

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

In the matter of an Application for mandate in the nature of writ of *Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CA (Writ) application No: 422/2023**

1. Rathnayaka Mudiyansele Weerasinghe,  
No. 376/1, Wewa Kahagolla,  
Diyathalawa.

2. Nevil Thilakarathna,  
No. 89/1lhala katugampola,  
Hidogama.

3. Rathnayaka Mudiyansele Gayan  
Pradeep Rathnayake  
No. 77/2, Sewagama,  
Polonnaruwa.

4. Ekanayake Mudiyansele Thilak  
Bandara Ekanayake,  
Near G.P.S. Ashwayabanduwewa,  
Galenbidunuwewa.

5. Rajapurage Nimal Abeysundara,  
1594, Bogaha Handiya,  
Kiriibbanwewa, Sevanagala.

6. Perumpuli Arachchi Saman,  
Ranawaka Watta, Uruvitiya,  
Denipitiya.

**PETITIONERS**

**-Vs-**

1. Hon. (Dr.) Susil Premajayantha,  
Hon. Minister of Education,  
Ministry of Education,  
Isurupaya, Battaramulla.
2. Nihal Ranasinghe,  
Secretary,  
Ministry of Education,  
Isurupaya, Battaramulla.
3. Mr. Sanath J. Ediriweera,  
Chairman, Public Service Commission,  
No 1200/9, Rajamalwatta Road,  
Battaramulla.
4. Mrs. S. M. Mohamed,
5. Mr. N.H. M. Chithrananda,
6. Prof. N. Selvakkumaran
7. Mr. M. B. R. Pushpakumara,
8. Dr. A. D. N. de Zoysa,
9. Mrs. R. Nadarajapillai,
10. Mr. C. Pallegama,
11. Mr. G.S.A. de Silva, P C

All are members  
Public Service Commission,  
No 1200/9,  
Rajamalwatta Road, Battaramulla.

12. Mrs. Thanuja Murugeson  
Secretary (Acting)  
Public Service Commission,  
No 1200/9,  
Rajamalwatta Road,  
Battaramulla.

13. Honorable Attorney General  
Attorney General's Department  
Colombo 12.

**RESPONDENTS**

**Before: S. U. B. Karalliyadde, J.**

**Counsel:** Gamini Hettiarachchi for the Petitioners.

Zuhri Zain, DSG for the Respondents.

**Written submissions tendered on:**

18.07.2025 by the Petitioners

**Argued on:** 30.04.2025

**Decided on:** 29.08.2025

**S. U. B. Karalliyadde, J.**

The Petitioners in this Writ Application are Pirivena teachers. Applications were called by the Secretary to the Ministry of Education for a Limited Competitive Examination for the Recruitment to Grade III of the Sri Lanka Principals' Services for the year 2018 (P8 and P8(a)). According to the notice published for calling the applications, the limited competitive exam is to be conducted according to the Service Minutes of the

Sri Lanka Principals' Services published in the Gazette Extraordinary No. 1885/31 dated 22.10.2014 marked as P9. The Petitioners state that in terms of P9, teachers belonging to the Sri Lanka Teachers' Service who possess the requisite qualifications and have been duly confirmed in the service are eligible to sit for the Limited Competitive Examination. Accordingly, the Petitioners submitted their applications (P10(a) to P10(g)). After successfully passing the Limited Competitive Examination, the Petitioners were called for general and structured interviews by the Secretary to the Ministry of Education, the 2<sup>nd</sup> Respondent, by the letters marked as P11(a) to P11(f). In terms of the letters calling for interviews, only those officers who satisfy the basic qualifications at the general interview are to be called for the structured interviews. The Petitioners, having faced the general interview, were thereafter not permitted to appear for the structured interview on the ground that Pirivena teachers do not belong to the Sri Lanka Teachers' Service and therefore they are not eligible to apply for the post. Being aggrieved by the said decision, the Petitioners invoked the Writ jurisdiction of this Court seeking the following substantive relief, *inter alia*,

- b. Issue a mandate in the nature of Writ of Mandamus compelling and directing one or more or all the 1<sup>st</sup> to 12<sup>th</sup> Respondents to call the Petitioners to the structured interviews for recruitment to Grade III of the Sri Lanka Principals' Service and appoint them to Grade III of the Sri Lanka Principals' Service.

