

**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.*

1. H. J. A. W. International (Pvt) Ltd,
HQ Colombo, 1st Floor,
464A, T. B. Jaya Mawatha,
Colombo 10.
2. Lanka Realty Investments Plc,
HQ Colombo, 1st Floor,
464A, T. B. Jaya Mawatha,
Colombo 10.
3. Dutch Bay Holdings (Pvt) Ltd,
HQ Colombo, 1st Floor,
464A, T. B. Jaya Mawatha,
Colombo 10.

CA (Writ) App. No. 127/2024

PETITIONERS

Vs.

1. Hon. Nalaka Jude Harin Fernando,
Minister of Tourism and Land,
Ministry of Tourism and Lands,

‘Mihikatha Medura’,
No. 1200/6,
Rajamalwatta Lane,
Battarmulla.

- 1A.Hon. K. D. Lal Kantha M.P.
Minister of Agriculture, Livestock, Land
and Irrigation,
No. 80/5, “Govijana Mandiraya”,
Rajamalwatta Lane,
Battarmulla.
2. T. Akilan,
Divisional Secretary,
Divisional Secretariate,
Poonakari,
Kilinochchi.
3. K. H. D. K. Samarakoon,
The Secretary,
State Ministry of Solar, Wind and Hydro
Power Generation Projects
Development,
No. 437, Galle Road,
Colombo 03.
- 3A.Prof. K. T. M. Udayanga Hemapala,
Ministry of Energy,
No. 80, Sir Ernest De Silva Mawatha,
Colombo 07.
4. M. P. D. U. K. Mapa Pathirana,
Secretary to the Ministry of Power and
Energy,
No. 437, Galle Road,
Colombo 03.
- 4A.Prof. K. T. M. Udayanga Hemapala
Ministry of Energy,
No. 80, Sir Ernest De Silva Mawatha,
Colombo 07.

5. K. L. R. C. Wijayasinghe,
Inquiry Officer,
Ministry of Power and Energy,
No. 437, Galle Road,
Colombo 03.
6. Sri Lanka Sustainable Energy
Authority,
No. 72, Ananda Coomaraswamy
Mawatha,
Colombo 07.
7. V. Mythereye,
Government Surveyor,
Divisional Survey Office,
Poonakari.
8. A. Atheethan,
Government Surveyor,
Divisional Survey Office,
Poonakari.

RESPONDENTS

Before: S. U. B. Karalliyadde, J

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

Counsel:

Navin Marapana, P.C. with Kaushalya Molligoda and Ruwantha Cooray instructed S.
Nilakandan for the Petitioner.

Manoharan Jayasinghe, Deputy Solicitor General, for the Respondents.

Argued on: 02.09.2025

Delivered on: 14.10.2025

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

Judgement

Introduction

The 1st Petitioner is a company incorporated under the Companies Act No. 7 of 2007, and it owns a land in extent of 48 Acres 3 Roods and 15.14 Perches situated in Poonakari area under Deed bearing No. 23, marked as **P2** annexed to the Petition. The 3rd Petitioner is also a company incorporated under the Companies Act No. 7 of 2007, and it also owns two lands collectively in extent of 41 Acres 2 Roods and 23 Perches, by virtue of the two Deeds bearing No. 21 and No. 22 dated 28th February 2013 and attested by S. Neelakandan.

The 1st, 2nd and 3rd Petitioners, all being incorporated bodies under the Companies Act, are capable of suing and being sued in its corporate being. There had been an agreement between the Petitioners that the 2nd Petitioner, in collaboration with a third party, would lease the three properties belonging to the Petitioners situated in Poonakari area, for a wind turbine project, where wind turbines would be installed with the infrastructure related thereto, at the cost of USD 75,000,000/- (Seventy-Five Million). Out of that total cost, USD 15,000,000 (Fifteen Million) was to be raised in equity while the remainder was to be raised by the Bank. The said wind powerplant would be operated and connected to the Poonakari substation.

The 1st Respondent is the minister in-charge of the land. The 2nd Respondent is the Divisional Secretary of the Poonakari area where the three lands proposed to be acquired by the Government are situated. The 3rd Respondent is the Secretary of the State Ministry of Solar, Wind and Hydro Power Generation Projects Development. The 4th Respondent is the Secretary to the Ministry of Power and Energy. The 5th Respondent is the inquiry officer, and the 6th Respondent is the Sri

Lanka Sustainable Energy Authority, while the 7th and 8th Respondents are the Government Surveyors of the Divisional Survey Office of Poonakari.

