

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

**Court of Appeal Case No.**

**CA/WRT/0135/2020**

1. **R. S. Jameel,**  
No.317/21,  
Sirilenawatte,  
Batagama South,  
Kandana.
2. **T.G. Lokuliyana,**  
No. 572/127, Rideepana Estate,  
Rideepana, Badulla.
3. **C. M. A. Nugara,**  
No.406, Centuary Gardens, Kattuwa,  
Negombo.
4. **B. M. T. K. Jayawardena,**  
No. 84/1, Ethanarnadala, Kalutara-  
North.
5. **T. M. Gooneratne,**  
No.123/02, Ananda Rajakaruna  
Mawatha, Colombo 10.
6. **M.A.T.S. Gunarathna,**  
No. 703/2, Norman Gunathilake  
Mawatha, Ambanpitiya, Galigamuva  
Town, Kegalle.
7. **S. W. Abevwickrema,**  
No. 74, Kanatta Road, Mirihana  
Nugegoda.

8. **R. Fernando,**  
No. 449/2,  
Kongodamulla, Katana.
9. **S. M. H. H. B. Samarakoon,**  
No.93, Kopiwatta, Randiligama,  
Werllagama.
10. **S.D. Gorden,**  
No.127, Rakwana Road, Pelmadulla.
11. **C. Abayagunawardana,**  
No. 30, Dharmaraja Mawatha,  
Wakwella Road, Galle
12. **H.M.D.N. Herath Samanala,**  
Kadurugaha Kumbura Kurakkanhena  
Gedara, Katupotha.
13. **S. M. E. Hettiarachchi,**  
No. 340, Sisila Sewana,  
Maradagahamula.
14. **K. R. C. Pushpakumara,**  
No. 129/C, Welagana Road Borawawila,  
Divulapitiya.
15. **T. A. M. C. Thilakanayaka,**  
Ihalagama, Madampe.
16. **J. Kodippili,**  
No. 119/6, Ehalape Road, Katuwawala,  
Boralesgamuwa.
17. **K. M. K. B. B. Sumanasekera,**  
No D150, Udawawala Katugastota.
18. **S. A. A. S. M. Siyabalapitiya,**  
No 110, New Airport Road,  
Ratmalana.
19. **J. A. B. Sarathchandra,**  
No. 537/2, Ranmuthugala,  
Kadawatha.
20. **R. Mallawa Arachchi,**  
No. 55A, 1st Cross Road, Pagoda Road,  
Nugegoda.

21. **R. M. R. L. Alawathugoda,**  
"Samagi" Mawatha, Bandarawela
22. **T. W. M. S. N. Abeysekara,**  
No. 155/4/B/1, Bulumulla,  
Kiribathkumbura.
23. **S. D. K. Fernando,**  
No.100/14, Robert Gunawardane  
Mawatha,  
Kirulapone, Colombo 06.
24. **G. D. I. S. Dissanayke,**  
"Pathum Villa" Pahalakalugamuwa,  
Kuliyapitiya.
25. **W. J. M. K. Perera Priyani,**  
Pallansena Road,  
Kochchikade.
26. **K. S. S. Wijewardena,**  
No.601/38,G-1 Thammanmnakulama,  
Airport Road, Anuradhapura
27. **H. M. T. N. Abeyrathna,**  
Moragasgoda, Mahamukalanyaya.
28. **M. P. K. Malwattage,**  
No. 1/54, Agalawatta Road, Matale.
29. **D. S. D. Kumarasinghe,**  
No.193, Willrook, Modawalagoda  
Pamunugama.
30. **K. D. Abeysinghe,**  
No.250, Makandura, Matara.
31. **A. B. D. C. Amarasuriya,**  
No. 147/6, Wattalpola Road, Pallimulla,  
Panadura.
32. **B. B. L. D. Mendis,**  
No. 2, Greenpath Kohuala.
33. **M. S. Dilan,**  
No. 177,  
Rakwana Road, Pelmadulla.

34. **G. Hettiarachchi**,  
No.26/2, Ambillawatta Road, Katuwawala  
Mawatha, Boralesgamuwa.
35. **D. P. C. Pemadasa**,  
No. 344/21a, Mahawatte Road,  
Erawwala, Pannipitiya.
36. **M. D. Somarathna**,  
No. 349, Galagedara, Padukka.
37. **M. B. Anandanpulle**,  
"Tarci-Mera', Henmulle(Thoppu),  
Kochchikade.
38. **P. A. R. D. Perera**,  
No. 76/18, Pallansena Road,  
Kochchikade.
39. **H.M.M.S. Dias**,  
No. 48B. Dolgatha Road, Udugampola.
40. **M. Jayaweera**,  
No. 992, Mandakanda, Karandeniya.
41. **K. M. Dhanapala**,  
No. 2500,  
Stage ii, Anuradhapura.

