

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

*An application in terms of Article 140 of the  
1978 Constitution.*

**CA/WRIT/490/2022**

Meregnage Mangala Pushpa Kumara  
Fernando  
No. 113, Kandy Road,  
Gampola.

**Petitioner**

Vs.

1. Council of Legal Education  
Hulftsdorp,  
Colombo.
2. Principal  
Sri Lanka Law College,  
Hulftsdorp,  
Colombo.
3. Hon. Minister of Justice  
Ministry of Justice,  
Colombo.
4. Hon. Attorney General  
The Attorney General's Department,  
Hulftsdorp,  
Colombo.

**Respondents**

**Before** : Sobhitha Rajakaruna J.  
Dhammika Ganepola J.

**Counsel** : Petitioner appears in person.

Sumathi Dharmawardane PC, ASG with Sehan Soyza for the  
Respondents.

**Supported on** : 27.12.2022

**Decided on** : 27.12.2022

**Sobhitha Rajakaruna J.**

The substantive relief sought by the Petitioner is for a writ of Certiorari to quash the Extraordinary Gazette Notification No. 2208/13 published on 30.12.2020 (marked 'P8') by which a rule, among others, has been made by the Council of Legal Education ('1<sup>st</sup> Respondent') to conduct all study courses of Sri Lanka Law College in English medium and to hold examinations gradually from year 2022 in English medium as reflected in its Rule 28A.

Although, the Petitioner claims that he is a law student enrolled in the year 2021, he has failed to successfully complete the 1<sup>st</sup> year examination of the said Law College. The Petitioner has filed this application on 20.12.2022 and it can be assumed that he had the knowledge of the impugned Gazette Notification 'P8' even at the time of his enrolment as a law student in the year 2021.

It appears that the Petitioner has entered Sri Lanka Law College based on the Rules promulgated by the Council of Legal Education including the Rules published in the impugned Gazette Notification in 2020. Thereafter, he has applied to sit for the 1<sup>st</sup> year examination in October 2021 and subsequently he has withdrawn the said application. Further, in April 2022, he has sat again at the 1<sup>st</sup> year examination in which he was unsuccessful. I take the view that the conduct of the Petitioner amounts to his acquiescence to his demands in this application.

The Petitioner has not taken any interest to challenge the impugned Gazette Notification 'P8' before entering Sri Lanka Law College or at least before sitting at the Examination as described in the Petition. The Petitioner filing this application on 20.12.2022 has moved that an interim order be issued suspending the ongoing Examination which is being conducted according to the timetable, marked as 'P10'. The said timetable reflects that the said Examination was due to commence on 02.12.2022 and by now, it has been held on 4 days in the month of December.

What is the special right bestowed upon the Petitioner to seek for such an interim order causing hardship to the majority of students who have undergone probably many sleepless nights in preparing for examinations and who have completed answering some question papers by now? The Petitioner has waited even until this examination was partly concluded to file this Application. In order to justify his delay, the Petitioner has tendered the documents, marked 'P17', 'P18' and 'P19'. The document 'P17' looks like a medical treatment book for treatment taken for a shoulder pain. 'P18' seems to be a private medical certificate issued by a medical officer recommending one week leave from 03.12.2022 to 09.12.2022 and whereas 'P19' is a photograph to illustrate purported wounds. Those evidence cannot be accepted to justify the delay of the Petitioner to come to this Review Court which exercises the jurisdiction of prerogative writs. Hence, I use my discretion to hold that the Petitioner is guilty of laches.

At this stage, I refer to the judicial dicta in the cases of *Ceylon Petroleum Corporation and others vs. Dayanthi Dias Kaluarachchi, SC Appeal 43/2013*; *Seneviratne vs. Tissa Bandaranayake and another (1999) 2 Sri. L.R. 341 at p. 351*; *Issadeen vs. The Commissioner of National Housing and others (2003) 2 Sri. L.R. 10 at p. 15*; *Collettes Ltd. vs. Bank of Ceylon (1984) 2 Sri. L.R. 254*; *Pradeshiya Sabawa, Hingurakgoda and others vs. Karunaratne and others (2006) 2 Sri. L.R. 410*; *Ratnasiri and others vs. Ellawala and others (2004) 2 Sri. L.R. 180*

In the above case of *Seneviratne vs. Tissa Bandaranayake and another (1999) 2 Sri. L.R. 341 at p. 351*, Amerasinghe J. adverting to the question of long delay, commented that; "if a person were negligent for a long and unreasonable time, the law refuses afterwards to lend him any assistance to enforce his rights; the law both to punish his neglect, *nam leges vigilantibus, non dormientibus, subveniunt*, and for other reasons refuses to assist those who sleep over their rights and are not vigilant."

In light of the above, I proceed to refuse this application as it is not possible for this Court to arrive at a decision whether the Petitioner has satisfied the minimum threshold requirement which warrants this Court to issue formal notice of this Application on Respondents.

Application is refused.

**Judge of the Court of Appeal**

**Dhammika Ganepola J.**

I agree.

**Judge of the Court of Appeal**