The 2nd Petitioner and Sires Management (Pvt) Ltd. (herein after referred to as “Sires”) have jointly submitted an application to the 6th Respondent which had called for tenders to install wind turbine power projects in Poonakari area. Having accepted the said tender application including the tender fee of Rs. 100,000/- (One Hundred Thousand Rupees), the 6th Respondent has thus far (up to the time of filing this application) never indicated or intimated the 2nd Respondent and Sires. It is also alleged by the Petitioners that the Government has suddenly decided to adopt the project and design by the 2nd Petitioner and Sires to install a windmill project on their own. Pursuant to that, the Government has decided to acquire the same land that the 2nd Petitioner and Sires intended to take on lease from the 1st and 3rd Petitioners.

The Petitioners allege that the said project had been initially designed, proposed to be installed and commissioned by the 2nd Petitioner along with Sires. However, the Government, having decided to install a project of its own, has decided to acquire the same property for a similar project. Therefore, the Petitioners in this application impugn the notices that I referred to above, issued under Section 2 of the Land Acquisition Act, No. 9 of 1950 (as amended) (herein after referred to as the “Land Acquisition Act” or the “LA Act”). Consequently, since the Government has decided to take immediate possession of the lands under Section 38(a) of the LA Act, without going through the proper procedure, the Petitioners seek to impugn such decisions.

In those circumstances, the Petitioners move to seek the following reliefs *inter alia*;

“c) Grant and issue Mandate in the nature of Writs of Certiorari, quashing;

- i. The Section 2 Notice dated 15th March 2023, published under the hand of the 2nd Respondent in all 3 languages [marked above as “P7(I)(a)” “P7(I)(b)”, “P7(I)(c)”, “P7(II)(a)”, “P7(II)(b)”, “P7(II)(c)” and “P7(III)(a)”, “P7(III)(b)” and “P7(III)(c)”];
 - ii. The decision reflected in the Section 2 Notice dated 15th March 2023, published under the hand of the 2nd Respondent in all 3 languages [marked above as “P7(I)(a)” “P7(I)(b)”, “P7(I)(c)”, “P7(II)(a)”, “P7(II)(b)”, “P7(II)(c)” and “P7(III)(a)”, “P7(III)(b)” and “P7(III)(c)”] to acquire the Project Land and/or any parts thereof;
 - iii. The Section 38(a) Orders as published in the gazettes marked above as “P13(I)”, “P13(II)”, “P13(III)”, “P13(IV)” and “P13(VI)”, and
- d) Call for and grant and issue Mandates in the nature of Writs of Certiorari, quashing:
- i. Any other Section 2 Notice/s as may have been published in respect of the Project Land and/or any part or parts thereof; and
 - ii. Any other Section 38(a) Order/s as may have been published in respect of the Project Land and/or any part or parts thereof;
 - iii. Any decision made to publish any such other Section 2 Notice and/or Section 38(a) Order in respect of the Project Land and/or any part or parts thereof;
- e) Grant and issue Mandates in the nature of Writs of Certiorari, quashing all consequential steps taken by the 1st to 8th Respondents and/or any one or more of them and/or any of their servants and/or agents in pursuance of the said Section 2 Notices [marked above as “P7(I)(a)” “P7(I)(b)”, “P7(I)(c)”, “P7(II)(a)”, “P7(II)(b)”, “P7(II)(c)” and “P7(III)(a)”, “P7(III)(b)” and “P7(III)(c)”] and/or the said Section 38(a) Orders [marked above as “P13(I)”, “P13(II)”, “P13(III)”, “P13(IV)” and “P13(VI)”] and/or the decisions therein reflected, and/or any other Section 2 Notice and/or any other Section 38(a) Order reflected, and/or any part or parts thereof, pending the hearing and final determination of this Application.