**Petitioners**

**Vs.**

1. **Hon. Mahinda Rajapaksa**,  
Minister of Finance, Economy and Policy  
Development & Minister of  
Buddhasasana, Cultural and Religious  
Affairs & Minister of Urban Development,  
Water Supply & Housing Facilities,  
Minister of Community Empowerment  
and Estate Infrastructure Development  
Ministry of Finance & Mass Media,  
The Secretariat, Colombo 01.

2. **Hon. Nimal Siripala de Silva,**  
Minister of Justice, Human Rights &  
Legal Reforms Ministry of Justice,  
Human Rights & Legal Reforms Superior  
Court Complex, Colombo 12.
3. **Hon. Dinesh Gunawardena,**  
Minister of Foreign Relations Minister of  
Skills Development, Employment and  
Labour Relations Ministry of Foreign  
Relations, Republic Building Sir Baron  
Jayathilake Mawatha, Colombo 01.
4. **Hon. Douglas Devananda,**  
Minister of Fisheries & Aquatic Resources  
Ministry of Fisheries and Aquatic  
Resources New Secretariat, Maligawatta  
Colombo 10.
5. **Hon. (Mrs.) Pavithra Devi  
Wanniarachchi,**  
Minister of Women & Child Affairs and  
Social Security Minister of Healthcare and  
Indigenous Medical Services Ministry of  
Women & Child Affairs and Social  
Security, 5th Floor, Sethsiripaya Stage II,  
Battaramulla.
6. **Hon. Bandula Gunawardena,**  
Minister of Information and Mass Media  
Minister of Higher Education Technology  
and Innovation Ministry of Information  
and Mass Media No. 163, A Disi Medura,  
Kirulapone Mawatha, Polhengoda,  
Colombo 05.
7. **Hon. Janaka Bandara Tennakoon,**  
Minister of Public Administration. Home  
Affairs, Provincial Councils & Local  
Government Ministry of Public  
Administration Home Affairs, Provincial  
Councils & Local Government  
Independence Square, Colombo 07.
8. **Hon. Chamal Rajapaksa,**  
Minister of Mahaweli, Agriculture  
Irrigation and Rural Development  
Minister of Internal Trade, Food Security

and Consumer Welfare Ministry of  
Mahaweli, Agriculture Irrigation and  
Rural Development Irrigation Department  
Building, P. O. Box 1702, Bauddhaloka  
Mawatha, Colombo 07.

9. **Hon. Dullas Alahapperuma**,  
Minister of Education Minister of Sports  
& Youth Affairs Ministry of Education  
"Isurupaya",  
Pelawatta, Battaramulla.
10. **Hon. Johnston Fernando**,  
Minister of Roads and Highways Minister  
of Ports & Shipping Ministry of Roads and  
Highways Maganeguma Mahamedura",  
9<sup>th</sup> Floor, 216, Denzil Kobbekaduwa  
Mawatha,  
Koswatta, Battaramulla.
11. **Hon. Wimal Weerawansa**,  
Minister of Small & Medium Business and  
Enterprise Development Minister of  
Industries and Supply Chain  
Management Ministry of Small & Medium  
Business and Enterprise Development  
Level 7, West Tower World Trade Centre,  
Colombo 01.
12. **Hon. Mahinda Amaraweera**,  
Minister of Transport Services  
Management Minister of Power & Energy  
Ministry of Passenger Transport  
Management 7<sup>th</sup> Floor, Stage II,  
Sethsiripaya, Battaramulla.
13. **Hon. S.M. Chandrasena**,  
Minister of Environment and Wildlife  
Resources Minister of Lands & Land  
Development Ministry of Environment  
and Wildlife Resources, Wildlife Resources  
Division, 1090, Sri Jayawardenepura  
Mawatha, Rajagiriya.
14. **Hon. Ramesh Pathirana**,  
Minister of Plantation Industries and  
Export Agriculture Ministry of Plantation  
Industries and Export Agriculture 11<sup>th</sup>

Floor, Sethsiripaya 2<sup>nd</sup> Stage,  
Battaramulla.