The argument of the Petitioners is that the predecessors of the 2<sup>nd</sup> Respondent, by letter dated 21.04.2015 marked as P2, had informed all the Zonal Educational Directors to

apply the Constitution of the Sri Lanka Teachers' Service to the Pirivena teachers. The Petitioners state that, later, they were absorbed into the Sri Lanka Teachers' Service (P3(a) to P3(c)). Thereafter, the promotions (P5(a) to P5(g)) and salary conversions of the Petitioners (P6(a) to P6(l)) were done according to the Constitution of the Sri Lanka Teachers' Service. Furthermore, the Petitioners carried out exam duties of the C.G.E O/L and C.G.E A/L exams, which are performed only by the government teachers (P7(a) to P7(g)). Therefore, the 2<sup>nd</sup> Respondent's refusal to allow the Petitioners to face the structured interview on the basis that they do not belong to the Sri Lanka Teachers' Service is illegal, unlawful and *ultra vires*.

The contention of the learned DSG appearing for the Respondents is that, the Petitioners does not fall within the category of 'teachers' under the Teachers Service Minutes published in the Gazette Extraordinary No. 1885/38 dated 23.10.2914 marked as R1 and the letter marked as P2 merely authorise the Provincial Directors of Education to adopt the Service Minutes of Sri Lanka Teachers' Service marked as R1 for the purpose of promotion of Pirivena teachers as well. As the Petitioners do not belong to the Teachers' Service, they have not fulfilled the necessary qualifications to sit for the structured interview to join the Sri Lanka Principals' Service.

In terms of the Gazette notification calling for applications for the Limited Competitive Examination for Recruitment to Grade III of the Sri Lanka Principals' Service, marked as P8, and the Service Minutes of the Sri Lanka Principals' Service, marked ad P9, teachers belonging to the Sri Lanka Teachers' Service who have been confirmed in

their appointments and who satisfy the prescribed qualifications are eligible to sit for the said competitive examination. Now the question before this Court is whether the Petitioners are teachers of the Sri Lanka Teachers' Service. The Petitioners' contention is that they are Pirivena teachers who were subsequently absorbed into the Sri Lanka Teachers' Service. In formulating this argument, the Petitioners rely on the letter marked as P2 and the letter marked as P3(a) to P3(c), the letter of promotions (P5(a) to P5(g)) and salary conversions (P6(a) to P6(l)) of the Petitioners and the fact that they performed C.G.E O/L and C.G.E A/L exam duties which are performed only by government teachers. According to the Petitioners' contention, in terms of the letter marked as P2, Pirivena teachers belong to the Sri Lanka Teachers' Service. However, the learned DSG argues that P2 merely provides that the Service Minutes of the Sri Lanka Teachers' Service are to be applied solely for the purposes of promotions and the payment of salary arrears to Pirivena teachers, and does not apply the other provisions in the Service Minutes that they belong in the Service to Pirivena teachers for the reasons mentioned forthwith. The letter marked as P2 is reproduced as follows,

වක්‍රලේඛ අංක 35/2014 (i) ශ්‍රී ලංකා ගුරුසේවා ව්‍යවස්ථාව

පරිවේණිකවාරිය වරුන් සඳහා අදාළ කර ගැනීම

2014.12.05 දිනැති අධ්‍යාපන ලේකම්තුමාගේ අත්සනින් නිකුත් කරන ලද ඉහත අංක දරණ වක්‍රලේඛය මගින් ශ්‍රී ලංකා ගුරු සේවයට අදාළ නිලධාරීන් සඳහා උසස්වීම් පටිපාටිය ශ්‍රී ලංකා ගුරු සේවා ව්‍යවස්ථාව ස්ථාපනය කිරීම මගින් තහවුරු කර ඇත.

02. එම චක්‍රලේඛය ම පරිච්ඡේදිකවරුන් සඳහා ද අදාළ කොට ගෙන එක් පරිච්ඡේදිකවරුන්ගේ උසස් වීම් හා හිඟ වැටුප් ගෙවීමට කටයුතු කරන මෙන් කාරුණිකව දන්වමි.

When examining the letter marked as P2, it is clear that it refers to the Circular No. 35/2014(i), which confirms that the promotion procedure applicable to the officers in the Sri Lanka Teachers' Service has been established through the adoption of the Sri Lanka Teachers' Service Constitution, i.e., the Service Minutes of Lanka Teachers' Service marked as R1. It further indicates that the same procedure should be applied in affecting the promotions of Pirivenacharyas and accordingly calculate their salaries.

