

**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.*

Vettivel Uthayanath,

Team Leader,
Independent Group,
Kanagarayam Kulam,
Vavuniya South.

**CA/ Writ Application No:
299/25**

PETITIONER

Vs.

R. M. A. L. Rathnayake

Chairman,
Election Commission,
Election Secretariat, P. O. Box 2,
Sarana Mawatha,
Rajagiriya.

& 14 others

RESPONDENTS

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

Counsel: Appearance not marked for the Petitioners.

S. Soyza SSC for the State.

Supported on: 03.04.2025

Decided on: 04.04.2025

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

The Petitioner, team leader of an independent group, is seeking, *Inter alia*, a mandate in the nature of a writ of Certiorari quashing the decision of the 6th Respondent, Returning Officer of Vavuniya, rejecting the nomination papers submitted by the Petitioner for the Vavuniya North Pradeshiya Sabha elections scheduled to be held on 06.05.2025. Moreover, seeking a writ of Mandamus directing the 1st to 6th Respondents to accept the said nomination papers on the Petitioners.

Admittedly the nomination papers submitted by the Petitioner was rejected by the returning officer on the footing that the copies of the birth certificate of the candidates are not certified. And whereas those documents are mere photocopies. The learned counsel for the Petitioner relied upon the judgement of Shirani Tilakawardane J, in the case of **D. M. Jayaratne Vs. Vaas Gunawardane and others**¹ where her Ladyship observed that the submitting of the photocopies of the birth certificate is adequate to comply with the provisions of the Local Authorities Elections Ordinance No. 53 of 1946 (as amended). Moreover, the learned counsel for the Petitioner submits that in terms of the guidelines issued by the Commissioner General of Elections mere copies of the birth certificate is sufficient to maintain a valid application.

¹ CA/WRT/325/2002 dated 28.02.2002

In terms of Section 28(4A) of the Local Authorities Elections Ordinance it is abundantly clear that a certified copy of the birth certificate of every youth candidate should be tendered which reads as follows;

*“(4A) **A certified copy** of the birth Certificate of every youth whose name appears in the nomination paper or an affidavit signed by such youth, certifying his date of birth shall be attached to such nomination paper.”*

Given that the statutory provision is clear and unambiguous, all parties and candidates must adhere to it strictly. The legislative intent is explicit, the copy of the birth certificate must be certified by a legally authorized person. In the present case, the Petitioner admittedly submitted uncertified photocopies, which contravene the express requirement of the law.

It is pertinent to note that permitting mere photocopies of birth certificates, without certification by a legally authorized person, opens the door to potential fraud, forgery, and manipulation. Unlike certified copies, which bear an official seal or attestation confirming their authenticity, ordinary photocopies can be altered, tampered with, or falsified without detection. The very purpose of certification is to safeguard against such risks, when a certifying officer examines the original document and endorses the copy, they verify its accuracy and create a legally enforceable record of its authenticity. Without this step, there is no assurance that the submitted documents are genuine, undermining the integrity of the electoral process.

I am unable to agree with the observation of Tilakawardane, J. in the aforementioned case that a mere photocopy of a birth certificate suffices for compliance with nomination requirements. With respect, this interpretation runs contrary to the express language of Section 28(4A) of the Local Authorities Elections Ordinance, which explicitly mandates the submission of a certified copy of the birth certificate. The statutory provision leaves no room for ambiguity, the legislature in its wisdom

has imposed this requirement precisely to ensure the authenticity of documentation in the electoral process.

Similarly, to the extent that the guideline issued by the Election Commissioner purports to permit the submission of uncertified copies of birth certificates, such direction is fundamentally inconsistent with the clear provisions of Section 28(4A). Administrative guidelines cannot override or dilute substantive statutory requirements. Consequently, that portion of the guideline which suggests that uncertified copies are acceptable has no legal force or validity, being *ultra vires* the parent legislation.

In those circumstances, I am of the view that there is no basis for this Court to interfere with the determination of the Returning Officer, rejecting the nomination papers of the Petitioner on the basis that the Petitioner failed to submit certified birth certificate copies of the candidates. Thus, the application is dismissed, no costs.

This judgement is applicable and binding on all parties in the connected applications bearing nos. WRT/276 and 267/2025 as well.

President of the Court of Appeal (Actg)

K. P. Fernando, J

I agree.

Judge of the Court of Appeal