

**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, Prohibition and Mandamus under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Thillaiampalavanar Vimalan,
Maalikai Lane,
Puttur West,
Puttur.

CA (Writ) App. No. 778/2025

PETITIONER

Vs.

1. University Grants Commission,
No. 20, Ward Place,
Colombo 07.
2. Kapila Seneviratne,
The Chairman,
University Grants Commission,
No. 20, Ward Place,
Colombo 07.
3. Professor K.L. Wasantha Kumara,
Vice Chairman,
University Grants Commission,
No. 20, Ward Place,
Colombo 07.

4. Secretary,
University Grants Commission,
No. 20, Ward Place,
Colombo 07.
5. Pro. Sivakolundu Srisatkunarajah,
Vice Chancellor,
University of Jaffna,
No. 57,
Ramanathan Road,
Thiruneveli, Jaffna.
6. Registrar,
University of Jaffna,
No. 57,
Ramanathan Road,
Thiruneveli, Jaffna.
7. Prof. A.S. Chandrabose,
Council Member.
8. Rasiah Pathmanathan,
Council Member.
9. Suseenthirarajah Vinothini,
Council Member.
10. Eng. A. Subakaran,
Council Member.
11. Dr. N. Saravanabhava,
Council Member.
12. Shreen Abdul Saroor,
Council Member.
13. Dr. M. Alfred,
Council Member.

14. Eng. Alageswaran Gunalathas,
Council Member.
15. N. Selvakkumaran,
Council Member.
16. Vanaja Selvaratnam,
Council Member.
17. D.K.P.U. Gunathilaka,
Council Member.
18. M.J.R. Purviraj,
Council Member.
19. Prof. C. Sivayoganathan,
Council Member.
20. P.A. Sarachchandra,
Council Member.
21. Kanapathippillai Pirabakaran,
Council Member.
22. Kanapathippillai Mahesan,
Council Member.

The 7th to 22nd Respondents are all members of the Council of the University of Jaffna, and all c/o., University of Jaffna, No. 57, Ramanathan Road, Thiruneveli, Jaffna.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Nilshantha Sirimanne with Deshura Goonetilleke instructed by Amila Kumara for the Petitioner.

Jemiah Saroujah, S.C. for the Respondents.

Argued on: 06.11.2025

Delivered on: 19.12.2025

Dr. D. F. H. Gunawardhana, J.

Judgement

Introduction

The Petitioner, having obtained a Bachelor's Degree from the University of Jaffna, subsequently obtained two Master's Degrees from the Maduraj Kamaraj University in India. Thereafter, he was employed as a Director of the Land Reforms Commission.

In response to an advertisement calling for applications for a post as a member of the Jaffna University Council, the Petitioner applied, and was selected, and was appointed to the said position in the year 2020 for a period of three years. Upon completion of his first term, he was re-appointed for a second term commencing in January 2023 and continuing until 2026 for a further period of three years.

However, by letter marked as P9 annexed to the Petition, the University Grants Commission requested the Petitioner to resign from the position as a Member of the Council of the University

of Jaffna. The Petitioner did not comply with the said request immediately and instead sought reasons. Thereafter, the Petitioner was removed from the post of Member of the Council and was duly informed of such removal.

By this Application, the Petitioner now challenges the said decision.

After issuing formal notice, the Respondents filed their respective Objections, and thereafter the main arguments were advanced before me on the 06.11.2025. Hence, this judgement.

Arguments

The first contention of Mr. Sirimanne, for and on behalf of the Petitioner, is that the removal of the Petitioner by P12 is illegal, *ultra vires* and arbitrary on the basis that it is a policy decision, and the said policy decision is reflected in P11. However, he further argues that P11 does not state the consequences of refusal to resign.

The next contention of Mr. Sirimanne is that Section 48 of the Universities Act, No. 16 of 1978 (as amended) (hereinafter referred to as the “Universities Act”) is violated since removal before the expiry of the term for which the Petitioner was appointed had not yet passed.

In addition to that, he argues that without any hearing, the decision was taken to remove the Petitioner and thus, taking an *ex parte* order is a violation of natural justice.

He further argued that the National policy is not contained in R4; it is only a part of an extension of an election manifesto, as stated in paragraph 11(2) of the Objections; no government can have a national policy against an Act which is already in existence. Therefore, it is an unusual act on the basis of national policy.

