

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

**EXPRESS ENVIRONMENTAL SERVICES
(PRIVATE) LIMITED,**

No. 402, George R De Silva Mawatha,
Colombo 13.

**Case No: - CA/WRIT
114/2025**

PETITIONER

Vs.

1. **K. T. A. R. C. K. KASTURIRATNE**
CHAIRMAN,
Department procurement Committee 01
Airport and Aviation Services (Sri Lanka)
(Private) Limited,
Bandaranaike International Airport,
Katunayake.
2. **T. A. B. BADDAWALA**
MEMBER
3. **R. M. S. R. RATHNAYAKE**
MEMBER
4. **BANDULA**
MEMBER

2nd to 4th Respondents being Members of the
Departmental Procurement Committee 01
Airport and Aviation Services (Sri Lanka)
(Private) Limited

All of:

Departmental Procurement Services (Sri Lanka) (Private) Limited,
Bandaranaike International Airport,
Katunayake.

5. AIRPORT & AVIATION SERVICES (SRI LANKA) (PRIVATE) LIMITED

Bandaranaike International Airport,
Katunayake.

6. AIR CHIEF MARSHAL (RTD) HARSHA ABEYWICKREMA

CHAIRMAN,
Airport and Aviation Services (Sri Lanka) (Private) Limited,
Bandaranaike International Airport,
Katunayake

7. SAFE CARE FACILITIES MANAGEMENT (PVT) LTD

No. 23/B, Lady Evelyn De Soysa Road,
Idama,
Moratuwa.

8. CLEAN TECH (PVT) LTD

No.141, Kirula Road,
Colombo 05

9. AMILA JANITOR SERVICES (PRIVATE) LIMITED

Lily Avenue,
Battaramulla.

10. CARE CLEAN

No. 125, Jawatte Road,
Colombo 05.

RESPONDENTS

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

Counsel: M. U. M. Ali Sabry, P. C with Naamiq Nafath instructed, by Ramzi Bacha Associates for the Petitioner.

Lasith Kanuwanaarachchi with Vipuni Peiris instructed, by Sanath Wijewardena for the 7th Respondent.

Manohara Jayasinghe, D. S. G for the Respondents except the 7th Respondent.

Supported on: 28. 02. 2025

Decided on: 07.03.2025

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

Having heard the learned President's Counsel for the Petitioner in support of this application, the learned Deputy Solicitor General appearing on behalf of the 1st to 6th Respondents, and the learned Counsel for the 7th Respondent, I proceed to make the following Order.

The Petitioner has challenged the decision of the Respondents concerning the award of a tender for cleaning services at the Bandaranaike International Airport. As per the document marked **R1**, there were five bidders for the said tender, among whom the Petitioner had submitted the lowest bid. However, the Petitioner's bid was rejected without any reasons being communicated to the Petitioner. The absence of any reasons for the rejection, *prima facie*, appears to be arbitrary.

It is trite law that interim reliefs are granted in cases where a *prima facie* case is established in favor of the Petitioner. What is adduced to be a *prima facie* case? in 'Law of Injunctions' by G S Gupta 7th edition page 168 it is defined as follows:

"Prima facie case really means that there is a serious question to be tried and that the claim of the plaintiff is not frivolous or vexatious."

If a Petitioner seeking an interim injunction fails to establish a *prima facie* case, they are not entitled to such relief. In such circumstances, the Court must deny the issuance of an interim injunction. Thus in ***Felix Dias Bandaranayake Vs The State Film corporation and Another*** [1981] 2 SLR 287 at page 302 His Lordship Justice Soza stated as follows

"In Sri Lanka we start off with a prima facie case. That is, the applicant for an interim injunction must show that there is a serious matter in relation to his legal rights, to be tried at the hearing and that he has a good chance of winning."

Upon examining the documents submitted before this Court, it is evident *ex facie* that the Petitioner had indeed submitted the lowest bid out of all five bidders, yet was not awarded the tender. No reasons for this rejection have been communicated to the Petitioner, and on the face of the record, the decision appears arbitrary. In light of this, I find sufficient grounds to issue formal notice on the Respondents.

However, during the course of arguments, it was revealed that the contract in question has already been awarded to the 10th Respondent, Care Clean (Pvt) Ltd., and is currently in operation. Given this factual position, issuing an interim order at this stage would not serve any practical purpose as it such an order would fail to reverse the contract already in force and also create unnecessary complications in the ongoing cleaning operations at Bandaranaike International Airport.

Furthermore, granting such an order would disrupt the already functioning cleaning operations of the airport, leading to an adverse impact on the services rendered at the Bandaranaike International Airport

Accordingly, while issuing formal notice on the Respondents, the application for interim relief is hereby refused.

Upon tendering issue notices on the Respondents.

JUDGE OF THE COURT OF APPEAL
President Court of Appeal (Acting)

K. M. S. Dissanayake, J.

I agree.

JUDGE OF THE COURT OF APPEAL