15. **Hon. Prasanna Ranatunga**,  
Minister of Industrial Export and  
Investment Promotion Minister of Tourism  
and Civil Aviation Ministry of Industrial  
Export and Investment Promotion World  
Trade Centre, West Tower, Level 30,  
Colombo 01.
16. **Secretary to the Cabinet of Ministers**,  
Republic Building,  
Sir Baron Jayathilaka Mawatha,  
Colombo 01.
17. **A. H. K. Jagath Chandrasiri**,  
Commissioner General Department of  
Motor Traffic No. 341, Alvitigala Mawatha,  
Colombo 05.
18. **Vehicles Lanka (Private Limited)**,  
No. 43, Katana Road, Thimbirigaskatuwa,  
Negombo.
19. **G. V. Ravipriya**, Major General (ret.),  
Director General of Customs,  
No. 40, Main Street, Colombo 11.
20. **Secretary to the Finance**,  
The Ministry of Finance,  
The Secretariat, Colombo 01.

**Respondents**

Before: **M. T. MOHAMMED LAFFAR, J.**

Counsel: Sandamal Rajapaksha with Lakmal Sooriyagoda for the  
Petitioners.

M. Jayasinghe, D.S.G for All the Respondents except the 18<sup>th</sup>  
Respondent.

Argued on: 04.06.2024  
Decided on: 02.09.2024

**MOHAMMED LAFFAR, J.**

The Petitioners are seeking a mandate in the nature of a Writ of *Mandamus* compelling the 17<sup>th</sup> Respondent, Commissioner General of Motor Traffic, to register the assembled motor vehicles belonging to the Petitioners in terms of the Motor Traffic Act and/or give effect to the Cabinet Decision dated 09-11-2016 and/or give effect to the Judgment of the Supreme Court in SCFR 304/2011 dated 13-09-2012, and compelling the 19<sup>th</sup> Respondent, Sri Lanka Customs, to furnish the relevant information and documentation (Customs Link) to the 17<sup>th</sup> Respondent, if any.

**Factual Matrix:**

In an Application bearing No. SC.FR. No. 304/2011 **(P2A)**, the Supreme Court on 13-09-2012, ordered the Commissioner General of Motor Traffic to grant approval to the 18<sup>th</sup> Respondent (Vehicles Lanka Private Limited) to register its business of assembling vehicles using “used parts” in terms of Section 241 of the Motor Traffic Act (as amended). On 09-11-2016, a Cabinet decision was taken permitting the Commissioner General of Motor Traffic to register the 2250 assembled vehicles of the 18<sup>th</sup> Respondents **(P7)**. The said Cabinet decision mandated that the 2250 motor vehicles of the 18<sup>th</sup> Respondent had to be assembled and registered within three years from the date of the decision. By letter dated 25-10-2012 **(P2B)**, the Commissioner General of Motor Traffic informed the 18<sup>th</sup> Respondent that, he would act in terms of the said Judgment of the Supreme Court and permit the 18<sup>th</sup> Respondent to assemble vehicles utilizing secondhand parts in terms of the powers vested in him by section 241 (5) of the Motor Traffic Act with effect from 01-11-2012.

On the strength of the said judgment of the Supreme Court, the Petitioners purchased the vehicles from the 18<sup>th</sup> Respondent on or about December 2012 to early 2013. The Petitioners were under the impression that the 18<sup>th</sup> Respondent would take the necessary steps to register the vehicles in dispute with the 17<sup>th</sup> Respondent. Since the 18<sup>th</sup> Respondent failed to take the necessary steps to have those vehicles registered, the Petitioners had taken steps for the registration. However, the 17<sup>th</sup> Respondent failed and neglected to register the said vehicles. On this premise, the Petitioners



preferred a fundamental Rights Application before the Supreme Court in case bearing No. SCFR 134/2015 seeking, *inter-alia*, that their vehicles be registered with the 17<sup>th</sup> Respondent. Subsequently, pursuant to the said Cabinet decision marked as **P7**, the Petitioners had withdrawn the said fundamental Rights Application.

Thereafter, the 17<sup>th</sup> Respondent had taken a decision that the vehicles in dispute cannot be registered as the tax which has to be paid by the 18<sup>th</sup> Respondent has not been determined by the 19<sup>th</sup> Respondent and a final decision has not been taken by the Cabinet in this regard (**P9**).

In those circumstances, the Petitioners state that the failure of the 17<sup>th</sup> Respondent to register the vehicles in dispute in terms of the provisions of the Motor Traffic Act is unlawful, *ultra-vires*, illegal, unreasonable, arbitrary and capricious.

