

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

In the matter of an Application in the nature
of Writs of *Certiorari* under and in terms of
Article 140 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.

Dr. Gamage Rangana Sandakelum,
No.129/1, Old Road,
Kaluthara South.

CA (Writ) Application No: 575/2023

PETITIONER

1. Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.
2. Prof. Vajira H. W. Dissanayake,
President,
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.
- (Ceased to hold office) 3. Prof. Jayantha Jayawardena,
Vice President,
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.
- 3A. Prof Ranil Fernando,
Vice President,
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.
4. Dr. Asela Gunawardene,
Director General of Health Services,
Ministry of Health (Ex-Officio),
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.

5. Prof. Mandika Wijeyratne,
Nominee of the Faculty of Medicine,
University of Colombo.
6. Dr. Anjela Arulpragasam Anthony,
Dean, Faculty of Health Care Science,
Eastern University.
7. Dr. R. Surenthirakumaran,
Dean, Faculty of Medicine,
University of Jaffna.
8. Prof. Janaki Hewavisenthi,
Dean, Faculty of Medicine,
University of Kelaniya.
- (Ceased to hold office) 9. Prof. Ranil Fernando,
Dean, Faculty of Medicine,
University of Moratuwa.
- 9A. Prof. Madawa Chandrathilaka,
Dean, Faculty of Medicine,
University of Kelaniya.
10. Prof. Vasanthi Pinto,
Dean, Faculty of Medicine,
University of Peradeniya.
11. Prof. T. P. Weerarathna,
Dean, Faculty of Medicine,
University of Ruhuna.
12. Dr. Janaka Pushpakumara,
Dean, Faculty of Medicine and Allied
Sciences, University of Rajarata.
13. Dr. Udayangani Ramadasa,
Nominee of the Faculty of Medicine,
Sabaragamuwa University of Sri Lanka.

14. Prof. Aloka Pathirana,
Dean, Faculty of Medical Science,
University of Sri Jayawardenapura.
15. Prof. Surangi Yasawardene,
Dean, Faculty of Dental Sciences,
University of Sri Jayawardenapura.
16. Dr. Sanjeewa Bowatte,
Dean, Faculty of Medicine,
Wayamba University of Sri Lanka.
17. Prof. A. M. Attygalla,
Dean, Faculty of Dental Sciences,
University of Peradeniya.
18. Dr. Anver Hamdani,
Member appointed by the Minister
19. Dr. R. K. J. S. Rajapakse,
Member appointed by the Minister
20. Dr. Kapila Jayaratne,
Member appointed by the Minister
21. Prof. Janaka de Silva,
Member Elected by Specialist Medical
Practitioners
22. Dr. Sunil Wijesinghe,
Member Elected by Specialist Medical
Practitioners
23. Dr. M. D. Samarasinghe,
Member Elected by Specialist Medical
Practitioners.
24. Dr. Gamini Nawaratne,
Member Elected by Specialist Medical
Practitioners

25. Dr. S. Shanmuganathan,
Member elected by Dental Surgeon
26. Dr. D. S. Samaraweera,
Member Elected by Registered Medical
Practitioners,

All of Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10.
27. Dr. De Lanerolle,
Member appointed by the Medical
Practitioners.
28. Dr. E. G. D. Chandika Eritakaduwa,
Member appointed by the Medical
Practitioners
29. C. S. Dharmaratne,
Member appointed by the Medical
Practitioners
30. Dr. P. W. C. Panapitiya,
Member appointed by the Medical
Practitioners.
31. Dr. Y. V. N. Dharshana Sirisena,
Member appointed by the Medical
Practitioners
32. Dr. R.N.A.M.U.K. Bandara Warakagoda,
Member appointed by the Medical
Practitioners
33. Dr. W. A. D. Thenuwan Tharanga
Wickremasinghe,
Member appointed by the Medical
Practitioners

34. Dr. Haritha Punu Aluthge,
Member appointed by the Medical
Practitioner

35. Dr. H. D. B. Herath,
Registrar,
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10

36. Hon. Justice Chandra Ekanayake,
Judicial Assessor,
Sri Lanka Medical Council,
No.31, Norris Canal Road,
Colombo 10

37. Dr. Prabhath Werawatte,
Director,
Teaching Hospital Kuliyaipitiya.

(Ceased to hold office)

38. Keheliya Rambukwella,
Minister of Health,
Ministry of Health,
Suwasiripaya, No.385,
Baddegama Sri Wimalawansa Mawatha,
Colombo 10.