The Petitioners argue that they were absorbed into the Sri Lanka Teachers' Service as evident by the letter marked as P3(a) to P3(c), given promotions as per P5(a) to P5(g) and salary conversions were also done accordingly as per P6(a) to P6(l) in terms of the Minutes of the Sri Lanka Teachers' Service. The Petitioners further argue that they made complaints to the Ombudsman (P13) and the Ombudsman called for reports on the grievance of the Petitioners from the 2<sup>nd</sup> Respondent, to which the 2<sup>nd</sup> Respondent furnished a report marked as P15 stating that the 1<sup>st</sup> Petitioner does not belong to the Sri Lanka Teachers' Service. Thereafter, the Ombudsman once again called for a further report from the 2<sup>nd</sup> Respondent by letter marked as P16, inquiring on what basis the 2<sup>nd</sup> Respondent has decided that the 1<sup>st</sup> Petitioner does not belong to the Sri Lanka Teachers' Service. In reply to the letter marked as P16, the Zonal Education Director, Bandarawela, has sent a letter dated 16.02.2021 marked as P18 to the Ombudsman

stating that it has been inadvertently stated that the 1<sup>st</sup> Petitioner belongs to the Sri Lanka Teachers' Service in the salary adjustment letters. Therefore, the Petitioners argue that such a position is completely incorrect and contrary to law as they have been recognised as teachers of the Sri Lanka Teachers' Service as reflected in the documents marked as P3(a) to P7(g). The learned DSG appearing for the Respondents drew the attention of this Court to the letters marked as P3(c) and P5(b), which the Petitioners rely upon to assert that they have been absorbed into the Sri Lanka Teachers' Service and subsequently promoted in the same service. However, it is observed by this Court that the said letters refer specifically that the 2<sup>nd</sup> Petitioner was absorbed to the "Sri Lanka Pirivena Teachers' Service" (ශ්‍රී ලංකා පිරිවෙනේ ගුරු සේවය) and the 1<sup>st</sup> Petitioner was promoted in the "Sri Lanka Pirivenacharya Service" (ශ්‍රී ලංකා පරිවේනාචාර්ය සේවය) and not absorbed or promoted in/to the Sri Lanka Teachers' Service.

In the letter marked as P18, sent by the Zonal Director of Education, Bandarawela, to the Ombudsman states that the 1<sup>st</sup> Petitioner is in the Pirivenacharya Service, and the reference to the Sri Lanka Teachers' Service in the salary adjustment letter marked as P4 was an error due to the standard format being used when preparing such letters. The relevant parts of the letter marked as P18 is reproduced as follows,

*\* 2014.10.23 දිනැති 1885/38 අංක දරණ අති විශේෂ ගැසට් පත්‍රය මගින් නිකුත් කරන ලද නව ගුරු සේවා ව්‍යවස්ථාව පරිවේනාචාර්ය සේවයට අදාළ කර ගැනීම මත උච්ච පළාත් අධ්‍යාපන අධ්‍යක්ෂගේ උප/ගුරුආ/10/පීටී/03 අංක දරණ හා 2016/06/11 දිනැති ලිපි මගින් එම මහතාගේ මුල් පත්වීම් ලිපිය හා පරිවේනාචාර්ය සේවයේ 3-1 ශ්‍රේණිය*



සඳහා පත්කරන ලද ලිපිය පරිච්ඡේද 3-1 අ ලෙසද සංශෝධනය කර ඇත.

(ඇමුණුම 03 හා 04)

\* තවද උභව පළාත් අධ්‍යාපන අධ්‍යක්ෂගේ උප/ගුරුආ/10/පිටි/03 හා 2017/07/03 දිනැති

ලිපියෙන් 2015/02/21 දින සිට පරිච්ඡේද 2-11 ශ්‍රේණිය සඳහා උසස් කර

ඇත. (ඇමුණුම 05)

03. ඔබ විසින් කරුණු විමසා ඇති මාගේ බ/බණ්කලා/ගුරු/ආ/12/L/17 අංක දරණ

2016/10/01 හා 2017.08 12 දිනැති වැටුප් සකස් කරන ලද ලිපි වල ගුරු සේවය ලෙස

සඳහන් කර ඇත්තේ, අප විසින් වැටුප් සකස් කිරීම සඳහා පොදු ආකෘතියක් භාවිතා කරන

බැවින් අනපසුවීමකින් බව කාරුණිකව දන්වා සිටිමි.

The Petitioners have neither produced the appointment letter of the 1<sup>st</sup> Petitioner numbered උප/ගුරුආ/10/පිටි/03 dated 11.06.2016 and its amendment nor produced the letter උප/ගුරුආ/10/පිටි/03 dated 03.07.2017 stated in the letter marked as P18 to this Court. The letter උප/ගුරුආ/10/පිටි/03 had been referred to in the letter marked as P3(a). However, in terms of the letter marked as P3(a), the 1<sup>st</sup> Petitioner has been placed in Grade 2-II in Teachers' Service. In the letter marked as P18, the Zonal Director of Education, Bandarawela, has clearly stated that the 1<sup>st</sup> Petitioner is a Parivenacharya serving in the Parivenacharya Service. By letter dated 23.02.2021, marked as R3, the Ombudsman had informed the 1<sup>st</sup> Petitioner that, based on the facts set out in the letter marked as P18, it appears that the 1<sup>st</sup> Petitioner belongs to the category of Parivenacharyas and, therefore, he cannot further intervene in the matter. Apart from

the letters marked as P3(a) to P7(g), the Petitioners have not provided any document to establish that the Pirivena teachers have been absorbed into the Sri Lanka Teachers' Service. In the absence of such clear evidence, it is the view of this Court that neither the letter marked as P2 nor letters marked as P3(a) to P7(g) support the position that the Petitioners were, in fact, absorbed into the Sri Lanka Teachers' Service.