### **Contention of the Respondents:**

The 17<sup>th</sup> Respondent having raised a preliminary legal objection as to the maintainability of this Application took up the position that the said Supreme Court Judgment did not confer any rights onto the Petitioners who are not parties to that case, and therefore, the said Judgment cannot be construed as entitling the Petitioners to demand registration of their vehicles.

### **Observation:**

The Judgment of the Supreme Court in Application bearing No. SC.FR. No. 304/2011 (**P2A**), reads as follows;

*“In terms of the settlement, the 2<sup>nd</sup> Respondent (Minister of Transport) has no objections in permitting the Commissioner General of Motor Traffic to register the business Vehicle Lanka Private Limited, the 1<sup>st</sup> Petitioner in this case, in terms of section 72 of the Motor Traffic (Amendment) Act No. 08 of 2009. This is in accordance with the policy decision taken by the Ministry of Transport, the 2<sup>nd</sup> Respondent. Furthermore, in terms of the policy decision taken by the Ministry, it is agreed with the Petitioners that the Ministry, namely the 2<sup>nd</sup> Respondent, is to direct the Commissioner General of Motor Traffic to register 2250 vehicles including the vehicles that*

*have remained unsold with the Company on the date of commencement of this agreement, and which are assembled within three years thereafter by the 1<sup>st</sup> Petitioner Company using “used parts”. .....in terms of this judgment, the 64<sup>th</sup> Respondent (Commissioner General of Motor Traffic) could grant approval to the 1<sup>st</sup> Petitioner Company to register its business of assembling vehicles using “used parts” in terms of section 241 of the Motor Traffic Act as amended.....”*

Accordingly, by letter dated 25-10-2012 **(P2B)**, the Commissioner General of Motor Traffic informed the 18<sup>th</sup> Respondent that, he would act in terms of the said Judgment of the Supreme Court and permit the 18<sup>th</sup> Respondent to assemble vehicles utilizing secondhand parts in terms of the powers vested in him by section 241 (5) of the Motor Traffic Act with effect from 01-11-2012. Subsequently, in line with the foregoing judgment of the Supreme Court, on 09-11-2016, a Cabinet decision was **taken** permitting the Commissioner General of Motor Traffic to register the 2250 assembled vehicles of the 18<sup>th</sup> Respondents **(P7)**. In this scenario, it is abundantly clear that in terms of the said Cabinet decision and the said Supreme Court judgment, the 17<sup>th</sup> Respondent has no option but to register the vehicles in dispute. The position taken up by the 17<sup>th</sup> Respondent in **P9**, that the said vehicles cannot be registered until the tax to be paid in respect of the said vehicles is determined and a further decision to be taken by the Cabinet in this regard is devoid of merits, violation of the said Supreme Court judgment and against the Cabinet Decision marked **P7** on the part of the 17<sup>th</sup> Respondent. This Court is mindful of the fact that the 17<sup>th</sup> Respondent vehemently failed to comply with the judgment of the Supreme Court and its own decision marked as **(P2B)**. As such, it is the considered view of this Court that the actions of the 17<sup>th</sup> Respondent are illegal, unreasonable, unlawful, arbitrary, capricious and *ultra-vires*.

What is legitimate expectation? This concept is focused upon the idea of fairness and the enforcement of promises or representations. This principle creates the idea that it is unlawful for a public authority to fail to abide by a promise or representation that it has made without good reason, provided that the promise

is lawful and that whoever made the promise was entitled to bind the authority.

In **Junaideen Mohamed Iqbal vs. The Divisional Secretary, Kundasale**<sup>1</sup> the Court of Appeal simply described the principle of legitimate expectation as follows:

*“...When a public authority represents that it will or will not do something within its authority and later attempts to rescind the said representation, a person who has reasonably relied on it should be entitled to enforce it by law. This concept is based on the principles of natural justice and fairness, and seeks to prevent the abuse of power by public authorities...”*

Wade discusses the principle of legitimate expectations<sup>2</sup> as follows:

*“...A further and more satisfactory reason for the protection of legitimate expectations lie in the trust that has been reposed by the citizen in what he has been told or led to believe by the official. Good government depends upon trust between the governed and the governor. Unless that trust is sustained and protected officials will not be believed and government becomes a choice between chaos and coercion.”*

*“...It is not enough that an expectation should exist: it must in addition be legitimate. But how is it to be determined whether a particular expectation is worthy of protection? This is a difficult area since an expectation reasonably entertained by a person may not be found to be legitimate because of some countervailing consideration of policy or law. A crucial*

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<sup>1</sup> CA/WRIT/328/215, CA Minutes of 19.02.2020.

