

**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  
under and in terms of Article 140 of the  
Constitution.*

1. Ajith Siyambalapitiya  
Honorary Secretary
2. Lahiru Silva  
Sports Club Manager

1<sup>st</sup> and 2<sup>nd</sup> abovenamed, both of:

Unichela Sports Club,  
No.124, Horana Road,  
Panadura.

**CA/WRIT/139/2021**

**PETITIONERS**

Vs.

1. Namal Rajapaksha, MP  
Hon. Minister of Sports  
No.9, Phillip Gunawardana Mawatha,  
Colombo 07.
- 1(a). Roshan Ranasinghe, MP  
Hon. Minister of Sports  
No.9, Phillip Gunawardana Mawatha,  
Colombo 07.
2. Shammi Silva  
President
3. Jayantha Dharmadasa  
Vice President
4. Ravin Wickramaratne  
Vice President
5. Mohan De Silva  
Secretary
6. Lasantha Wickramanayake  
Treasurer
7. Krishantha Kapuwatte  
Asst. Secretary
8. Lalith Rambukwella

- 8(a). Sujeewa Godaliyadda  
Asst. Treasurer
9. Ashantha De Mel  
Member
10. Priyantha Soyza  
Member
11. Sujeewa Godaliyadda  
Member
12. Gihan Weerasinghe  
Member
13. Deepal Madurapperuma  
Member
14. Marlon D. Ranasinghe  
Member
15. Kirthi Siribaddena  
Member
16. Roshan Iddamalgoda  
Member
17. P.H. Udaya Imalsha  
Member
18. Bandula Dissanayake  
Member

2<sup>nd</sup> to 18<sup>th</sup> above named all of:  
Executive Committee-  
Sri Lanka Cricket  
No.35, Maitland Place,  
Colombo 07.

19. Samantha Dodanwala  
Tournament Committee Chairman
20. Janaka Pathirana  
Controlling Club Representative
21. Nalin Aponsu  
Controlling Club Representative
22. Priyantha Algama  
Affiliated Club Representative
23. Bandula Dissanayake  
Umpires Committee Chairman

19<sup>th</sup> to 23<sup>rd</sup> Added/ Substituted  
Respondents above named all of:  
Executive Committee  
Sri Lanka Cricket  
No.35,  
Maitland Place,  
Colombo 07.

**RESPONDENTS**

**Before:** Sobhitha Rajakaruna J.

Dhammika Ganepola J.

**Counsel:** Chrishmal Warnasuriya with Sanjay Pilimatalauwwe for the Petitioners.

Sumathi Dharmawardena ASG, PC with Pulina Jayasuriya SC for the 1<sup>st</sup>  
Respondent.

Kuvera De Zoysa PC with Pasindu Bandara for the 2<sup>nd</sup> to 7<sup>th</sup>, 8(a) and 19<sup>th</sup> to  
23<sup>rd</sup> Respondents.

**Argued on:** 15.02.2022, 03.06.2022, 25.05.2023, 13.10.2023

**Written Submissions-** Petitioners - 26.07.2023

2<sup>nd</sup> to 7<sup>th</sup>, 8(a) and 19<sup>th</sup> to 23<sup>rd</sup> Respondents - 03.08.2023

**Decided on:** 17.01.2024

**Sobhitha Rajakaruna J.**

The issues raised by the Petitioners in the instant Application revolve around the provisions of Rule 5.1.2 of the Sri Lanka Cricket Domestic Hand Book 2018. Those rules are approved and adopted by the Executive Committee of Sri Lanka Cricket ('SLC') by virtue of the powers vested in it, in terms of the provisions of the Constitution of SLC. The Unichela Sports Club ('Club') of which the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners are Office Bearers is not a member club of SLC.

The said Rule 5.1.2 reads,

“Only a Member Club of Sri Lanka Cricket (Controlling, Affiliated or Associate Member) shall be eligible to play in Major Club Tournaments classified as First Class under the Tournament Structure conducted by SLC.”