*f) Grant and issue a Mandate in the nature of a Writ of Mandamus, directing the 1st to 6th Respondents ad/or anyone or more of them to conclude the tender process commenced by the publication inviting proposals 'to generate and supply electrical energy from renewable energy resources on Build Own and Operate basis (BOO)' by Gazette dated 24th September 2021 bearing No. 2246/24 [marked above as "**P4**"] and to conclude evaluating the proposals received by the Petitioner as well as any other bidders who has submitted proposals in respect of the said tender according to Law;*

*g) Grant and issue a Mandate in the nature of a Writ of Prohibition, preventing 1st to 8th Respondents and/or any one or more of them from taking any step to acquire the Project Land and/or any part or parts thereof for the purpose of setting up a wind power plant/s and/or for the purpose as depicted in the impugned Section 2 Notices [marked above as "**P7(I)(a)**" "**P7(I)(b)**", "**P7(I)(c)**", "**P7(II)(a)**", "**P7(II)(b)**", "**P7(II)(c)**" and "**P7(III)(a)**", "**P7(III)(b)**" and "**P7(III)(c)**"] and/or any other Section 2 Notice/s pertaining to the Project Land and/or any part or parts thereof] and/or the said Section 38(a) Order/s [as published in the gazettes marked above as "**P13(I)**", "**P13(II)**", "**P13(III)**", "**P13(IV)**" and "**P13(VI)**" and/or any other Section 38(a) Orders pertaining to the Project Land and/or any part or parts thereof], and/or for any purpose substantially similar to the project as depicted in the proposals submitted by the Petitioners to the 3rd Respondent above name;"*

On support for notice, the Court issued formal notices on the Respondents. After issuing formal notice, the Respondents have filed their collective Statement of Objections; one of them was that without making Sires a party to this Application, the Petitioners cannot make and maintain this Application. In addition to that, the said possession of the lands proposed to be acquired for the purpose of having a mega project, is for the benefit of the public, and therefore, this Application should be dismissed.

This was argued before us on 02.09.2025 and the following arguments were advanced; hence, this judgement.

Arguments

Mr. Marapana contended that a land can only be acquired for a public purpose which is divergent to the purpose which is already utilised by the owner. If the owner also continues or prepares to use the same land for a similar purpose, unless the Government is to regulate the manner in which it is used, the Government should not acquire the land.

The second contention is that the 2nd Petitioner in collaboration with a company called Sires, which is an expert company in the area of renewable energy generation, having studied the feasibility of producing renewable electricity by means of wind power, prepared a project plan with a design and also the formula submitted to the Ministry of Energy, since they had called for tenders with the relevant tender fee of Rs. 100,000 (One Hundred Thousand). However, even without intimating whether the tender submitted by the said company Sires was accepted or rejected, after shortlisting the same, has decided to suddenly acquire the Petitioner's land to initiate a renewable energy generation project based on wind power which is very similar to that of the project and design submitted by Sires in collaboration with the 2nd Petitioner. Therefore, *mala fide* is attributed, and the said acquisition is capricious.

However, on the other hand, Mr. Jayasinghe argued that without making Sires a party in this Application, the Petitioners cannot make this Application, because Sires always remains as a ghost as far as this Application is considered. However, on questioning, having considered that Sires had made a tender and no intimation was given by the Government into either accepting or rejecting the same, even without intimating to Sires whether it should make a proper application, the Renewable Energy Authority under Section 16 of the Sri Lanka Sustainable Energy Authority Act,

No. 35 of 2007 was considered. Nevertheless, in this case, he argued that Sires should have been made a party.

The next argument is that Sires has not made an application under Section 16 of the Sri Lanka Sustainable Energy Authority Act. Therefore, even assuming that Sires and the two Petitioners were to engage in the said business of renewable energy in collaboration, there is no application under Section 16 of the Sri Lanka Sustainable Energy Authority Act by Sires to be considered.

The final argument is that without acquiring the parcel of land which is comparatively less in extent along with the other parcels of land which is to be utilised by the Government for the purpose of building of infrastructure, a larger project like a windmill project to generate renewable energy cannot be carried out by a holder or owner of a land which is smaller in extent. Therefore, it is always feasible and justifiable for the Government to acquire and utilise such parcel of land, along with other parcels of land in larger extent for the benefit of the general public.

However, in reply, nowhere is it mentioned or decided what type of project that the Government has proposed to carry out for the purpose of acquisition or after acquisition. Therefore, it is premature for the Government to acquire the land without deciding upon the project and the extent of its enormity.

Steps by the Respondents challenged

It is alleged that the 2nd Respondent has issued notice under Section 2 of the LA Act, declaring that the lands owned by the 1st and 3rd Petitioners are required for a public purpose of installing a wind power project and its related infrastructure. Thereafter, the same notice was immediately followed by the immediate possession in terms of Section 38(a) of the Land Acquisition Act. The relevant notices issued under Section 2 of the LA Act is marked as **P7(I)(a) to (c)** and **P7(II)(a)**

to (c) and **P7(III)(a) to (c)**. The order gazetted for taking of immediate possession of the land under Section 38 is also annexed to the Petition as **P13(I) to (VI)**.