38A. Dr. Ramesh Pathirna,
Minister of Health,
Ministry of Health,
Suwasiripaya, No.385,
Baddegama Sri Wimalawansa Mawatha,
Colombo 10.

39. Hon. Attorney General,
Attorney General's Department,
Hulftsdorp,
Colombo 12.

RESPONDENTS

Before: S. U. B. Karalliyadde, J.

Mayadunne Corea, J.

Counsel: P. K. Prince Perera for the Petitioner.

Chathura Galhena for the 1st Respondent.

Maithree Amarasinghe, SSC for the 37th, 38th and 39th Respondents.

Written submissions tendered on:

12.09.2024 by the Petitioner

26.09.2024 by the 1st Respondent

Argued on: 28.08.2024

Decided on: 06.02.2025

S. U. B. Karalliyadde, J.

The Petitioner is a registered medical practitioner of the Sri Lanka Medical Council (the 1st Respondent). A complaint was received by the 1st Respondent against the Petitioner by an affidavit dated 18.10.2019 marked as P8(1) alleging that the Petitioner is issuing medical certificates in the capacity of a Consultant Radiologist and used a seal to that effect while the Petitioner was not a Consultant Radiologist. The Ministry of Health, by the letter dated 10.09.2021 marked as P9 called for explanations from the Petitioner regarding the alleged incident and thereafter the Secretary to the Ministry of Health by the letter dated 28.10.2021 marked as P11 issued a warning to the Petitioner. After a preliminary inquiry has been held, the Preliminary Proceedings Committee of the 1st Respondent, by the report dated 10.03.2022 marked as 1R1 made recommendations to the Professional Conduct Committee (PCC) that there is a *prima facie* case against the Petitioner. Therefore the PPC had decided to hold a formal disciplinary inquiry on the alleged complaint. The

1st Respondent by letter dated 04.11.2022 marked as P14 informed the Petitioner that an Inquiry is going to be held against the Petitioner on 17.12.2022 by the PCC on the charges stated in the Notice of Inquiry dated 04.11.2022 marked as P15 including the charges, *inter-alia*, that the Petitioner has issued medical certificates without having full qualifications to be a Consultant Radiologist, issued medical certificates without obtaining the board certificate to function as a Consultant Radiologist from the Post Graduate Institute of Medicine, used a rubber stamp to introduce himself as a Consultant Radiologist and acting as a Consultant Radiologist and having a private channelling practice while not being a board-certified Consultant Radiologist.

The Petitioner states that to be qualified as a Consultant Radiologist in Sri Lanka one must complete one year of local and another year of foreign training. Having completed one year of local training, the Petitioner has been offered employment in a Singapore Hospital to complete the one year of foreign training. The Petitioner states that to practice medicine in Singapore, he needs a certificate of good standing and therefore, he has requested a certificate of good standing from the 1st Respondent. However, that request was denied by the 1st Respondent, because the inquiry against the Petitioner was pending at the time the request for a certificate of good standing was made. To expedite the PPC Inquiry and obtain the certificate of good standing expeditiously, the Petitioner filed a Writ application (CA Writ 204/2023) before this Court. However, the Petitioner later withdrew that Writ application as the 1st Respondent informed him that the inquiry is expected to be held on 15.07.2023.

The first session of the PCC inquiry was held on 15.07.2023 (P20) where the charge sheet was read over to the Petitioner and he had pleaded not guilty to the charges against him. Thereafter the evidence of the prosecution was led and the complainant

was cross-examined. Thereafter, evidence of the defence was due to be led on the second session of the inquiry which was held on 29.07.2023 (P21). On that date, the Attorney at law appearing for the Petitioner had withdrawn the earlier plea of not guilty and pleaded guilty to the charges to obtain the certificate of good standing without further delay. Thereafter the Registrar of the 1st Respondent, by letter dated 03.08.2023 marked P22 requested the Petitioner to submit an affidavit stating the Petitioner's position to withdraw the plea of guilty to regulate the procedure as PCC has concluded the Inquiry and the order was fixed to be delivered on 12.08.2023.