<sup>2</sup> H.W.R. Wade and C.F. Forsyth, Administrative Law, 11<sup>th</sup> Edition, p.451.

requirement is that the assurance must itself be clear, unequivocal and unambiguous. Many claimant fail at this hurdle after close analysis of the assurance. The test is how on a fair reading of the promise it would have been reasonably understood by those to whom it was made....” (Page 452).

The meaning and scope of the doctrine of legitimate expectation was considered at length in **Union of India vs. Hindustan Development Corporation**<sup>3</sup>, where it was stated that,

*“Time is a three-fold present: the present as we experience it, the past as a present memory and the future as a present expectation. For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, desire or a hope nor can it amount to a claim or demand on the ground of a right. However, earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in a regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectations should be justifiable, legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right*

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<sup>3</sup> 1994 AIR 988, 1993 (3) SCC 499.

*and, therefore, it does not amount to a right in a conventional sense.”*

In the Application in hand, on the strength of the said Supreme Court Judgment, Cabinet decision and the consent given by the 17<sup>th</sup> Respondent the Petitioners had a very lawful expectation that their vehicles in dispute would be registered by the 17<sup>th</sup> Respondent. The Petitioners proceeded to purchase those vehicles from the 18<sup>th</sup> Respondent for the valuable consideration with that legitimate expectation. Hence, the 17<sup>th</sup> Respondent is obliged to register those vehicles as he promised in P2B.

I shall now turn to the contention of the learned DSG that the said Supreme Court Judgment did not confer any rights on the Petitioners who are not parties to that case, and therefore, the said Judgment cannot be construed as entitling the Petitioners to demand registration of their vehicles. Indeed, in terms of the Supreme Court Judgment, the vehicles in dispute owned by the 18<sup>th</sup> Respondent can be registered with the 17<sup>th</sup> Respondent. It is understood that when those vehicles are sold by the 18<sup>th</sup> Respondent to 3<sup>rd</sup> parties, still the said vehicles are entitled to be registered in view of the said judgment. There is no intimation in the said judgment that the vehicles cannot be registered by the new owners. It is the considered view of this Court that on the strength of the said judgment of the Supreme Court and the Cabinet Decision, the Petitioners those who purchased the vehicles from the 18<sup>th</sup> Respondents are also entitled to have those vehicles registered with the 17<sup>th</sup> Respondent despite the fact that they are not parties to the said Supreme Court case. It is pertinent to note that the Petitioners who purchased the vehicles from the 18<sup>th</sup> Respondent on the strength of the Supreme Court Judgment too are entitled to enjoy the fruits of the said Judgment.

The learned DSG raised a legal objection that the present Minister of Finance is the President of Sri Lanka, and therefore, without making the Attorney General a party, no proceedings can be maintained against the President of Sri Lanka. It is to be noted that though the Minister of Finance is made a party, no relief is sought against the Minister of Finance. Substantial reliefs are sought against the Commissioner of Motor Traffic and the Department of Customs, whereas those parties are represented by

the Attorney General. In this premise, I am of the view that the foregoing preliminary objection is technical and devoid of merits.

**Conclusion:**

The Petitioners have expounded large sums of money in purchasing the vehicles in dispute. Unless the said vehicles are registered with the 17<sup>th</sup> Respondent they cannot be used on the roads and motorways in Sri Lanka. The 17<sup>th</sup> Respondents, without any reason failed to register those vehicles in terms of the Supreme Court Judgment for the last 12 years. It appears to this Court that due to the arbitrary, illegal, unreasonable and malicious act of the 17<sup>th</sup> Respondent, material prejudice and hardship are caused to the Petitioners.

For the foregoing reasons, I hold that the Petitioners are entitled to the relief as prayed for in the prayers to the Petition. A Writ of Mandamus compelling the 17<sup>th</sup> Respondent to register the assembled motor vehicles belonging to the Petitioners in terms of the Motor Traffic Act is issued.

The 17<sup>th</sup> Respondent is ordered to register the vehicles in suit within two months from the date of this judgment, namely on or before 31-10-2024. The Petitioners are entitled to a sum of Rs. 10,000/- each, payable by the 17<sup>th</sup> Respondent as costs of this proceedings.

*Application allowed with costs.*

**JUDGE OF THE COURT OF APPEAL**