

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

*In the matter of an application under and in terms of
Articles 17 and 126 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

1. Kurudu Hewage Miheli Thisakya
No. 143, New Housing Scheme,
Nupe,
Matara.
(Minor)
2. Wedage Imesha Madumali
No. 143, New Housing Scheme,
Nupe,
Matara.

SC/FRA/70/2025

PETITIONERS

Vs.

1. Ms. I.S. Siribaddana
Principal
2. Ms. D.P. Kodithuwakku
Deputy Principal
3. Ms. R.P.L Sandeepani
Secretary of the Interview Board,
(Admissions to Year 1 - 2025)
4. Ms. P.E.Mudalige
5. Mr. P.G.Sumanasiri
6. Ms. Kumudini Abeygunawardena

4th to 6th Above all:
Members of the Interview Board,
(Admissions to Year 1-2025)

1st to 6th Respondents all of Sujatha
Vidyalaya, Rahula Road, Matara

7. Ms. P.B.K. Dissanayake
President of the Appeal Board
(Admissions to Year 1 - 2025),
Deputy Director of Education,
Zonal Education Office – Matara
 8. Ms. P.P.G. Sandamali
Secretary of the Appeal Board,
(Admissions to Year 1- 2025)
Assistant Principal, Sujatha Vidyalaya,
Rahula Road,
Matara.
 9. Mr. A.K. Piyarathna
Deputy Principal,
Mahinda Rajapaksa College,
Matara.
 10. Ms. M.K.J. Prabodhani
School Development Society, Sujatha
Vidyalaya, Rahula Road,
Matara
 11. Ms. Shyamalie Abeykoon
Old Girls' Association, Sujatha Vidyalaya,
Rahula Road,
Matara
- 9th to 11th Above all:
Members of the Appeal Board,
(Admissions to Year 1- 2025)
12. Ms. Himali Weerarathne
The Directress, National Schools,
Ministry of Education,
" Isurupaya",
Battaramulla.
 13. Mr. Nalaka Kaluwewe
The Secretary, Ministry of Education,
"Isurupaya",
Battaramulla.

14. Hon. Attorney General
Attorney General's Department
Colombo 12.

RESPONDENTS

Before: Mahinda Samayawardhena J.

K. Priyantha Fernando J.

Dr. Sobhitha Rajakaruna J.

Counsel: Upul Kumarapeperuma PC. with Shalini Weraratne and Tharindu

Amarakoon for the Petitioner.

Navodi De Zoysa SC. for 1st- 4th, 7th- 9th &12th- 14th Respondents.

Argued on: 01.12.2025

Written Submissions: Petitioner - 10.10.2025

1st- 4th, 7th- 9th &12th- 14th Respondents - 07.10.2025, 08.10.2025

Decided on: 16.01.2026.

Dr. Sobhitha Rajakaruna J.

An application was made on behalf of the child who is the 1st Petitioner for admission to Grade 1 at Sujatha Vidyalaya ('School') in *Matara*, under the category of 'Children of Residents in Close Proximity to the School'. The Petitioners state that they reside well within the feeder area. They claim that their fundamental rights were infringed as the 1st to 13th Respondents irrationally refused to admit the said 1st Petitioner to the School, flouting the basic guidelines of the applicable circular relevant to the admission of children to Grade 1 for the year 2025.

Admission to Government schools during the respective year was governed by Circular No. 25/2024 marked 'P3(i)' issued by the Ministry of Education ('Circular'). Children who apply under the 'close proximity' category are required to provide documents in proof

of their residence as outlined in Clause 7.2.1.1 of the said Circular. The Petitioners contend that the Respondents have unreasonably withheld 16 marks from the 1st Petitioner by erroneously determining that the main document had been vested in the name of the 2nd Petitioner's father-in-law for less than 6 months, relying exclusively on the letter dated 28.06.2024, issued by the National Housing Development Authority ('NHDA') verifying the payment. Notably, the Petitioners received merely 0.8 marks based on the primary and supplementary documents intended to prove their residency.