To comply with that request, the Petitioner had submitted his affidavit dated 11.08.2023 marked as P23. On the third session held on 12.08.2023 (P24), the said affidavit marked as P23 has been rejected by the PCC for the reason that P23 is contradictory to the facts presented by the Attorney at law appearing for the Petitioner at the second session of the Inquiry and therefore the Petitioner has been directed to file a new affidavit. Accordingly, the Petitioner has submitted the affidavit dated 16.08.2023 marked as P25. The Registrar of the 1st Respondent by letter dated 11.09.2023 marked as P26 informed the Petitioner that by the Sentencing Order dated 09.09.2023 marked as P27, the PCC has decided to suspend him from exercising his rights, privileges and immunities conferred upon him by registration as a Medical Practitioner for a period of one year and to reduce the sentence imposed on the Petitioner for a period of six months commencing from 09.09.2023 in terms of the Medical Disciplinary (Procedure) Regulations 1990 (the Regulations) published in the Extraordinary Gazette Notification No. 757/7 marked as P30 and the Medical Ordinance No. 26 of 1927 as amended.

Being aggrieved by the said Sentencing Order marked as P27, the Petitioner exercising the right to appeal under Section 18(1) of the Medical Ordinance has preferred an appeal dated 12.09.2023 marked as P28(1) to the Minister of Health, to which the Petitioner has not received a reply as to the date. Being aggrieved by the Sentencing Order marked as P27 the Petitioner filed the instant Application seeking the following substantive reliefs, *inter alia*,

(b) Issue a mandate in the nature of Writ of Certiorari against 1st - 37th Respondents to quash the

(i) proceedings of the Professional Conduct Committee

(ii) PCC decided further to reduce the punishment of suspension imposed on the Accused Petitioner from the period of 01 year to a period of 06 months from exercising his rights privileges and immunities conferred upon him by registration as a Medical Practitioner

The learned Counsel appearing for the Petitioner argued that the entire inquiry proceedings and the Sentencing Order marked as P27 is *ultra vires*, erroneous in law on the face of the record, in violation of natural justice, *void ab initio* and in contravention to the provisions of Regulations marked as P30 on the following three grounds,

1. In terms of the Second Schedule to the Regulation marked as P30, the PCC should consist of 11 members, whereas the Inquiry on the Petitioner was conducted before 7 members only.
2. On the third session (held on 12.08.2023) Dr D. S. Samaraweera was not present still, he was present before the fourth session and the Judicial

Accessor, Hon. Justice Chandra Ekanayake was not present before the fourth session which was contrary to Regulations 6, 7(1) and 7(2) of the Second Schedule to the Regulations marked as P30.

3. The Sentencing Order communicated by the Registrar of the 1st Respondent marked as P26 is a decision of the PCC and not a 1st Respondent's and therefore, it is contrary to Regulations 20 and 21 of the Regulations marked as P30.

Now I will address the aforesaid grounds separately. Firstly, the learned Counsel appearing for the Petitioner argued that the PCC should consist of 11 members in terms of Clauses 1 and 3 of the Second Schedule of the Regulations marked as P30. However, in contravention to that Clause, at the Inquiry held against the Petitioner in the Application at hand only 7 members i.e. 2nd, 9th, 15th, 19th, 22nd, 26th and 29th Respondents have participated in the inquiry proceedings held against the Petitioner. Therefore, the learned Counsel for the Petitioner argues that due to the non-constitution of the quorum of the PCC, the entire inquiry proceeding and the Sentencing Order is *ultra vires*, erroneous in law on the face of the record, and violates the principles of natural justice and the legitimate expectation of the Petitioner.

However, the learned Counsel appearing for the 1st Respondent argued that, in terms of Clause 3 of the second schedule of the Sinhala version of Regulations (marked as 1R8), the Chairman and four other members should participate at the inquiries held by the PCC to formulate the quorum. In the instant matter, all the proceedings held against the Petitioner were conducted with the participation of the 2nd Respondent, the Chairman of the PCC and the 9th, 15th, 19th, 22nd and 29th Respondents and, therefore

there is no violation of the Regulations. In terms of Regulation 11, the provisions set out in the second schedule to the Regulations apply in relation to the constitution and the procedure to be followed at the meetings of the PCC. Clauses 1 and 3 of the second schedule of the Regulations marked as P30 are as follows,

(1) The Professional Conduct Committee shall consist of the person who, for the time being, is the President of the Council and ten other members of the Council elected at a meeting of the Council by secret ballot, from among the members of the Council who are not members of the Committee. The Registrar shall give at least ten days' prior notice of such meeting to every such member of the Council.

(3) The President and members of the Professional Conduct Committee shall constitute a quorum at any meeting of the Professional Conduct Committee.

