

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

In the matter of an application for Orders in the nature of Writs of Certiorari and Prohibition under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Ponnaperumage Fred Dekstor Fernando,

No: 280/5, Samagi Mawatha,

Daluwakotuwa,

Kochchikade.

**Petitioner**

**C.A. (WRIT) Application No : 110/19**

Vs.

1. K.J.S. Madhawa,  
Returning Officer,  
Gampaha North Elections Office,  
Gampaha.
2. United Natonal Freedom Front,  
No: 118, Barnes Place,  
Colombo 07.
3. Upali Amrasiri,  
President,  
United National Freedom Front,  
195/20, Weera Mawatha,  
Depanama,  
Pannipitiya.
4. Maithri Gunaratne,  
General Secretary,  
United National Freedom Front,  
No: 118, Barnes Place,  
Colombo 07.

**Respondents**

Before : **Hon. Justice Janak De Silva.**  
**Hon. Justice N. Bandula Karunarathna.**

Counsel : M. Premachandra for the Petitioner.  
Maithree Amarasinghe for the 1<sup>st</sup> Respondent.  
Suren Fernando with K. Wickramanayake for the 2<sup>nd</sup> &  
3<sup>rd</sup> Respondents.  
Faizer Musthapha, PC with Charitha Gunarathna, AAL for  
the 4<sup>th</sup> Respondent.

Decided on : 05.02.2020.

**Hon. Justice Janak De Silva.**

Learned counsel for the Petitioner submits that she has considered the case of the Petitioner. She submits that there are no grounds to pursue this application inter - alia due to the order made by this Court on the last date rejecting the application made by the Petitioner to tender further documents.

She moves that she be allowed to withdraw the application by reserving the right of the Petitioner to file a fresh application and without costs.

Learned Counsel for the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents objects to any right being reserved to the Petitioner to file a fresh application in view of the history of the litigation between the parties. He moves for nominal costs on behalf of his clients.

Learned State Counsel for the 1<sup>st</sup> Respondent informs that she is not asking for costs, nor is she objecting to the application made to be withdraw the application. Learned counsel for the 4<sup>th</sup> Respondent moves for cost as well as objects to any rights being reserved for the Petitioner to file a fresh application.

Court has perused the journal entries in this application which shows that the Petitioner has on several dates moved that this matter be fixed for support but, did not support it at least on five days. We wish to place on record that the present counsel for the Petitioner only marked her appearance for the 1<sup>st</sup> time on 20/12/2019. Having considered the factual matters in this application including the futile exercise made by the Petitioner in the District Court and the Civil Appellate High Court to challenge his expulsion by the political party, we see no reason to reserve any right to the Petitioner to file a fresh application.

We allow the Petitioner to withdraw the application and grant costs only in favor of the 2<sup>nd</sup> Respondent.

Application for withdrawal is allowed with costs in favor of the 2<sup>nd</sup> Respondent.

Judge of the Court of Appeal

**Hon. Justice N. Bandula Karunarathna.**

I agree.

Judge of the Court of Appeal