

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

In the matter of an application under
Article 126 of the constitution of the
democratic Socialist Republic of Sri Lanka.

S.C. (F.R) Application No. 130/2016

Ayumi Kalpana Manawadu,
27/1, Kuduwamulla Road,
Katubedda, Moratuwa.

PETITIONER

Vs.

1. University of Peradeniya, Galaha
Road, Peradeniya.
 2. Prof. Upul Dissanayake,
Vice Chancellor,
University of Peradeniya,
Galaha Road, Pearadeniya.
- 2A.Prof. M.D. Lamawansa,
Vice Chancellor,
University of Peradeniya,
Galaha Road, Peradeniya.

2B. Professor Terrence Madhujith
Vice Chancellor, University of
Peradeniya, Galaha Road, Peradeniya.

3. Prof. R. L. Wijeyeweera,
Deputy Vice Chancellor, University of
Peradeniya, Galaha Road,
Pearadeniya.

3A. Prof. S.H.P.P Karunaratne Deputy
Vice Chancellor, University of
Peradeniya, Galaha Road,
Pearadeniya.

3B. Prof. W.M.T. Madhujith, Deputy
Vice Chancellor.

3C. Professor Ranjith Pallegama
Deputy Vice Chancellor.

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4A. Prof. G.B.B. Herath, Dean, Faculty of
Engineering,

4B. Dr. Udaya Dissanayake, Dean,
Faculty of Engineering.

4C. Prof. Lilantha Samaranayake,
Dean, Faculty of Engineering.

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Faculty of Engineering,

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8. Prof. K. D. W. Nandalal, Faculty of Engineering,
9. Prof. W. M. S. B. Weerakoon, Faculty of Engineering,
10. Prof. K.P.P. Pathirana, Faculty of Engineering,
11. Prof. U. de S. Jayawardena, Faculty of Engineering,
12. Prof. J.J. Wijetunge, Faculty of Engineering,
13. Mr. H. Abeyruwan, Faculty of Engineering,
14. Dr. A.P.N. Somaratna (on sabbatical leave), Faculty of Engineering,
15. Dr. A. L. M. Mauroof, Faculty of Engineering,
16. Dr. K.R.B. Herath (on sabbatical leave), Faculty of Engineering,
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258A.Herath EMUCK Professor
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259A.Jayasinghe RD Prof.
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261A.Jayatilake JAMS Prof.
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262A.Nandasena BGTL Prof.
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264A. Peiris HRD Prof.
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282. Prof. B. M. R. Bandara,
282A.Ekanayake JB Prof.
283. Prof. D. C. Bandara,
283A.Gunawardane SDGSP Prof
284. Prof. A. M. S. D. M. Dissanayake,
285. Prof. D. N. B. Gunawardena,
286. Prof. S. H. P. P. Karunaratne,
287. Prof. K. A. S. S. Kodituwakku,
287A. Gunawardena A.U.A.W. Prof.
288. Prof. S. A. M. Kularatne,
289. Prof. C. D. Nanayakkara,
289A.Herath GBB Prof.
290. Prof. A. A. I. Perera,
290A.Herath H.M.V.R. Prof.
291. Dr. A. A. S. Perera,
291A.Jinadasa K.B.S.N. Prof.
292. Ven. Prof. Rahula Kotapitiya,
292A.Kalpage CS Prof.
293. Prof. P. S. Rajapaksha,
293A.Karunaratne DGGP Prof
294. Dr. H. M. A. Sominanda,
295. Prof. A. Tilakaratne,

All 112th to 295th Respondents are of,
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296. Professor K.N.O. Dharmadasa,

296A. Mr. Samantha Ratwatte P.C.

297. Professor P.B. Meegaskumbura,

297A. Mr. G.S.J Dissanayake

298. Dr. Ranil Abeysinghe,

298A Most. Ven. Niyangoda Wijithasiri

299. Mr. Lal Wijenayake,

299A. Eng. Nihal Rupasinghe

300. Mr. Wijaya Wickremaratne,

300A. Dr. D.M.R.B. Dissanayake

300B. Prof. Kapila Gunawardhana

301. Mr. G.S.J. Dissanayake,

301A. Mr. U.C. Kirindigoda

302. Mr. Dhammika J. Amarasinghe,

302A. Mr. Prasanna Gunathileka

303. Dr. Mohamed Thaha Ziyad
Mohamed,

303A. Dr. Gamini Buthpitiya

303B. Mr. G. S. J. Dissanayake

304. Mrs. K.D. Gayathri M.
Abeygunasekera,

304A. Dr. Siril Wijesundara

305. Dr. Selvy Tiruchandran,

305A. Eng. Mahendra Wijepala

306. Mr B.M.N. Balasooriya,

306A. Prof. G.H. Peris

307. Mr. U.W. Attanayake,

307A. N.D. Samarawickrama

308. Mr. Upul Kumarapperuma,

308A. Mr. Janaka Chaminda
Warnakula

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309. Registrar of the University of
Peradeniya, University of Peradeniya,
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310. Senior Assistant Registrar, Faculty of
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311. University Grants Commission, Ward
Place, Colombo.