On the other hand, Ms. Saroujah for the Respondents contended that when the appointment is made, the very same appointing authority has the power to remove such appointed person since the appointment also entails the power of removal as per Section 14 of the Interpretation Act. Therefore, there is no requirement to provide any reasoning for such removal, as such removal can be done at any time.

In addition to that, Ms. Saroujah argued that Section 44(3) of the Universities Act itself contemplates occasions where a Council Member can lose his post through a Vacant of Post or removal of his post. Therefore, such removal cannot be challenged in any court of law. She argues that the Petitioner was so removed in implementing national policy.

Factual matrix

The Petitioner has obtained his first Bachelor's degree from the University of Jaffna in Geography; thereafter, he has secured two Master's degrees, one in Sociology and the other in Public Administration, from the Kamaraj University of Tamil Nadu; in addition to that, he has also secured a Bachelor of Laws (LLB) degree from the University of New Hampshire. The Petitioner is presently employed as the Director of the Land Reforms Commission of the Northern Province.

In 2020, the Petitioner responded to an advertisement for a post of a Council Member of the University of Jaffna, and the University Grants Commission (UGC) appointed him as a member thereof, with effect from January 2020 for a period of three years. After his first term of three years, the Petitioner has re-applied to be appointed as a member of the same council, and the same has been accorded in 2023, for another three years.

Subsequently, under the new Government, when the new UGC was appointed, the 2nd Respondent, who is the new Chairman of the UGC, has requested the Petitioner to tender his resignation within

two weeks, by letter dated 07.02.2025 marked as **P9**. Since there was no response from the Petitioner, the UGC and its members have gone on to remove the Petitioner from the said post of a member of the Council of the University, and have re-appointed all the members and published the same in a newspaper, which the Petitioner came to know sometime later. However, in response to the letter dated 07.02.2025, which the Petitioner has marked as **P9** annexed to the Petition, the Petitioner has sent a letter through his Attorney-at-Law refusing to submit his resignation.

Thereafter, by another letter marked as **P12** annexed to the Petition, the 2nd Respondent has informed the Petitioner that since there was no response to the said letter **P9**, the UGC had decided to remove the Petitioner from the said post, and thereupon had appointed new members to the said Council. **P12** further states that the said decision to remove the Petitioner, along with other Council Members, was taken as a policy decision by the UGC. Consequently, the Petitioner, having protested his removal, has instituted the above-styled Application in this Court challenging the said removal.

The Petitioner first assails that the letter marked as **P9** by which the 2nd Respondent has requested the Petitioner to offer his resignation as the UGC had decided to implement the policy decision of the Government. However, when there was no response from the Petitioner in that regard, the UGC decided to remove and inform him accordingly by **P12**. Therefore, the Petitioner also challenges the letter marked as **P12** by which the UGC's decision to remove the Petitioner had been conveyed to him.

According to the Petitioner, the said decision to remove him is irrational, illegal, and arbitrary. Illegality is based on the fact that it is violative of Section 44 of the Universities Act, as the Petitioner had been appointed for a term of three years; removal before the expiry of three years without any reason is illegal. In addition to that, before his removal, the Petitioner had not been

accorded any opportunity to present his case or asked for any explanation as to why he should not be removed. Therefore, according to the Petitioner, such arbitrary removal is a violation of natural justice and thus, capricious.

On the other hand, it is the argument of the learned State Counsel, Ms. Saroujah, that the UGC has done so, in implementing a policy decision.

Under those lines, I will now consider whether the Petitioner can obtain his relief as prayed for in the Petition.

National policy

For that purpose, I will now first consider the argument based on national policy since it is also the same argument advanced before me in a connected matter in the Application bearing number CA (Writ) Application No. 655/2025. Suffice is to say that no pledges contained in an election manifesto can be adopted as National policy without any consultation, consensus, and compromise with the other political parties on national basis and national representation in a democracy where multi-party representation is in existence or is expected to be in existence, unless it is a single-party Government where no Rule of Law is in existence and only ‘rule by law’ prevails. Therefore, as I have mentioned in the said connected judgement of mine, what is pledged in the election manifesto cannot be adopted as national policy; thus, the argument based on national policy has to crash land.

Now I will consider the next question that arose based on the argument that the appointing authority has the authority to remove appointed personnel as well.

No absolute authority

Ms. Saroujah argued that since the same appointing authority has the authority to appoint, likewise has the same authority to remove. Now I will consider this.