Sinhalese version of Clause 3 reads thus,

“වෘත්තීය චර්යා කමිටුවේ කුමන හෝ රැස්වීමකදී වෘත්තීය චර්යා කමිටුවේ සභාපති හා සාමාජිකයින් 4 දෙනෙකුගෙන් ගණපුරණය සැදෙනු ඇත.”

When examining both Sinhalese and English versions of the Regulations, there is a clear inconsistency in Clause 3 between the two versions. The learned Counsel appearing for the 1st Respondent submitted to this Court that as the Sinhalese version of the Regulations prevails over the English version, the requirement of the consistency of the quorum of the PCC has been satisfied in terms of Clause 3 of the Regulations and therefore there is no violation of the Regulations. However, it was the argument of the learned Counsel appearing for the Petitioner that the Sinhala version does not prevail as there is no mention of a clause in the Regulations where it

states that in case of any inconsistency, the Sinhala version should prevail. The language of the legislation is governed under Article 23 of the Constitution. Article 23 (2), reads as follows,

*“All Orders. Proclamations, rules, by-laws, **regulations** and notifications **made or issued under any written law** other than by a Provincial Council or a local authority, and the Gazette **shall be published in Sinhala and Tamil together with a translation thereof in English.**”*

Under Section 72 of the Medical Ordinance, the Minister of Health has been given the power to make regulations under the Medical Ordinance and the Regulations marked as P30 and 1R8 have come into force by execution of such powers vested with the Minister under Section 72 of the Medical Ordinance. It is evident from Article 23 that when regulations are made under any written law, they should be published in Sinhala and Tamil languages along with a translation in English. In terms of Article 18(1), the official language of Sri Lanka is Sinhala. Therefore, it is clear that in terms of Article 23 of the Constitution, the Sinhala version of the Regulations (1R8) prevails over the English version of the Regulations (P30) which is a translation of such regulation. In the case of *Attorney General v. Ayiduroos Abdul Rahim and Others*¹, where there was an inconsistency in the English and the Sinhala version of Regulation 6 published under the Gazette Notification, bearing No.147/24 issued under the Public Security Ordinance, Aluwihare PC. J., observed that,

“It is contended on behalf of the Appellants that in the event of an inconsistency between the texts of a statute or any other law, that it is the Sinhala text that would prevail and this court is inclined to accept the said argument. The learned

¹ SC Appeal No. 67/2011, SC Minutes of 16.02.2015.

Senior State Counsel who represented the Attorney General also subscribed to the views expressed on behalf of the appellants.”

Therefore, taking into consideration the Sinhala version of Clause 3 of the Regulation and the fact that the 2nd, 9th, 15th, 19th, 22nd and 29th Respondents had been present at the Inquiry proceedings, this Court is of the view that, there is no violation of Clause 3 of the Regulation.

Secondly, the learned Counsel appearing for the Petitioner argues that on the third session which was held on 12.08.2023, Dr D. S. Samaraweera, the 26th Respondent was not present but he was present before the first two sessions and the fourth session. Moreover, the Judicial Accessor, Hon. Justice Chandra Ekanayake was not present before the fourth session. Therefore, the argument of the learned Counsel appearing for the Petitioner is that the Inquiry proceedings were conducted in contravention of Clause 6, 7(1) and 7(2) of the Second Schedule to the Regulations marked as P30. Hence the Inquiry proceedings are *void ab initio* and the Sentencing Order marked P27 is *ultra vires* and erroneous in law on the face of the record. Clause 6, 7(1) and 7(2) of the second schedule to the Regulations reads thus,

(6) Every member of the Professional Conduct Committee shall attend every meeting thereof and the absence of any member from any meeting, shall be a bar to such member from participating in any proceedings connected with the inquiry being held by the Professional Conduct Committee.

(7) (1) If the attendance of the members at any meeting of the Professional Conduct Committee falls below the quorum referred to in paragraph (3) above, such meeting shall be postponed for a further date.

(2) If for any reason the number of members eligible to participate at any inquiry falls below the quorum referred to in paragraph (3) above, a fresh Committee shall be constituted and the inquiry shall commence from the beginning before the Committee so constituted.