312. A. H. A. D. Abeysekara, Instructor,
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Engineering, University of
Peradeniya.

313. Gamaarachchi H.M

314. Welikala W.R.C.B.S

315. Chanjief C

316. Ekanayake N.L.K

- 317. Perera L.S.C
- 318. Jayasinghe M.G.S
- 319. Edirisinghe E.S.S
- 320. Herath H.M.V.V
- 321. Gamlath P.G.R.C.J
- 322. MS. Jayasundara J.M.C.J
- 323. Sumanapala D.R
- 324. Liyanage D.P
- 325. Jayasuriya L.S
- 326. Amarakoon K.A.M.S.V
- 327. Sailaksha G
- 328. Dodanduwa K.C
- 329. Dharmasiri M.A.K.M
- 330. Udagedara U.M.T.D
- 331. Basnayake B.M.K.L.K
- 332. Rathnayake R.M.D.B
- 333. Ms. Kanchanamala D.P.H.M
- 334. Hirshan R
- 335. Ms. Kaushalya K.L.S
- 336. Ms. Godakumara G.P.M
- 337. Ms. Herath H.M.H.K
- 338. Disaanayake D.M.S.S
- 339. Ahamed M.A.A
- 340. Ms. Karunathilake K.R.R.D.K
- 341. Ms. Madhushani T.W.U
- 342. Senevirathne E.H
- 343. Ms. Jayatissa D.T
- 344. Sandaruwan U.K.C
- 345. Rajasinghe N.N
- 346. Ms. Preethika M.A.S
- 347. Ms. Geethani E.A.M
- 348. MS. Dissanayake D.M.P.A
- 349. Karunarathna P.H.R.S.S

All 313th to 349th Respondents are
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350. Hon. Attorney General, Attorney
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351. Liyanage KM Prof
352. Nanayakkara KGN Prof.
353. Nandalal KDW Prof.
354. Ragel R. Prof.
355. Rajapaksha L Prof.
356. Samaranayake BGLT Prof.
357. Shanthini R. Prof.
358. Susantha KAS Prof.
359. Uduwawala DN Prof.
360. Wijethunga JJ Prof.
361. Rajaratne EPM Prof.
362. Wickramaratne WPR Prof
363. Abeyagunawardane S Prof.
364. Dassanayake WDMTL Prof.
365. Dharmaratne SD Prof.
366. Dissanayake AMSDM (Mrs.) Prof.
367. Edussuriya D H Prof.
368. Fernando DMG Prof.
369. Fernando PHP Prof.
370. Gawarammana IB Prof.
371. Iddawela WMDR Prof.
372. Jayasinghe A Prof.
373. Kariyawasam K P A P Prof.
374. Kodikara KAS Prof
375. Medagama UAB Prof.
376. Mudiyanse RM Prof.
377. Noordeen F Prof.
378. Pathirage L P M K Prof.
379. Perera HKI Prof.
380. Pethiyagoda A.U.B. Prof.
381. Prasad MK Prof.
382. Rajapakshe TN Prof.
383. Ranasinghe JGS Prof.
384. Ratnayake RMCJ Prof.
385. Silva KIC De Prof.
386. Vadysinghe AN Prof.
387. Weerasinghe VS Prof.
388. Wickramasinghe WDSJ Prof.
389. Wijetunge (Ms.) S. Prof.

- 390. Abayasekara CL Prof.
- 391. Balasooriya BMNWB Prof.
- 392. Bandara LRAK Prof.
- 393. Daundasekara WAM Prof.
- 394. De Silva WAPP Prof.
- 395. Hettiarachchi CV Prof.
- 396. Jayasooriya KMGG Prof.
- 397. Madawala HMSP Prof.
- 398. Meegaskumbura SH Prof.
- 399. Namal Priyatha Prof.
- 400. Perera ADLC Prof.
- 401. Perera GAD Prof.

