

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

C A (Writ) Application

No. 157 / 2013

1. Dunuhinga Soumya De Silva
2. Thevuni Thiyansa Ranuthmi

Thilakaratne

Both of,

No. 5/45

Kandegoda

Ambalangoda

PETITIONERS

-Vs-

1. Director of National Schools,

Ministry of Education,

'Isurupaya',

Pelawatte

Battaramulla.

2. Secretary,

Ministry of Education,

'Isurupaya'

Pelawatte

Battaramulla.

3. Assistant Director of Provincial
Education,
Provincial Education Office,
Ambalangoda.

4. M G O P Panditharathna
Principal,
Drarmashoka College
Ambalangoda.

5. A M Jayarathna Bandara,
Chairman,
Appeal Panel,
Drarmashoka College,
Ambalangoda.

6. Sister Niroshi Pieris

Secretary,
Appeal Panel,
Drarmashoka College,
Ambalangoda.

7. R H M A Rajakaruna,
Vice President,
School Development Society,
Drarmashoka College,
Ambalangoda.

8. A M Perera,
School Development Officer,
Drarmashoka College,
Ambalangoda.

9. M J A Motha,
Member,
Old Girls Association,
Drarmashoka College,
Ambalangoda.

RESPONDENTS

Before: A H M D Nawaz J

P. Padman Surasena J

Counsel: Chula Bandara for the Petitioners.

Milinda Gunathillake Deputy Solicitor General for the
Respondents.

Argued on: 2017-02-02

Decided on: 2017-05-03

JUDGMENT

P Padman Surasena J

The 1st Petitioner is the mother of the 2nd Petitioner who is a minor and whose admission to Grade 1 of Drarmashoka College Ambalangoda, was sought by an application made by the 1st Petitioner to the said school. Upon this application being rejected by the School, the 1st Petitioner appealed to the Appeal Panel appointed by the School authorities. This appeal too had been rejected.

The Petitioner had applied for admission under the Past Pupil category. It can be seen that 2 marks is awarded for the each year that the applicant had spent at the school as a past pupil. As the Petitioner having joined the school from grade 6 had been awarded 10 marks for the total no. of years at the school.

Complaints made to this Court by the Petitioner in this proceeding are;

- I. that it was not due to her fault that she had to join the school from grade 6 but the fact that there were no grade 1 classes at the school

due to a policy decision taken by the Ministry of Education when she started her grade1 classes.

- II. that she could have very well joined the school from grade 1 had there been such classes in the year she started her grade 1 class.
- III. that she was unable to earn more marks for the extracurricular activities done whilst at the school because of a disability she had suffered;
- IV. that the circular **P 2** failed to provide for a scheme for the benefit of parents with disabilities;

In challenging the non-selection of the 2nd Petitioner to the school, it is the argument of the Petitioners that the reason assigned thereto that the Petitioners had not fulfilled the required qualifications for admission of children as per the circular No. 2011/18, is not justifiable.

It is in this backdrop that the Petitioners in their petition have prayed inter alia for,

- I. a Writ of Certiorari to quash the circular No. 2012/19 produced marked **P 2** and the marking scheme produced marked **P 6** ;

II. a Writ of Mandamus to compel the 1st -4th Respondents to admit the 2nd Petitioner to Grade One class of Dharmashoka College Ambalangoda.

It must be noted at the outset that the circular, the Petitioner seeks to quash is the circular applicable island wide for admission of students to Grade 1 of the Government Schools. It is not a circular limited only to this school.

Since this court at this instance is dealing with an application for mandates in the nature of Writs of Certiorari and Mandamus in terms of Article 140 of the Constitution, the task before this court is only to ascertain whether there is any ground for the issuance of such writs against the respondent school authorities.

It must also be borne in mind that the Petitioners complaint is that the rejection of her application by the school authorities is wrong because of the lapses in the circular marked **P 2** issued by the Ministry of Education.

As has been indicated above, the task before this court in this case is only to verify whether respondent school authorities have acted within their powers. In the light of this background it must be borne in mind, as

revealed before this Court that it is the same method and the yardsticks that the respondent school authorities have adopted to evaluate the applications of all applicants for the selection of students to its classes in Grade 1.

In these circumstances it is clear that the action of the respondent school authorities in rejecting the said application submitted by the petitioner cannot be termed ultra vires.

As regards the appeal proceedings by the Appeal Panel, they are also bound by the same circular. Therefore they too cannot deviate from it. Thus, their action is also not ultra vires.

In the case of Mohammed Uzman Nazeem Vs Upali Gunasekara, Principal Royal College and 2 others¹, the Supreme Court agreed with the view that additional documents should not be considered since the selection of students were made on the basis of documents furnished at the interview².

Thus, the Respondent school authorities are entitled to reject the application submitted by the 1st Petitioner as she had not obtained

¹ (SC FR 30/2012) decided on 2012-08-30.

² at page 7 of the judgment

sufficient marks to compete with the other applicants who also had applied under the same circular being bound by the same conditions.

In these circumstances and for the foregoing reasons we see no basis as to why the aforesaid writs applied for by the Petitioner should be issued.

Hence we decide to dismiss this application. However, we make no order for costs.

Application is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

A H M D Nawaz J

I agree,

JUDGE OF THE COURT OF APPEAL