The Petitioners complain that this Rule has been time and again removed and replaced by the SLC to accommodate situations where eligible and promising teams win a championship. According to the Petitioners, during the time they were declared champions this rule had been suspended. It is further stated that the said rule was suspended and made inactive when the Petitioners applied for, participated in and won the tournament relevant to the instant Application. However, SLC at an extra special general meeting decided to reactivate the provisions of the said Rule 5.1.2 with effect from 16.10.2019. The Petitioners contend that the SLC has reactivated the provisions of the said Rule without a due explanation. Further, the Petitioners assert that such reactivation is arbitrary, as the Club achieved its victory when the said Rule was inactivated. In addition to the above, the Petitioners contend that the Petitioners have a legitimate expectation that Rule 5.1.2 will be kept inactive until the whole tournament is over.

The 2<sup>nd</sup> to 7<sup>th</sup>, 8(a) and 19<sup>th</sup> to 23<sup>rd</sup> Respondents ('Respondents') on 22.10.2021 agreed in open Court that the SLC would allow the said Club to participate in Tier 'B' tournaments that would be held or conducted later, provided the Club would be successful in the instant Application after the final determination of this Case. Moreover, the learned Additional Solicitor General who appears for the 1<sup>st</sup> Respondent has indicated on 03.06.2022 that the 1<sup>st</sup> Respondent can consider an appeal made by the Petitioners. Whilst the instant Application was pending the Petitioners tendered a formal appeal to the 1<sup>st</sup> Respondent and anyhow it is apparent that the Petitioners have failed to deposit the relevant sum of money at the time of tendering the said appeal.

The primary argument of the Petitioners is that the SLC cannot change the rules of a game after it has been played and also the SLC cannot implement Regulations with retrospective effect, after permitting a party to engage in the respective sport. The Petitioners, further submit that the Club cannot be subjected to the aforesaid alteration of the relevant Rule because its effective date fell after the Petitioners became entitled to the next tier. By letter dated 22.02.2021 marked 'P9(A)' SLC has informed that the said Club is not entitled to play for the next tier since the Club was not a member club of SLC in terms of the said Rule 5.1.2. The letter dated 19.04.2022 marked 'P9(B)' is another letter written by SLC referring to 'P9(A)'. The SLC has informed its decision to amend the Tournament Rules to all Teams, Clubs,

Associations and Membership of SLC through the letter dated 22.11.2019 marked 'P5(a)'. It is noted that the background and reasons to reinstate the said Rule 5.1.2 are stipulated in the said 'P5(a)'. The Petitioners seek a mandate in the nature of a writ of Certiorari quashing the said 'P5(a)', 'P9(A)' and 'P9(B)'.

The Respondents referring to the following provisions under the subheading 'League' on page 15 of the SLC Tournament Hand Book, submit that the promotion to play in Major Club Tier 'B' Tournaments is subjected to the Tournament Rules and Regulations of SLC including Rule 5.1.2 and thus, there cannot be any automatic entitlement for the Petitioner to play the ensuing year.

“The leader of the Final Points table will be declared Champions of the Governors Trophy and qualify to be promoted to play Major Club Tier 'B' Tournament in the next Season, Subject to Rules governing the eligibility to play Major 1<sup>st</sup> Class Tournaments specified in the Tournament Rules and Regulations of Sri Lanka Cricket (Rule No. 5.1.2).”

The Respondents further argue that the Petitioner's conduct following the reimposition of the said Rule 5.1.2, on or around 10.12.2019, amounts to their acquiescence in respect of the provisions of the said Rule. The attention of the Court has been drawn to the letter dated 10.12.2019 marked 'P6' written by the Club to the SLC requesting participation in the SLC invitation T20 tournament. The Respondents submit that in view of the contents of the said letter 'P6', the Club has admitted the limitations imposed against them because the Club is a non-voting cricket club of SLC. Further, it is pointed out that the Club in the said 'P6' has made a 'kind request' to the SLC to extend an invitation to play in the said T20 tournament instead of launching a protest. In support of these arguments, the Respondents rely upon the judgment of this Court in ***K.G.D. Walter Abeyesundera and Another v Secretary, Ministry of Tourism and Others, CA/WRIT/371/2020, decided on 22.09.2021.***

In addition to the above, the Respondents claim that the Petitioners are guilty of laches as they have failed to apply to the Review Court diligently. Although the said Rule 5.1.2 was reactivated in November 2019 the Petitioners have come before this Court almost after one year and four months. The Petition of the Petitioners has been amended thereafter, in June

2021. It is noteworthy that the Petitioners are not contesting the letter dated 20.12.2019 by which SLC extends the invitation for the Club to participate in the "SLC invitation T20 tournament 2019/2020," provided that the Club agrees to abide by the SLC's rules and regulations.