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- 402. Amaratunga KSP Prof.
- 403. Athauda ARSB Prof.
- 404. Bandaranayake PCG Prof.
- 405. Beneragama CK Prof
- 406. Costa De DM Prof.
- 407. Costa De WAJM Prof.
- 408. Dandeniya WS Prof.
- 409. Dayawansa NDK Prof.
- 410. Deshapriya RMC Prof.
- 411. Dematawewa CMB Prof.
- 412. Dharmakeerthi RS Prof.
- 413. Dharmasena DAN Prof.
- 414. Edirimuni PHP Prasanna Prof.
- 415. Eeswara JP Prof.
- 416. Hemachandra KS Prof.
- 417. Herath HMTG Prof
- 418. Himali SMC Prof.
- 419. Hitinayake HMGSB Prof.
- 420. Jayawardena BC Prof.
- 421. Kodithuwakku KKSP Prof.
- 422. Kodithuwakku SS Prof.
- 423. Kumar S Prof.
- 424. Madhujith WMT Prof.
- 425. Marambe PWMBB Prof.

- 426. Mendis BEP Prof.
- 427. Mohotti AJ Prof.
- 428. Mowjood MIM Prof.
- 429. Professor SACN Perera
- 430. Prasada DVP Prof.
- 431. Prasantha BDR Prof.
- 432. Pushpakumara DKNP Prof
- 433. Rajapaksha RMCP Prof.
- 434. Prof. RPNP Rajapaksha
- 435. Samitha S Prof.
- 436. Silva GLLP Prof
- 437. Silva De WPRP Prof.
- 438. Sivananthawerl T Prof.
- 439. Suriyagoda LDB Prof.
- 440. Vidanarachchi YVAJK Prof.
- 441. Vitharana WAU Prof.
- 442. Weerahewa HLJ Prof.
- 443. Weerakkody WAP Prof.
- 444. Weerasinghe KWLK Prof.
- 445. Wijayagunawardena MPB Prof.
- 446. Wimalasiri KMS
- 447. Damayanthi HDWT Prof.
- 448. Herath HMTU Prof
- 449. Sakeena MHF Prof
- 450. Yatawara MDMLDK Prof
- 451. Abhayaratne ASP Prof
- 452. Abeyrathne GDRUU Professor
- 453. Athukorala PPAW Prof
- 454. Azmi MI Fazeeha Prof.
- 455. Bandara WMPS Prof.
- 456. Bandara TWMTW Prof.
- 457. Chandraratne RMM Prof.
- 458. Dasanayaka KMR Prof.
- 459. Dayaratne Banda OG Prof.
- 460. Dissanayake DML Prof.
- 461. Dharmarathne SM Prof.
- 462. De Mel SJS Prof
- 463. Ekanayake Yatigammana TMSSK Prof
- 464. Gnanananda M Ven. Prof
- 465. Gunawardena DNB Prof.

466. Handegama HRNPK Prof.
467. Herath HMWA Prof.
468. Herath HMM Prof
469. Herath RMDB Prof.
470. Hettiarachchi R Prof.
471. Hewawasam ALT Prof
472. Jamahir PM Prof.
473. Jayawickrama JMA Prof.
474. Karunanayake DDKS Prof.
475. Karunarathna KMR Prof.
476. Kularathne GGS Prof
477. Liyanage WA Prof
478. Manthilake MASB Prof
479. Nafeel MZM Prof.
480. Nianthi KWGR Prof.
481. Perera MMP Prof.
482. Perera WLP Prof.
483. Pinnawala MR Prof
484. Pirashanthan S Prof.
485. Premasiri WDSK Prof.
486. Rambukwella MWCNK Prof.
487. Ranathilake MB Prof.
488. Rathnayake M Abeyrathne Prof.
489. Saleem MSM Prof
490. Sarjoon A Prof.
491. Seneheweera AGL Prof
492. Seneviratne Rohana Prof.
493. Sivamohan S Prof.
494. Somathilake M Prof.
495. Sri Ranjith JG Prof.
496. Udagama ND Prof
497. Vijesandiran S Prof.
498. Wickramagamage CS Prof.
499. Wickramasinghe WMWGCSM Prof.
500. Wijesinghe SN Prof.
501. Wimalasena NA Prof.
502. Ariyasinghe KSN Prof.
503. Attygalla AM Prof.
504. Banneheka BMHSK Prof.
505. De Silva MDK Prof