The contention of the learned Counsel appearing for the 1st Respondent is that even though the 26th Respondent did not participate in the third session of the Inquiry, his absence does not have any impact on the validity of the proceedings that took place in the third session and the entire inquiry proceedings as the members present at the third session satisfy the quorum of members required by Clause 3 of the Regulations. The learned Counsel further argued that the Judicial Accessor is not a member of the PCC and does not constitute a part of the PCC and therefore the absence of the Judicial Accessor does not have any impact on the inquiry proceedings.

It is evident from the letter dated 03.08.2023 marked as P22 that the PCC had concluded the Inquiry and the order of the PCC was fixed to be delivered on 12.08.2023 and therefore the Registrar of the 1st Respondent has asked the Petitioner to submit an affidavit stating his position indicating the intention of the Petitioner to withdraw his previous plea of not guilty. However, as the Petitioner had submitted an affidavit affirming facts inconsistent with the facts presented by his Counsel in the second session, the PCC has directed the Petitioner to file a fresh affidavit on that matter in the third session held on 12.08.2023. Even though the 26th Respondent did not participate in the third session, he has signed the sentencing order. However, the inquiry has been duly concluded in the second session and even though there were three sessions, in the third session the Petitioner has only been directed to hand over a fresh affidavit. Therefore, it is the view of this Court that no prejudice has been

caused to the Petitioner and there is no violation of Clause 7(1) and 7(2) as the required quorum of members has been satisfied in the first two sessions.

The third argument of the Petitioner is that the Sentencing Order communicated by the Registrar of the 1st Respondent marked as P26 is a decision of the PCC and not a decision of the 1st Respondent which is contrary to Regulations 20 and 21 of the Regulations marked as P30. The learned Counsel appearing for the Petitioner argued that at the time the Sentencing Order was communicated to the Petitioner by way of a letter marked as P26, the said Order was not approved by the 1st Respondent and to enforce the Sentencing Order the PCC should submit it to the 1st Respondent and get the approval. The Sentencing Order was communicated to the Petitioner on 11.09.2023 (P26) and it was approved by the 1st Respondent at its meeting held on 22.09.2023 (1R6). Therefore, this is contrary to Regulations 20 and 21 of the Regulations marked as P30. The learned Counsel appearing for the Petitioner further argued that enforcing the decision of the PCC without the approval of the 1st Respondent is a procedural impropriety. In the case of *Council of Civil Service Unions v. Minister for the Civil Service*² Lord Diplock described procedural impropriety as one of the grounds for judicial review as follows;

“...I have described the third head as “procedural impropriety” rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down

² [1985] AC 374.

in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice...”

The position of the learned Counsel appearing for the 1st Respondent regarding the enforcement of the Sentencing Order is that even though the Registrar of the 1st Respondent has taken steps to inform the decision of the PCC to the Ministry of Health by the letter marked as P26 without the approval of the 1st Respondent, the decision of the PCC has been submitted for approval to the 1st Respondent by way of a memorandum dated 13.09.2023 marked as 1R5. Thereafter, the Sentencing Order of the PCC has been approved by the 1st Respondent in its meeting held on 22.09.2023 as evident from the Minutes of the said meeting tabled at the following meeting held on 27.10.2023 marked as 1R7.

The Regulations 20 and 21 of the Regulations marked as P30 reads thus,

20. If the Professional Conduct Committee determines that its decision should not be postponed, the Chairman shall announce its decision forthwith in such manner as the Professional Conduct Committee may think fit.

*21. The Professional Conduct Committee shall thereafter **inform** the Council, of its **decision**. On receipt of such decision the Council shall direct the Registrar to take such steps as may be necessary to give effect to that decision*

In terms of Regulation 20 of the Regulations marked as P30, it can be observed that once the PCC comes to a determination the Chairman of the PCC will announce the decision of the PCC and thereafter in terms of Regulation 21, the PCC shall inform its decision to the 1st Respondent and on receipt of such decision, the 1st Respondent shall direct the Registrar to take necessary steps to enforce such order. In terms of

Regulation 21, the PCC is required to inform its decision of the 1st Respondent and not to get the approval of the 1st Respondent. Therefore, this Court is not in agreement with the argument of the learned Counsel appearing for the Petitioner that the approval of the PCC is required prior to enforcement of the Sentencing Order of the PCC. In terms of Regulation 21 the 1st Respondent will only give directions to the Registrar to take steps to give effect to the order. Therefore, this Court sees no merit in the argument of the learned Counsel appearing for the Petitioner that there is a procedural impropriety in the matter at hand.