The document in proof of residence furnished by the Petitioners comprises a receipt from the NHDA dated 24.05.1999, bearing an agreement of sale on its reverse. The respective provisions stipulated in the said Clause 7.2.1.1¹ concerning such primary documents issued in view of property acquired through the Government or Semi-Government institutions, via instalment payments, translate into English as:

“Houses purchased on a payment basis from a government/semi-government institution where the full amount has been received, but the property has not yet been handed over to the owner through the relevant institutions.

(A written confirmation from the relevant institution that the full amount has been paid must be submitted.)”

¹ 7.2.1.1 පදිංචිය තහවුරු කරන ප්‍රධාන ලේඛන

පදිංචිය තහවුරු කරන ප්‍රධාන ලේඛන ලෙස පහත ලේඛන පිළිගැනී:

- සින්නක්කර ඔප්පු
- බ්ලිස්ටිය සහතිකය
- තැගි ඔප්පු
- දීමනා පත්‍ර
- රජයේ ප්‍රාන (හිමිකරු වශයෙන් ඇත්තටම අයදුම්කරු/කළමනා අනුපාත්තිකයකු ලෙස නම් කර තිබිය යුතු අතර, අදාළ බලධාරියා විසින් ඒ බව සනාථ කළ යුතුය.)
- විභාර හා දේවාල ගම් පනත යටතේ බොඳේද කටයුතු කොමසාරිස් ජනරාල් විසින් නිකුත් කරන ලද බදු ඔප්පු හෝ බොඳේද කටයුතු කොමසාරිස් ජනරාල් විසින් සහතික කරන ලද අදාළ විභාරයිධාන් විසින් නිකුත් කරන සහතික
- පත් ඉරු මගින් සනාථ කර ඇති වසර 10කට වැඩි කාලයක් පවතින ප්‍රකාශන ඔප්පු
- රාජ්‍ය/අර්ථ රාජ්‍ය ආයතනයකින් ගෙවීමේ පදනම් මත මිලදි ගෙන, සම්පූර්ණ මුදලම ගෙවා අවසන් කර ඇති නමුත්, මෙතෙක් අදාළ ආයතනය මගින් එහි හිමිකරු වෙත එම දේපල පවරා නොමැති තිබාය (සම්පූර්ණ මුදලම ගෙවා අවසන් කරන ලද බවට අදාළ ආයතනයෙන් ලබාගත් ලිඛිත තහවුරු කිරීමක් ඉදිරිපත් කළ යුතුය.)

(සින්නක්කර ඔප්පු හා තැගි ඔප්පු ප්‍රකාශන ඔප්පුවකින් ලියා ඇත්තාම එම ප්‍රකාශන ඔප්පුව වසර 10ක් හෝ ඊට වැඩි කාලයක් ලියාපදිංචි වී තිබිය යුතුය. එසේ නොමැති නම් ප්‍රකාශන ඔප්පුව ලියාපදිංචි කර ඇති දිනට පෙර වසර 10 කට වැඩි කාලයක් පදිංචිව සිටි බවට ලේඛන මගින් තහවුරු කළ යුතුය.)

I. පදිංචි ස්ථානයේ හිමිකම ඔප්පු කිරීමට ඉදිරිපත් කරනු ලබන ඉහත ලේඛන ඉල්ලුම්කරුගේ/කළමනාගේ නමට ඇත්තාම - ලකුණු 20

II. ඉල්ලුම්කරුගේ/කළමනාගේ මවගේ හෝ පියාගේ නමට හිමිකම ඇත්තාම - ලකුණු 16

Pursuant to the aforementioned Circular, the assignment of marks for such documents to prove residence adheres to the criteria outlined in Clause 7.2.1.² Consequently, marks are granted based on those documents, taking into account the length of time of the pertinent document, demonstrating ownership or residency, has been registered in the applicant's name. Marks are thus allocated in line with the percentages specified in Clause 7.2.1, by evaluating a five-year timeframe ending on 30th June of the submission year, with reference to the date such document was transferred to the name of the applicant seeking admission to Grade 1.