506. Dissanayake Upul B Prof.
507. Fonseka MProf.
508. Herath EMUCK
509. Jayasinghe RD Prof.
510. Jayasinghe RM Prof.
511. Jayasuriya NSS Prof.
512. Jayasooriya PR Prof.
513. Jayatilake JAMS Prof.
514. Jayawardena JACK Prof.
515. Nandasena BGTL Prof.
516. Pallegama RW Prof
517. Panagoda GJ Prof.
518. Paranagama MP Prof.
519. Peiris HRD Prof.
520. Thilakumara IP Prof
521. Vithanarachchi VSN Prof.
522. Wettasinghe KA Prof.
523. Wijekoon WMPSK Prof
524. Bandara AMACS Prof.
525. Danthurebandara M Prof.
526. Dissanayake MB Prof.
527. Ekanayake JB Prot.
528. Ekanayake MPB Prof.
529. Elangasinghe MA Prof
530. Fernando MARM Prof
531. Fernando WPD Prof
532. Godaliyadda GMRI Prof.
533. Gunawardena AUAW Prof.
534. Herath GBB Prof.
535. Kalpage CS Prof.
536. Karunasinghe DSK Prof.
537. Kurukulasuriya LC Prof.
538. Liyanage KM Prof
539. Madusanka AN Prof.
540. Nanayakkara KGN Prof.
541. Nasvi MCM Prof.
542. Rajapaksha L Prof.
543. Samaranayake BGLT Prof.
544. Susantha KAS Prof.
545. Uduwawala DN Prof.

546. Walgampaya CK Prof.
547. Weerakoon SB Prof
548. Wijetunge JJ Prof.
549. Wijesundara KK Prof.
550. Yapa HD Prof
551. Ekanayake EMASB Prof.
552. Kuruppuge RH Professor
553. Rajaratne EPM Prof.
554. Wickramaratne WPR Prof.
555. Abeygunawardane AS Prof.
556. Abeygunawardane S Prof.
557. Adikari SB Prof.
558. Ariyasinghe AS Prof.
559. Ariyasinghe GMDI Prof.
560. Dalugama C Prof.
561. Dassanayake WDMTL Prof.
562. De Silva KIC Prof.
563. Dharmapala AD Prof.
564. Dissanayake AMSDM Prof.
565. Dissanayake BN Prof.
566. Dissanayake Pathum Prof.
567. Edussuriya DH Prof.
568. Fernando DMG Prof.
569. Fernando PHP Prof.
570. Fonseka HFS Prof.
571. Gawarammana IB Prof.
572. Gihan MC Prof.
573. Iddawela WMDR Prof.
574. Jayalath WATA Proi
575. Jayasinghe MWCJ Prof.
576. Jayaweera AHHM Prof.
577. Kariyawasam A Prof.
578. Kodikara KAS Professor
579. Kudagammana ST Prof.
580. Kularatne SAM Prof.
581. Lamawansa MD Prof.
582. Medagama UAB Prof.
583. Morel RP (Ms) Dr.
584. Nanayakkara PSK Prof.
585. Nanayakkara Indu Prof.

- 586. Navaratne S Prof.
- 587. Noordeen F Prof.
- 588. Perera HKI Prof.
- 589. Pethiyagoda AUB Prof.
- 590. Pinto MVG Prof.
- 591. Rajapakshe TN Prof.
- 592. Ralapanawa DMPUK Prof.
- 593. Ranasinghe JGS Prof.
- 594. Ratnatunga CN Prof.
- 595. Ratnayake RMCJ Prof.
- 596. Rosairo Shanthini Prof.
- 597. Samarasinghe AKB BTB Prof.
- 598. Tennakoon TMSUB Prof.
- 599. Thalagahagoda RS Prof.
- 600. Vadysinghe AN Prof.
- 601. Waduge R Prof.
- 602. Weerasinghe VS Prof.
- 603. Wickramasinghe WDSJ Prof.
- 604. Duminda Yasarathne Prof.
- 605. Bandara TMWJ Prof.
- 606. Chandrajith RLR Prof.
- 607. Damunupola JW Prof.
- 608. Daundasekera WAM Prof.
- 609. De Silva WAP Prof.
- 610. Ganehenegge MYU Prof.
- 611. Gunaratne AMTA Prof.
- 612. Jayasuriya KMGG Prof.
- 613. Karunaratne WAIP Prof.
- 614. Kodituwakku SR Prof.
- 615. Kumburegama NPS Prof.
- 616. Madawala HMSP Prof.
- 617. Malaviarachchi MASPK Prof.
- 618. Namal Priyatha HMD Prof.
- 619. Navaratne MMAN Prof. (Ayanthie Navaratne)
- 620. Perera AAI Prof.
- 621. Perera GAD Prof. (Prof. Anoma Perera)
- 622. Pinidiyaarachchi UAJ Prof.
- 623. Pitawala HMTGA Prof.