Though the appointing authority has been empowered to appoint a suitable person or persons as the case maybe, such an authority cannot take decisions to remove such appointments without any reason. In fact, before removal, there should be an inquiry and such a person should call evidence for his defence, or represent anything for his defence, he should be heard; thereby, following the rules of natural justice. Therefore, such appointing authority should follow at least the principles laid down by Lord Atkin in the case of *R v. Electricity Commissioner ex p London Electricity Joint Committee Co* [1920]¹, which reads thus;

“Wherever any body of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority, they are subject to the controlling jurisdiction of the King's Bench Division exercised in these writs.”

Canonical though these words are, they require much interpretation. Although, in one respect, they overstate the true position, in almost every other respect they understate it as the scope of the remedies is, in reality, substantially wider. For instance, the requirement of legal authority is no longer invariable since extra-legal bodies are now, some-times, subject to the remedies. Nor, for the same reason, are the remedies concerned only with the rights of subjects in the sense of legal rights. Nor are they limited to subject since aliens lawfully within the realm in time of peace have the same civil rights as British citizens.

¹ [1920] 1 KB 171.

Finally, the power does not need to be exercised by a 'body of persons' in the plural as the principle applies equally to an individual minister or official.”²

In addition to that, I wish to state that the so-called national policy on which the Respondents relied upon to remove the Petitioner from the post of a member of the Council, is a part of the election manifesto of National People’s Power (NPP or Jathika Jana Balawegaya). However, such NPP Election Manifesto is not reflected in the Universities Act. Therefore, without amending the said Act, the NPP’s policy as national policy cannot be adopted and followed by the UGC, who are members appointed under the very same statute. Therefore, they are under a statutory duty to follow provisions of the said Universities Act. Therefore, the intention of the Parliament is not reflected in their decision to remove the Petitioner, which is prophecies by Wade (2023) in his book “Administrative Law” as follows;

*“For more than three centuries it has been accepted that discretionary power conferred upon public authorities **is not absolute**, even within its apparent boundaries, but is subject to general legal limitations. These limitations are expressed in a variety of different ways, as by saying that discretion must be exercised reasonably and in good faith, that relevant considerations only must be taken into account, that there must be no malversation of any kind, or that the decision must not be arbitrary or capricious. They can all be comprised by saying that discretion must be exercised in the manner intended by the empowering Act.*

As Griffiths LJ has said:

‘In attempting to discover the intention to be imputed to Parliament, the court must sometimes pick its way between conflicting presumptions. On the one hand, where

² H. W. R. Wade and C.F. Forsyth, *Administrative Law* (12th Edition, Oxford University Press 2023), Chapter 16 “Prerogative Remedies”, Pages 486–487.

Parliament confers power upon some minister or other authority to be used in discretion, it is obvious that the discretion ought to be that of the designated authority and not that of the court. Whether the discretion is exercised prudently or imprudently, the authority's word is to be law and the remedy is to be political only. On the other hand, Parliament cannot be supposed to have intended that the power should be open to serious abuse. It must have assumed that the designated authority would act properly and responsibly, with a view to doing what was best in the public interest and most consistent with the policy of the statute. ”³

In addition, I wish to rely on Lord Diplock's judgement in the case of *C.C.S.U. v. Minister for Civil Service* (GCHQ case) [1985]⁴.

Therefore, I hold the decision to remove the petitioner on the basis of implementing national duty is illegal since it violates the very Act by which the petitioner was appointed. Secondly, it is irrational since no national policy is manifested in an election manifesto, unless it is adopted by the Parliament in the form of an act in repealing the University Act.

Thirdly, it violates rules of natural justice, since Petitioner before removal was not heard in an inquiry. Therefore, *ex parte* removal of the Petitioner is a complete violation of natural justice.

Conclusion

For the reasons adumbrated above, *Writ of Certiorari* is issued as prayed for in (b), (c), and (g) of the Petition, to quash the decisions contained in P9 and P12, as well as a *Writ of Mandamus*,

³ H. W. R. Wade and C.F. Forsyth, *Administrative Law* (12th Edition, Oxford University Press 2023), Chapter 11 “Abuse of Discretion”, Page 296.

⁴ *Council of Civil Service Unions and Others v. Minister for the Civil Service* [1985] 1 A.C. 374

compelling the Respondents to allow the Petitioner to function as a Member of the Council until the expiry of his period of tenure, as prayed for in *(f)* and *(h)* of the Petition.

In addition to that, I venture to order Rs. 10,500/- (Ten Thousand Five Hundred Rupees) as the cost of litigation, payable by the Respondents to the Petitioner.

JUDGE OF THE COURT OF APPEAL