ of Mandamus* will not lie. Having referred to paragraph 5.6 of the Petition, Ms. Jayasekara contended that in view of the Petitioner’s own showing, she is not entitled to any relief sought.

The next argument advanced by Ms. Jayasekara is that having referred to paragraph 2.1 of the Petition, the Petitioner has sought to invoke the writ jurisdiction of this Court against the JSC in terms of Articles 111D and 111H of the Constitution, which is totally irrelevant to the complaint made by the Petitioner in this Court.

Further, she contended that if those documents that are not available to the Petitioner are confidential in nature, and if they are vital for her case, she should have summoned the Secretary of the JSC to produce those documents. Additionally, she argued that some of the documents that the Petitioner is seeking to rely upon to produce evidence in Courts, are irrelevant to her claim since they are documents exchanged between other parties.

Relevancy of the documents

According to the Respondent, the Petitioner is seeking to adduce certain documents in evidence in the District Court that were exchanged between two parties; namely, a judicial officer who is under the JSC, and the JSC. Therefore, if those documents are relevant to any case before any court, the Petitioner must establish their relevancy in that court. Then, if necessary, the learned Judge of the said court will make a ruling directing the Secretary to produce the documents. Therefore, the Petitioner is first under a duty to establish the relevancy of the said documents. Even if the documents are obtained from the JSC, if they are not deemed relevant to the case before the court, the learned District Judge may overrule them.

The other matter raised by Ms. Jayasekara was that, if at all the Petitioner needs to adduce such a document as part of evidence that she seeks in any litigation, she can still adduce the copy of the document currently in her possession. However, when the other party objects only, she has to call upon the Secretary of the JSC to establish the authenticity of the document. Therefore, such alternative legal provisions are also available to the Petitioner.

When the documents fall within the RTI Act

Additionally, the Petitioner's complaint to this Court is based on the need to obtain certain documents received by the JSC, which are maintained as part of the record. When the Petitioner sought the said document to be released by the Secretary to the JSC, he has not complied with the said request. As such, the Petitioner herself has stated that she is entitled to obtain the said document, or information related to the said document in terms of the RTI Act. However, if the JSC Secretary has a duty under the RTI Act to divulge or to release the information that the Petitioner needs relating to certain record maintained in the JSC Secretariate, the Petitioner should have first gone to the Right to Information Commission and taken steps under the RTI Act.

However, upon questioning, the Counsel for the Petitioner's contention was that her client does not want any other party to know or come to know about the said document. Therefore, it is very clear as argued by Ms. Jayasekara, that the Petitioner should have first initiated an application under Sections 3 and 4, read with Section 5 of the RTI Act. As such, the Petitioner cannot invoke the writ jurisdiction of this Court without resorting to proper legal proceedings.

Conclusion

Therefore, it is my view that no *Writ of Mandamus* can be granted in this case, based on the application made by Petitioner. As such, I am not inclined to issue formal notice, and the application is dismissed *in limine* without costs.

Dr. D. F. H. Gunawardhana, J.

JUDGE OF THE COURT OF APPEAL

S. U. B. Karalliyadde, J.

I agree.

JUDGE OF THE COURT OF APPEAL