Therefore, the Petitioners, as I have mentioned above, have challenged the notices issued under Section 2 of the LA Act and the decision published in the Gazette in terms of Section 38(a) of the same Act on the basis of *mala fide*¹. If the notice published under Section 2 of the LA Act is *mala fide*, then always a *Writ of Certiorari* lies². In addition to that, a decision taken under Section 38(a) of the Act to take immediate possession of a land can also be challenged in court, and *Writ of Certiorari*, *Mandamus* and *Prohibition* lie in such cases³.

Now, I will see whether the Petitioners have a right to challenge those notices and the decision to immediately take over the parcels of land.

For this purpose, I will have to narrate in detail certain facts with reference to certain dates in chronological order, to understand the exact complaint and problems which has already been outlined in the introductory part of this judgement.

It is an undisputed fact that the 1st Petitioner became the owner of the parcel of land in extent of 48 Acres 3 Roods and 15.14 Perches, and the 3rd Petitioner became the owner of the parcels of land collectively in extent of 41 Acres 3 Roods and 23 Perches. It is also an undisputed fact that these parcels of land are situated in the Poonakari area, close to the seashore, which is now identified as a potential area for tourism as well as windmill projects. It is also common ground that by Gazette bearing No.2246/24 dated 24th September 2021, marked as **P4** annexed to the

¹ *Mallika Ratwatte v. Minister of Lands* [1996] 72 NLR 60

² *Manel Fernando and Another v. D.M. Jayaratne, Minister of Agriculture and Lands and Others* [2000] 1 SLR 112

³ *Marie Indira Fernandopulle and Another v. E.L. Senanayake, Minister of Lands and Agriculture* [1978] NLR Vol. 79; *Mahinda Katugaha v. Minister of Lands and Land Development and Others* [2008] 1 SLR 285

Petition, the 3rd Respondent had called for proposals for wind turbine projects to supply electricity as renewable energy resources. With respect to the said invitation, the Petitioners have submitted a report intimating their interests to establish a wind turbine project with the related infrastructure within the lands that collectively is in extent about 90 Acres. According to the said report, the 2nd Petitioner in collaboration with Sires, have proposed to set-up a joint venture, and also proposed to secure the land belonging to the 1st and 3rd Petitioners. They have also proposed to find their own funds in addition to the funds raised by the banks as loans.

However, the 3rd Respondent has so far not responded to the said proposal submitted by the Petitioners; the Petitioners allege that it is in limbo. In the meantime, the Section 2 notices were published to acquire the three parcels of land that the Petitioners have already proposed to utilise for the purpose of their windmill project to supply electricity to the Government as a renewable energy source. The Section 2 notices issued by the 1st Respondent, marked as **P7(I)(a) to (c)**, **P7(II)(a) to (c)**, and **P7(III)(a) to (c)** annexed to the Petition, is to acquire the land for a similar public purpose or to establish a windmill turbine project and necessary infrastructure for such a project in the same area.

Consequently to the said notices, immediately thereafter, without even going through the procedure laid down by Section 4 or 5, the Respondents have decided to take over the possession of the parcels of land concerned, for the proposed public purpose of establishing a wind turbine project, proposed to be set-up by the Government. Hence, the Petitioners challenged the decision to take immediate possession of the three parcels of land and the publication of the notices under Section 38(a) of the LA Act, marked as **P13(I) to (VI)** annexed to the Petition.

The Petitioners' complaint is of two-fold: One is that the issuance of the notices under Section 2 of the LA Act is irrational, capricious, and against all norms, particularly since the land is going

to be used for the same purpose that the Petitioners have proposed, without any divergent public purpose. As such, the said notices are challenged.

In addition to that, the taking of the immediate possession of the parcels of land without going through the proper procedure for objections and identifying the land are also challenged by the Petitioners. As such, the Petitioners have sought a *Writ of Certiorari* to quash the decision to acquire the land and its immediate possession, as well as a *Writ of Prohibition* preventing the Respondents from utilising the same.