Nevertheless, this Court will now proceed to consider whether the Petitioners fall within the scope of the Service Minutes of the Sri Lanka Teachers' Service marked R1. When this matter was taken up for argument, the learned Counsel appearing for the Petitioners argued that in terms of Section 2(b) of the Pirivena Education Act, No. 64 of 1979, the objective is to provide educational facilities in a Buddhist environment. In addition to the general qualifications required for a teacher, Pirivena teachers must possess the suitable qualifications necessary to provide education in a Buddhist environment. Accordingly, the appointments of Pirivena teachers are made by the Secretary to the Ministry of Education on the recommendation of the "Kruthyadhikari", as evident from the appointment letters marked as P1(a) to P1(d).

The argument of the learned DSG appearing for the Respondents is that the teachers governed by the Service Minutes of the Sri Lanka Teachers' Service marked R1, are public officers who discharge the functions stipulated in Section 6.1 of the Service Minutes marked as R1. In terms of Section 6.1 of R1, the duties of the teachers serve in all grades are as follows,

*“Performing duties relevant to learning- teaching activities in Government schools, activities relevant to conduct national level and other examinations relevant to school education, activities relevant to school sports and other subject parallel activities and activities, decided by the government to have implemented at school level relevant to the education process.”*

The learned DSG further argued that, in terms of Section 24 of the Pirivena Education Act, the Pirivena teachers are appointed by the Manager/ “Kruthyadikara Wahanse” of the Piriven, subject to the approval of the “Pirivena Education Board” and not by the Service Minutes of the Sri Lanka Teachers’ Service marked R1. Further, in terms of R1, the teachers of the Sri Lanka Teachers’ Service are appointed by the Secretary to the Ministry of Education in exercise of the delegated powers of the Public Service Commission. When taking into consideration the provisions of the Pirivena Education Act, Section 24(c) clearly provides that the Manager of a Pirivena has the power to appoint or discontinue, subject to the approval of the Board, the Principal and teachers of the Pirivena. In the Service Minutes, marked as R1 it is also clearly laid down that the appointing authority is the Public Service Commission or the Secretary of the Ministry of Education to whom the powers are delegated by the Public Service Commission. Therefore, this Court cannot agree with the contention of the learned Counsel appearing for the Petitioner that the Pirivena teachers are appointed by the Secretary to the Ministry of Education.

The Service Minutes Marked as R1 do not define the term “teacher”. However, in terms of Section 26(1) of the Pirivena Education Act, a person shall not be eligible for appointment as a teacher of a Pirivena unless he is a bhikkhu. However, the proviso to Section 26(1) states that where a bhikkhu is not available for appointment as a teacher in respect of such subjects as may be specified by the Director-General, a qualified layman may be appointed as a teacher of a Pirivena. When considering the general responsibilities of the Teachers’ Service and duties stipulated in the Service Minutes marked as R1, they revolve around learning and teaching activities of Government schools to create parity through a higher quality education according to the National Education policy. On the other hand, a “Pirivena Education” aims to provide formal education primarily to Bhikkhus and male lay students over the age of fourteen who seek learning in a Buddhist environment to provide a well-rounded education grounded in Buddhist values, to preserve and promote religious teachings and cultural heritage, and to instil moral discipline and intellectual development among students. Considering the above facts, this Court cannot agree with the learned Counsel appearing for the Petitioners' argument that Pirivena teachers perform the same functions as teachers who belong to the Teachers’ Service.

Furthermore, the learned DSG appearing for the Respondents drew the attention of this Court to the letter dated 31.08.2022 marked as R4 issued by the Director General of Establishment to the Secretary to the Public Service Commission stating that Pirivena teachers are not public officers. The letter marked as R4 expressly states that, although

certain policy decisions made in relation to the Public Officers may apply to the Pirivena teachers by introducing them as special regulations, generally, they do not apply to Pirivena teachers. Considering all the above-stated facts and circumstances, this Court is of the view that the Petitioners are not entitled to the Writ of Mandamus as prayed for in prayer (b) of the Petition. Accordingly, this Writ Application is dismissed. No costs ordered.

*Application dismissed.*

**JUDGE OF THE COURT OF APPEAL**