The learned Counsel appearing for the Petitioner further argued that the members of the PCC forced the Petitioner to plead guilty and he was not allowed to present his defence. Therefore, the decision of the PCC is arbitrary. However, the argument of the learned Counsel appearing for the 1st Respondent is that the Petitioner was represented by his Attorney at law at the inquiry, and the Attorney at law has informed the PCC of the Petitioner's intention to withdraw the plea of guilt. Moreover, the PCC has informed the Petitioner that a sentence would be imposed and a certificate of good standing could not be issued when such a sentence is in operation. It is evident from the inquiry proceedings of the second session dated 29.07.2023 marked as P21, that it is indeed the Attorney at law for the Petitioner that informed the PCC that the Petitioner instructed him to withdraw the earlier plea of not guilty and plead guilty for the charges framed against the Petitioner. Therefore, this Court cannot agree with the contention of the Petitioner that he was forced to plead guilty.

Moreover, the learned Counsel appearing for the Petitioner argued that there is no schedule of offence and penal sections in the Medical Ordinance and in terms of

Section 25(1) of the Medical Ordinance the 1st Respondent is vested with discretion and it is not absolute and unfettered and it should be reasonable. However, the PCC has not exercised such discretion reasonably and therefore the decision of the PCC to suspend the Petitioner for 6 months is unreasonable. The submission of the learned Counsel for the 1st Respondent is that as per Regulation 19 of the Regulations marked as P30, the PCC is empowered to decide as it thinks fit and the Regulations have been in existence for over 30 years enabling the PCC which consist of senior medical practitioners to determine the nature of every act of misconduct and determine accordingly. Furthermore, PCC takes into consideration the patient's safety and well-being of the health sector. However, PCC has imposed a lenient sentence on the Petitioner in order not to deprive him of any prospects while considering the seriousness of the misconduct committed by the Petitioner. Regulation 19 of the Regulations marked as P30 reads as follows,

“After the practitioner has been afforded an opportunity of addressing the Professional Conduct Committee and adducing evidence as aforesaid, and if he avails himself of the opportunity, after the conclusion of his address or evidence the Professional Conduct Committee shall consider and determine whether to postpone its decision as to whether action under Section 25 (1) of the Ordinance should be taken and if the Professional Conduct Committee so determines, the decision of the Professional Conduct Committee shall stand postponed until such future meeting of the Professional Conduct Committee as the Professional Conduct Committee may determine and the Chairman shall announce the determination of the Professional Conduct Committee in such manner as the Professional Conduct Committee may think fit.”

Section 25(1) of the Medical Ordinance reads thus,

“The Medical Council may, if it thinks fit-

(a) on any ground authorized by this Ordinance, order that the name of any person be erased from a register or, in lieu of such erasure, may order that he be suspended from the rights, privileges, and immunities conferred upon him by registration during the period specified in the order;”

It is evident from Regulation 19 that after the conclusion of the inquiry, the PCC has the power to decide to take action under Section 25(1) of the Medical Ordinance. Therefore, the PCC has the power either to order the name of a practitioner to be erased from the registry or to suspend him for a period that the PCC think fit. In the instant Application even though the Petitioner claimed that he pleaded guilty in order to get the inquiry expedited, in the affidavit marked as P25, the Petitioner himself has admitted the fact that he has committed such misconduct by mistake. The PCC in its Sentencing Order marked as P27 had originally sentenced the Petitioner for a period of one year and thereafter considering the submissions made in mitigation on behalf of the Petitioner, PCC has reduced the sentence to six months. In *Associated Provincial Picture Houses, Limited v. Wednesbury Corporation*³ unreasonableness is defined as “*something so absurd that no sensible person could ever dream that it lay within the powers of the authority*”. Considering the above facts this Court is of the view that that PCC has granted a sentence to the Petitioner exercising the power vested with them in terms of Section 25(1) of the Medical Ordinance.

³ [1948]1 KB 223 at 229.

Considering all the above-stated facts this Court is of the view that neither the Inquiry proceedings nor the Sentencing Order marked as P27 is *ultra vires*, erroneous in law on the face of record, in violation of natural justice, *void ab initio* and in contravention to the provisions of the Regulations marked as P30. On the above-mentioned facts and circumstances, this Court is of the view that the Petitioner is not entitled to the Writ of Certiorari as prayed for in the prayer to this Application. Therefore, the Application is dismissed without costs.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

Mayadunne Corea, J.

I agree.

JUDGE OF THE COURT OF APPEAL