Another important objection raised by the Respondents is that the Petitioners are not entitled to invoke the writ jurisdiction of this Court concerning the affairs mentioned in the instant Application. The Respondents contend that the relationship between the SLC and the Club is contractual and as such this Court cannot grant the reliefs as prayed for in the prayer of the Petition. It is observed that this Court has constantly decided that the Court of Appeal has the discretionary power to exercise writ jurisdiction even on a question arising out of a contract of employment, inter alia, if the disciplinary order of a public authority was in breach of statutory restrictions/ provisions. The question here is whether the relief sought by the Petitioner can be granted on the basis that the impugned decisions were made exceeding the power or without proper authority. In a similar vein, it is imperative to examine whether the impugned decisions impede the due implementation of the provisions of Sports Law No. 25 of 1973.

The SLC is registered as a National Association of Sports in respect of the game of cricket to meet the regulatory requirements set out in the said Sports Law No.25 of 1973. In view of the relevant Articles of the Constitution of the Republic of Sri Lanka, the Auditor-General may audit the accounts of the SLC but, that solely does not give rise to a clear statutory flavour that would allow one to invoke writ jurisdiction against the SLC. I take the view that the question of whether one could invoke the writ jurisdiction against a body corporate such as the SLC should be determined based on facts and circumstances of each case. One cannot consider only the statutory flavour in the decision-making process of such an entity to be the exclusive need for invoking writ jurisdiction. In addition to the element of statutory flavour it is important to consider whether this court should be able to exercise its writ jurisdiction in respect of such corporate body to the extent necessary to ensure giving due effect to the relevant provisions of any statute passed by Parliament.

In light of the above, I am not convinced that the Petitioners are entitled to invoke the writ jurisdiction of this Court quashing 'P5(a)', 'P9(A)' and 'P9(B)' because neither the purported

decisions in those documents nor the corresponding decision-making process meet any of the previously stated requirements to invoke the writ jurisdiction of this Court. Anyhow, what would be the consequence if this Court proceeded to quash the main impugned letter marked 'P5(a)'? To my mind, a mere annulment of 'P5(a)' would not prevent SLC from passing another resolution at a special general meeting to amend or suspend again the said Rule 5.2.1. It is paramount that the decision taken at the special general meeting of the Membership of the SLC (as stipulated in 'P9(A)') will remain unchanged even if this Court decides to quash 'P5(a)' which is a mere Notice to membership of SLC and Cricket playing non-member clubs. In such a scenario I am reluctant to exercise the writ jurisdiction of this Court in respect of the reliefs sought by the Petitioners.

However, for completeness, I am inclined to accept the submissions made on behalf of the Respondents that the Petitioner's conduct especially through 'P6' and also not challenging 'P7', amounts to acquiescence concerning the provisions of Rule 5.1.2. Moreover, I cannot possibly overlook the delay in challenging the impugned decisions by the Petitioners and I have reached this finding considering the overall circumstances of this case. The only other effective relief sought by the Petitioner is for a writ of Prohibition preventing the Respondents from holding any further SLC Major Tournaments in the Tier 'B' category without the participation of the Petitioners Club. In light of the reasons given above, I hold that the Petitioners are not entitled to even a writ of Prohibition as prayed for in the prayer of the Petition. In the circumstances, I proceed to dismiss the instant Application of the Petitioners.

*Application is dismissed.*

**Judge of the Court of Appeal**

**Dhammika Ganepola J.**

I agree.

**Judge of the Court of Appeal**