- 624. Rajakaruna RS Prof.
- 625. Rajapakse RGSC Prof
- 626. Rajapakse RMG Prof.
- 627. Samarasekera P Prof.
- 628. Weeraratne TC Prof.
- 629. Wijesinghe P Prof.
- 630. Yakandawala DMD Prof.
- 631. Yapa YPRD Prof.
- 632. Yatigammana MWSK Prof.
- 633. Alexander PABD Prof.
- 634. Dissanayake DRA Prof.
- 635. Fernando BR Prof.
- 636. Fouzi MNM Prof.
- 637. Jayasooriya LJPAP Prof.
- 638. Jinadasa HRN Prof.
- 639. Kalupahana RS Prof.
- 640. Pushpakumara PGA Prof.
- 641. Satharasinghe DA Prof.
- 642. Wanigasekera WMAP Prof
- 643. Wijayawardhane Nayana Prof.
- 644. Wijesundara RRMKK Prof

All of the 402nd to 644th Respondents
are of, Members of the Senate,
University of Peradeniya, Galaha
Road, Peradeniya

RESPONDENTS

BEFORE

: Hon. Janak De Silva, J.

Hon. Mahinda Samayawardhena, J.

Hon Sobhitha Rajakaruna, J.

COUNSEL : Asthika Devendra with Ms. Abheetha Nandakumara for Petitioner
Nirmalan Wigneshwaran , DSG for 1st, 311th and 350th Respondents
Manohara De Silva , PC with Hirosha Munasinghe for 312th Respondent

WRITTEN SUBMISSIONS : 14.11.2017 by Petitioner
30.06.2022 by 1st, 311th and 350th Respondents

ARGUED ON : 14.07.2025

DECIDED ON : 16.10.2025

Janak De Silva, J.

The Petitioner is a graduate of the Faculty of Engineering, University of Peradeniya. She seeks to impugn the decision to award the E.O.E. Pereira Gold Medal (Gold Medal) to the 312th Respondent. The Gold Medal was inaugurated by the friends and well-wishers of Prof. E.O.E. Pereira, formerly Dean, Faculty of Engineering and later Vice Chancellor, University of Ceylon, Peradeniya, in recognition of the long and distinguished service rendered by Professor Pereira to the University of Ceylon and the Engineering profession. The Gold Medal is awarded annually to the most outstanding student graduating from the Faculty of Engineering, University of Peradeniya, on the basis of scholastic as well as extra-mural excellence.

In response to a notice issued by the 310th Respondent (Senior Assistant Registrar) on 15.02.2016 (P4), the Petitioner duly submitted her application for the Gold Medal on 19.02.2016 (P5).

On 26.02.2016, the Faculty Board after going through the applications, decided to adopt a marking scheme based on that used for the “Peradeniya University Gold Medal”(P6B and P6C). The Petitioner was thereafter informed by the 310th Respondent on 02.03.2016 (by a letter dated 26.02.2016) to re-submit her application under the revised criteria (P6B and P6C) on or before 03.03.2016 (P6A). A notice of this was put on the notice board along with documents marked P6B and P6C.

On 09.03.2016 the Faculty Board recommended the Gold Medal to be awarded to the 312th Respondent. The Petitioner, by letter dated 14.03.2016, appealed against the alteration of the selection criteria and the decision taken by the Faculty Board (P8). Following this, the Senate at its meeting on 23.03.2016, granted approval to the Faculty Board’s recommendation. Subsequently, on 02.04.2016, the University Council, resolved not to interfere with the decision of the Faculty Board. The Petitioner thereafter instituted this application on 20.04.2016, seeking *inter alia* to quash the decision to award the Gold Medal to the 312th Respondent and to direct that it be awarded to her.

The Petitioner alleges that the procedure in recommending and approving the 312th Respondent as the recipient of the Gold Medal violated her legitimate expectations, is ultra vires, arbitrary and irrational. The Petitioner seeks relief by way of quashing the impugned decisions contained in P6B and P6C together with the subsequent decisions of the Faculty Board, the Senate, and the Council awarding the Gold Medal to the 312th Respondent.

The Petitioner further prays for a direction compelling the University authorities to re-evaluate the applications under the valid statutory framework as set out in P2C, or in the alternative, to grant the Gold Medal directly to the Petitioner, an order for costs and such other relief as this Court may deem just and equitable.