The 'P2' document, which constitutes an agreement of sale, is registered under the name of K.H. Sirisena, the grandfather of the 1st Petitioner. The application to school for admission has been submitted by the father of the 1st Petitioner whilst the mother ('2nd Petitioner') filed the instant Application stating that her husband is overseas.

According to the letter dated 28.06.2024, marked 'P5(ii)', sent by the NHDA to K.H. Sirisena, the complete payment was finalised solely on that date. Anyhow, the Petitioners claim 16 marks (full marks under the relevant category) should be awarded on the basis that the property was in the name of K.H.Sirisena for a period of more than 5 years. In contrast, the Respondents assessed the marks assuming the property was transferred into K.H. Sirisena's possession on 28.06.2024, the purported date of completion of full payment. The Respondents contend that K.H. Sirisena occupied the property in the manner stipulated by the relevant Circular for merely two days prior to submitting the application to the school for admission. As a result, in terms of Clause 7.2.1, only 5% of the overall marks (equivalent to 0.8 marks) were granted, given that the document marked 'P5(ii)' had been in K.H. Sirisena's name for under six months.

² 7.2.1 පදිංචිය තහවුරු කරන ප්‍රධාන හා අතිරේක ලේඛන

පදිංචිය තහවුරු කරන ප්‍රධාන හා අතිරේක ලේඛන අඟාල පූද්ගලයාගේ නමට පැවරී, අයදුම්පත් ඉදිරිපත් කරනු ලබන වර්ෂයේ ජුනි 30 දින සිට ආසන්න පූර්ව වර්ෂ 05 ක කාලය යැලිකිල්ලට ගෙන පහත ප්‍රතිශත අනුව ඊට හිමි ලක්ෂු ලබා දිය යුතුය.

වර්ෂ 05 ක් හෝ ඊට වැඩි	100%
වර්ෂ 05 ට අඩු වර්ෂ 04 දක්වා	80%
වර්ෂ 04 ට අඩු වර්ෂ 03 දක්වා	60%
වර්ෂ 03 ට අඩු වර්ෂ 02 දක්වා	40%
වර්ෂ 02 ට අඩු වර්ෂ 01 දක්වා	20%
වර්ෂ 01 ට අඩු මාස 06 දක්වා	10%
මාස 06 ට අඩු	05%

The Petitioners primarily place reliance on the Judgement in *Paalawa Rankoth Gedara Kenudi Dilandi and Another v. Sandamali Aviruppola, Principal of Visakha Vidyalaya, Colombo and Others* SC/FR/13/2020 SC Minutes 29.09.2022. Vijith K. Malalgoda PC. J. in the said Judgement accorded significant weight to the ‘agreement to purchase’ entered into with the NHDA, notwithstanding the full settlement of all instalment payments. The agreement in the cited case was entered into solely by the father of the child, who sought admission to Grade 1. By contrast, in the instant case, neither the mother nor the father of the child has executed any such agreement with the NHDA. Consequently, I am not inclined to adopt the reasoning set forth in the said judgement in determining this Case. Even the rationale in the case of *Methanga and Another v. Herath and Others (2020) 2 Sri LR 281*, which was relied upon by the Petitioners, cannot be followed in the instant case as it deals with a deed of gift and not an agreement of sale. Unlike a gift, an agreement, such as in the instant case, requires the completion of instalment payments to effectuate the formal transfer of title to the party who entered into it.