However, on the other hand, it is the argument of the Respondents, that the Government has decided to establish a mega wind turbine power generation project in the Poonakari area, since wind is a freely available renewable source of power generation in that area. For such a mega-project, the Government had decided to acquire these three parcels of land to be utilised along with other lands belonging to the Government.

Rights of the Petitioners

In those circumstances, I will now consider whether the Petitioners have any rights to challenge these actions of the Respondents, and on the other hand, whether the Government's action to acquire the said lands is irrational, capricious, illegal, or violative of the norms that the Petitioners have complained about.

The Petitioners' argument on the rights violated by the Respondents by the issuance of notices under Section 2, in addition to the decision to take over the immediate possession of the three parcels of land is based on their proprietary rights and economic rights. It must also be remembered that the whole gamut of laws which can be categorised as 'civil' side of the law, is based either on the proprietary rights of the people or how they derive such proprietary rights.

Sri Lanka commenced its constitutional Government from 1831. Thereafter, there are so many laws enacted recognising the private ownership of the property; even the Land Acquisition Act has recognised that by stating that acquisition is done because there is private ownership.

However, the right to property is not recognised as a fundamental right in the Fundamental Rights Chapter; but when you consider it as a whole, the people's right to property is also indirectly recognised by the Constitution itself. Therefore, if somebody is to be deprived of his proprietary rights, there should be a proper process; if the process is not conducive to the relevant laws in force at the relevant time, it can be challenged at some stage.

Right to the property at peril

This is a case where the proprietary rights of the Petitioners are in jeopardy by an administrative act of the Government officers in implementing certain laws in the name of public interest. The Respondents, as authorities, have been empowered and equipped with those powers through statutes. Accordingly, they must act within the framework of those statutes; if they fail to do so, it is the duty of the Court to curtail or restrict their activities by imposing various restrictions. In this case, the Petitioners have sought a *Writ of Certiorari* and *Prohibition* to control the powers conferred on the Respondents that they attempt to exercise as 'unbridled' power.

As mentioned above, the 4th Respondent as an authority, has called for bids for proposals from private individuals or firms to setup wind turbine projects in the Poonakari area as wind is a freely available renewable energy source, and this area is not so populous. Additionally, just after the cessation of hostilities between the belligerent parties during the ethnic conflict that prevailed in Sri Lanka for about three decades, the so-called 'economic developments' has so far not invaded the unutilised economic sources available in the Poonakari area. Thus, in those circumstances, the Government has invited the public to forward proposals. Responding to the said invitation, the 2nd

Petitioner along with the third party, Sires, have proposed to develop and install the wind turbine electricity generation powerplant in the three parcels of land belonging to the 1st and 3rd Petitioners, which they have agreed to allow them to utilise as part of the proposal. The 2nd Petitioner and Sires have further proposed that they will find the capital for the entire project on their own (as equity), apart from the loans raised by the bank. Accordingly, they have proposed a 50-megawatt wind turbine project to be installed within the three parcels of land. The said proposals have been accepted by the 4th Respondent; however, no official intimation of acceptance or rejection has been received so far. They have also paid a fee of Rs. 100,000 (One Hundred Thousand Rupees) which was also accepted by the 4th Respondent.

The lackadaisical way that the 4th Respondent treated the application of the 2nd Petitioner and Sires should be condemned.

Unethical and *mala fide* conduct of the Respondent

Therefore, in those circumstances, it is highly unethical for the very same Government to adopt the same design and proposal, without officially rejecting the proposal of the 2nd Petitioner and Sires, within the same parcels of land belonging to the 1st and 3rd Petitioners, after the acquisition of the same.

Therefore, those acts collectively show the *mala fide* of the Government officers, and therefore, the arguments advanced by Mr. Marapana on the basis that the Government has taken over the land not for a divergent purpose but for the same purpose as initially intended by the 2nd Petitioner and Sires, is valid. This is not a question of whether installing such a project for a public purpose, even if the 2nd Petitioner and Sires, in collaboration with the 1st and 3rd Petitioners, utilise the land for such project, as they will both meet the same requirement that the Government has proposed. Therefore, taking over the land for the same or similar purpose and not for a divergent purpose,

shows that the acquisition is *mala fide*. Here, the Government has decided to acquire the land only for the purpose of changing the entrepreneurship, from private to public, for which, the Government has to spend taxpayers' money through the Treasury as well as to pay compensation for the acquired land to the 1st and 3rd Petitioners; therefore, the money comes from the general public. This will contribute to further pilfering of government resources that the Government has already deprived and discouraging private entrepreneurs who are willing to spend their own resources (all four factors of production including land, labour, capital, and entrepreneurship) for the benefit of the public.