Leave to proceed has been granted under Article 12(1) of the Constitution. An interim order was issued restraining the 1st Respondent from awarding the Gold Medal until the final hearing and determination of this application.

Time Bar

Learned DSG and President's Counsel raised a preliminary objection that the application is time barred, as it was not filed within one month of the alleged infringement as required by Article 126(2) of the Constitution. It was submitted that the operative date of infringement was 02.03.2016, when the Petitioner was required to re-submit her application under the new marking scheme as she was aware of the new criteria at that point in time. On this basis, it is submitted that the filing of the application on 20.04.2016 falls outside the constitutionally mandated time limit.

The Petitioner, however, contends that the infringement was of an imminent and continuing nature and only crystallized upon the decision of the Senate on 23.03.2016.

Article 126(1) of the Constitution vests sole and exclusive jurisdiction on this Court to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV of the Constitution.

In terms of Article 126(2) of the Constitution, any person may invoke this jurisdiction where his fundamental right or language right has been infringed or is about to be infringed by executive or administrative action.

A person is not compelled to invoke this jurisdiction at the stage where the infringement is imminent. He may well choose to stay his hand until it is clear that the fundamental right or language right is infringed and then invoke the jurisdiction of this Court.

This Court while observing that the one-month limitation prescribed by Article 126(2) must be strictly construed, has at the same time, recognised that where an infringement is imminent or where its consequences are still unfolding, time will run from the date of the final operative act.

In ***Dayaratne and others v. National Savings Bank and Others*** [(2002) 3 Sri LR 116 at 126] , Fernando, J. held that:

“An aggrieved person has the right to challenge an infringement not only when it is imminent but also after it has occurred. The failure to challenge an imminent infringement in time will never bar a subsequent actual infringement...”

Quite similar to the present case, in ***Dayaratne (supra)***, the time began to run only when the names of the promotes were announced, and not even when the interview panel recommended their names. The recommendations were not held to amount to an infringement as the Board of Directors might have refused to accept them subsequently.

Subsection (e) in P6B explicitly states that *“the final selection of the recipient of the award shall be confirmed by the Senate on the recommendations of the Faculty Board of the relevant faculty”*.

In the present case, in addition to the Petitioner appealing against initial recommendations, the decision of the Council on 02.04.2016 represents the final determination of the University authorities in relation to the award of the Gold Medal. This application was filed on 20.04.2016. Therefore, it has been filed within the one-month of the alleged infringement as prescribed by the Constitution. Accordingly, the preliminary objection on time bar is overruled.

Before proceeding to examine the issues that arise for consideration, I must clarify a fundamental matter that arose during the hearing. At one point of time, it was not clear

whether there were two gold medals that were to be awarded by the Faculty of Engineering, i.e. the Gold Medal and the University of Peradeniya Gold Medal.

In response to this question posed by Court, learned DSG after obtaining instructions from the representative of the 1st Respondent present in Court, submitted that the effect of P6B and P6C was the establishment of a new medal titled “Peradeniya University Gold Medal” for all the faculties including the Faculty of Engineering and that the Gold Medal ceased to be on offer thereafter.

However, upon a consideration of the paragraph 28 of the affidavit of the 2nd Respondent, it is clear that the Gold Medal is separate and distinct to the Peradeniya University Gold Medal.

This stands to reason, as the Gold Medal was established through the donations of the friends and well-wishers of Prof. E.O.E. Pereira, formerly Dean, Faculty of Engineering and later Vice Chancellor, University of Ceylon, Peradeniya and established by a Statute whilst the Peradeniya University Gold Medal was established by Regulations.

Issues

Upon consideration of the pleadings, affidavits, and submissions of learned Counsel, the following issues arise for determination:

1. Whether the adoption of the new marking scheme in selecting the recipient of the Gold Medal for the year 2015 was consistent with the governing Statute.
2. Whether the constitution of the Selection Committee was valid in law.
3. Whether the allocation of marks, including the award of marks for an interview that was not conducted, was procedurally improper, arbitrary or unreasonable.
4. Whether the petitioner holds legitimate expectation with regards to any previous marking criteria.

In answering the first issue, a key issue that arises is the interplay between the Statute governing the Gold Medal (P2C) and the Regulations relied upon by the Respondents (P6B and P6C).

P2C is the governing statute of the award in question, as agreed by both parties, which is titled as the “EOE Pereira Gold Medal Statue”.

P6B is titled as the “Regulation governing the award of Peradeniya University Gold Medal for most outstanding student graduating from each faculty.”