The learned State Counsel appearing on behalf of the Respondents drew the attention of this Court to the decision of the Supreme Court in *S.M.N.S. Thilakarathne and Another v. M.W.D.T.P. Wanasinghe, The Principal and the Chairman of the Interview Board of Dharmaraja College, Kandy and Others* SC/FR/30/2018 SC Minutes 28.05.2019, which, in her opinion, parallels the factual matrix of the Case in hand. In the said case, E.A.G.R. Amarasekara J. (with the concurrence of Murdu N.B. Fernando PC. J. - as she was then and P. Padman Surasena J. - as His Lordship was then) observed that marks should be allocated to the document to verify the residency only if it stands in the name of the relevant person, as the provision is intended to apply exclusively to that person and not to several. The Court in the said case further decided as follows;

“Furthermore, to give marks time is counted from the date the ownership or entitlement was transferred to the name of the relevant person to the final date given to tender applications. Since the time is counted until the final date given for applications, it impliedly indicates that the relevant person aforementioned is the person who holds the relevant document in his/her name as at the final date given to tender applications. The father of the 1st Petitioner, the predecessor in title, did not hold the ownership in his name at the final date given to tender applications, since he gifted his right to the Petitioner by executing deed marked as P5. Therefore, I cannot accept the stance taken up by the 1st petitioner that she should have been

given maximum 15 marks for the documents in proof of residency, which has to be in the name of the relevant person.

On the other hand, there is no allegation that for any of the applicants, marks were given for his/her or his/her spouse's title documents as well as for the title documents of the father/mother of the applicant or his spouse causing discrimination.”

Based on the documents marked 'P2' and 'P5(ii)', it is clear that the property at issue was formally transferred into the name of the 1st Petitioner's grandfather only on 28.06.2024, upon completion of all instalment payments. Relying on this vesting date, the Respondents, in line with Clause 7.2.1 of the relevant Circular, have assigned marks to document 'P5(ii)', treating it as one held for lesser than six months. The Respondents maintain that, pursuant to a strict reading of the said Clause, the 'P5(ii)' does not fully satisfy the criteria set out in the Circular, even though 0.8 marks were granted for it in favour of the Petitioners.

The Petitioners contend (especially in their Counter Affidavit) that another child, W.P.R. Thinaya, presented an identical array of documents to those filed by the Petitioners and ultimately received the full 16 marks in the '*institution since birth*' category. On this basis, the Petitioner maintains that the first Petitioner has resided in the premises in question from birth. The Respondents, however, counter that the pertinent facts surrounding the first Petitioner and W.P.R. Thinaya are not substantially alike in all key respects. Similarly, the Respondents deny the assertions of the Petitioners upon discrimination on the basis of income level or alleged social stigma. I am not satisfied with the material made available to Court that the 1st Petitioner was discriminated on such grounds.

The learned President's Counsel for the Petitioners argue that this Court should exercise its exclusive jurisdiction on fundamental rights extending the starting date of residence of the Petitioners up to the date of agreement that was entered into between the said child's grandfather and the NHDA disregarding the date on which the payment of instalments was completed. However, I do not consider the instant Application as a fit case to invoke judicial creativity in favour of the Petitioner as no special circumstances exist warranting me to provide a wider interpretation to the relevant provisions of the Circular.

In light of the foregoing, it is imperative that the provisions of the said Circular No. 25/2024 be interpreted with fidelity to their plain language and intent, abstaining from

any form of judicial activism at this juncture which may rewrite or expand the scope of respective provisions. Such restraint is a safeguard against arbitrary disparities in the admission process, disparities that could unjustly favor the 1st Petitioner at Sujatha Vidyalaya while disadvantaging countless other children across the country who seek admissions to Government schools under the same Circular.

Thus, I am not convinced that the Petitioners' fundamental rights under Article 12(i) have been infringed due to the alleged conduct of the Respondents. Accordingly, I proceed to dismiss the instant Application without cost.

Judge of the Supreme Court

Mahinda Samayawardhena J.

I agree.

Judge of the Supreme Court

K. Priyantha Fernando J.

I agree.

Judge of the Supreme Court