Respondent's action is against economic rights of the Petitioners

If the Government is trying to make a profit by depriving a private individual or private entrepreneur by acquiring this land, it further discouraging the economic rights of the Petitioners, which further establishes the *mala fide* of the decision to acquire the land by way of Section 2 notices; unless of course the Respondents can show that the Government will generate more income than the Petitioners, which will in turn benefit the public more. However, in this case, they have failed to do so.

Further loss to the Government

Further, it is my view that such decision to acquire the land is irrational and capricious, and taking over the land on the premise of immediate possession further undermines the economic and proprietary rights of the Petitioners in particular, and the public at large.

The rationale behind this theory is that the state should not enter the domain of private enterprise or private business, when the private individuals and companies are already present. The opportunities that the private enterprises have in such a domain should not be economically deprived by taking over or by acquisition of the economic factors that the private entrepreneurship

utilise to generate income for themselves as well as the general public. If the Government is trying to deprive such private ownership or private enterprises of such opportunities that will also deprive them of earning their income, and also directly or indirectly, the Government will lose future taxes that could be imposed on the income generated by such private businesses.

Therefore, the general public is losing in two ways; one is when the taxpayers' money is spent on unnecessary public enterprises that the Government should refrain from entering, since the private enterprises have already entered. Secondly, the Government can always impose a tax on the income generated by the private enterprises by utilising the four economic factors to generate income for them as well as for the benefit of the public.

Thus, if the Government does not engage or refrains from engaging in the enterprises that should be left for the private sector ownership, the Government allows private ownership to have their own economic rights, and also indirectly benefit the general public.

I will now reproduce Justice Andrew Somawansa's dicta in the case of *Mahinda Katugaha v. Minister of Lands and Land Development and Others* in similar circumstances;

"It is my considered view that before the 5th respondent leased the appellant's lands to the 4th respondent for a purported private hospital and resort project which is a profit making venture of a commercial nature the 5th respondent should have offered the appellant's land to the appellant himself to develop the land for the public purpose, for development of public utilities. In fact the appellant had submitted an affidavit with his counter objections in the Court of Appeal wherein he and several persons who claimed to be owners of the land acquired and leased to the 4th respondent had stated that they can develop the land for a public purpose and that they have the money to do so. Though counsel for the 4th respondent contends that this proposal is unacceptable on the face of it as no mention is

made of what the project is or how the financing is to be had, it appears to me that it would have been just and fair if the appellant was given the opportunity to place before the 5th respondent the proposal for development of public utility before leasing out the appellant's land to a profit-making private venture of a commercial nature.”

Sri Lanka still follows the previous Indian model in acquisition matters that is based on anachronistic socialist ideologies. Such acquisition includes land and private business entities. However, renowned Indian economists Jagdish Bhagwati has experimented on the Indian model from 1960 to 2000s⁴; and it his view that when the Indian economy, not only collapsed, but also, went down into the abyss, due to the devastating effect on the private sector and private ownership perpetuated due to such acquisition: which only was resurrected by the liberal economic policies introduced by Manmohan Singh (later Prime Minister) which brought it to its current standard, ranking third in the global economy⁵.

In those circumstances, it is also my view that the Petitioners are entitled to a *Writ of Mandamus* compelling the 4th Respondent to process the 2nd Petitioner's application, as the application cannot lie in limbo.

⁴ Jagdish N. Bhagwati, “Essays in Development Economics” (Volume 1 “Wealth and Poverty”) (Basil Blackwell Ltd, 1985)

⁵ Jagdish N. Bhagwati, “India in transition: Freeing the economy” (Clarendon Press Oxford, 1993)

Conclusion

For the reasons adumbrated above, it is my view that the Petitioners are entitled to the reliefs as prayed for in prayers (c)(i), (c)(ii), (c)(iii), (d), (e), (f), and (g) in the Petition. In addition to that, I wish to grant Rs. 157,500/- (One Hundred and Fifty-Seven Thousand Five Hundred Rupees) as cost of litigation, payable jointly and severally by the Respondents in this application.

JUDGE OF THE COURT OF APPEAL

S. U. B. Karalliyadde, J.

I agree.

JUDGE OF THE COURT OF APPEAL