P6C is titled as the “Selection Criteria of the Peradeniya University Gold Medal for Most Outstanding student graduating from each faculty”

It is the position of the Petitioner that the governing instrument in respect of the Gold Medal is the Statute of the Scholarship Board of 1971 (P2C), approved by the Senate Advisory Committee in 1973. The Petitioner contends that documents marked P6B and P6C, which introduce a revised marking scheme are inconsistent with P2C and ought to be quashed. It is further contended on behalf of the Petitioner that P6B and P6C were framed in respect of a different award, namely the “Peradeniya University Gold Medal,” and not the Gold Medal, and therefore have no application to the present matter. Accordingly, the adoption of P6B and P6C in selecting the 312th Respondent was ultra vires and of no legal effect.

The Respondents, however, whilst acknowledging that the document marked as “Peradeniya University Gold Medal”(P6B) was mistakenly laid upon the Petitioner, submit that while P2C establishes the award, it does not provide a marking scheme or intelligible criteria for selection. They submit that in the absence of a prescribed scheme, the Faculty Board was entitled to adopt a suitable mechanism for evaluation, and that the adoption of a scheme similar as in P6C to that employed for the Peradeniya University Gold Medal is rational and reasonable.

The 2nd Respondent, who was the then Vice chancellor of the University of Peradeniya, states that the Scholarship Sub-Committee of the Senate of the University of Peradeniya, at its 68th meeting on 14.02.2011, drafted regulations which were subsequently tabled at the 82nd meeting of the Senate on 08.12.2014 and duly approved. He further states that the contents of the document marked P6B were not adopted by the selection committee in respect of the Gold Medal, but only the marking scheme approved by the scholarship sub-committee and the senate marked P6C.

The learned counsel for the Respondent, relying on sections 136 , 140 and 142 of the Universities Act, submit that Statutes made under the Act are deemed to be Ordinances promulgated by the University Grants Commission, and that Regulations may be made subject to such Ordinances. It was further submitted that P2C has been substantially adhered to, and that the decision to adopt these Regulations merely provided guidance in the absence of detailed criteria. In other words, Learned Counsel for the Respondent submits that the said Statute, being a Statute made under the Universities Act, carries the force of an Ordinance in terms of section 140 of the Act. By contrast, the Regulations relied upon by the Respondents, namely P6B and P6C, are subordinate instruments in terms of section 136 of the Act. On this basis, the Respondents contend that the adoption of P6B and P6C was neither ultra vires nor arbitrary.

In terms of sections 136 and 140 of the Universities Act, Statutes enjoy primacy over regulations. Regulations such as P6B and P6C cannot displace the governing Statute. However, since P2C lacks any prescribed criteria, the adoption of supplementary guidelines cannot be regarded as wholly ultra vires. What remains in issue is whether the procedure in following them was reasonable, consistent, and fairly applied.

Given the absence of any detailed marking scheme in P2C, it was permissible for the Faculty to supplement the Statute with a marking scheme, provided it was not inconsistent with the governing Statute. However, the adoption of supplementary criteria

carries with it a duty to apply such criteria fully, fairly, and consistently. In the present instance, such criteria were introduced only after applications had already been invited and submitted, and indeed after the Faculty Board had scrutinised the applications. Furthermore, the Respondents appear to have selectively adopted certain portions of P6C while disregarding others, thereby failing to follow the scheme as a whole. Such partial adoption undermines the legality of the process. The implications of this failure will be considered in detail under the subsequent issues of procedural impropriety, irrationality, and arbitrariness.

Moreover, the full scheme, both P6B and P6C were made known to the candidates in two distinct ways: first, by being directly furnished to the candidates including the Petitioner along with the request to re-submit her application; and secondly, by being published on the Faculty notice board when the revised criteria were introduced. Once the University itself chose to publish and circulate the entirety of the scheme, applicants held a legitimate expectation that it would be applied in full.

Constitution of the Selection Panel

P6C prescribes a selection panel consisting of five senior academics with the Dean as *ex officio* Chairman. The panel was to be appointed by the Faculty Board. The record indicates that, rather than a Faculty Board appointment, between 26.02.2016 and 09.03.2016, the committee that evaluated applications for the Gold Medal comprised the Dean and the Heads of Departments (nine members), and that the Faculty Board itself later recorded the recommendation of the 312th Respondent. The Petitioner asserts that no Faculty Board meeting took place in the interregnum to effect the formal appointment of the panel as required by P6C.

The selection process stipulated in P6C is as follows;

Applicants are called from graduates who have obtained GPA 3.5 and above.

Marks are given for involvement in following activities. The medal is awarded for the graduate who obtained the highest percentage.

1. *Academic excellence- 50%*
2. *Sports- 12.5%*
3. *Registered Societies and Union- 5%*
4. *Arts, Drama, Music, Literary and Creative work- 12.5%*
5. *Research Publications- 10%*
6. *Interview performance- 10%*

It further goes on to say that

“The marks will be allocated by a panel of five senior academics appointed by the Faculty Board. Dean of the Faculty will function as the chairman ex-officio”

The Petitioner contends that the absence of a proper Faculty Board meeting to appoint the selection panel and the actual composition of the evaluating committee represent fundamental procedural defects. It is submitted that a panel not lawfully appointed under the governing instrument could not make a lawful recommendation. Since no such meeting was held within this time frame, it was submitted that no selection panel was lawfully constituted, and accordingly, the recommendation of the 312th Respondent as the awardee lacks legal validity and is bad in law.

Moreover, the Petitioner submitted that the adoption of the new marking scheme (P6C) was wholly ultra vires, inasmuch as it was made under the guise of a regulation relating to a different medal and by a committee not recognised under the governing Statute (P2C). It was submitted that the Faculty Board, by usurping the role of the selection panel

prescribed by Statute, acted outside jurisdiction. On this basis, it was submitted that the entire process was void and without legal effect.

In my view, the practice of extracting certain provisions while disregarding others after the regulations as a whole were notified to applicants, constitutes arbitrariness. This piecemeal adoption has resulted in inconsistency both in relation to the composition of the selection panel and in the allocation of marks. For instance, while the composition of the selection committee was ostensibly to follow the P6C, in practice the Dean and all Heads of Departments comprised the panel, in excess of what P6C itself envisaged.

Procedural Impropriety

Interview

Apart from the failure to follow the composition of the selection committee according to P6C, no interview was in fact conducted, although P6C necessitated an interview to be held, due to alleged insufficiency of time.

The Respondents acknowledge the inability of conducting an interview on the pretext that there was an urgency in concluding a decision with regards to the recipient of the Gold Medal, as the convocation was to be held soon.

The urgency of the forthcoming convocation, as referred to in the affidavit of the Vice Chancellor, does not excuse departure from the mandatory procedure laid down in the governing regulations. Compliance with procedural rules is not a matter of formality but of legality; it ensures fairness, transparency, and accountability in the conferment of honours.

As Bandaranayake, J. (as she was then) held in ***Dr. Karunanada v. Open University of Colombo*** [(2006) 3 Sri LR 225 at 243]:

*“Procedural fairness cannot be regarded as a matter which is unimportant. Procedural safeguards should be the cornerstones of individual liberty and their right to equality. Her ladyship further moves to cite Frankfurter, J. in ***McNabbs vs United States*** 318 U.S. 332 (1943) which states that “ the history of liberty has largely been the history of the observance of procedural safeguards”.*

In ***Dayarathna and Others v. Minister of Health and Indigenous Medicine and Others*** [(1999) 1 Sri LR 393 at 401], Amerasinghe, J. held as follows:

“There must be certainty and predictability if the rule of law is to prevail, which article 12 of the constitution which among other things, is obviously intended to satisfy. Article 12 of the constitution requires substantive as well as formal equality: laws, regulations and executive and administrative rules, procedures and schemes must not discriminate between individuals on invidious or irrational grounds; and officials are required to apply those laws, rules, procedures and schemes consistently and even-handedly unless the deviation can be objectively and reasonably justified on the grounds that a legitimate end is being pursued and that the means to achieve that end are proportionate.”

In this instance, failure to conduct the interview as stipulated by the marking criteria adopted by the Respondents vitiates the procedural requirements. I hold that, while purporting to rely on P6B and P6C, the Respondents did not consistently apply them in their entirety, but adopted only portions as suited. This selective application was procedurally improper, arbitrary, and inconsistent with the requirements of fairness and equal treatment.

Exclusivity of certain eligible candidates

Furthermore, although the revised regulations (P6B and P6C) extended eligibility to candidates securing a Second-Class Upper Division with a GPA of 3.5 or above, the University in practice limited consideration to candidates with a First-Class only. This inconsistency between the announced criteria and the actual application thereof is relied upon by the Petitioner as evidence of procedural impropriety. Learned Counsel submits that such differential treatment is antithetical to the requirement of equal treatment and procedural fairness, and has materially prejudiced the Petitioner.

The Respondents reiterate that only the marking criteria was adopted out of the scheme. They further maintain that no prejudice has been caused to the Petitioner in this instance, since both the Petitioner and the 312th Respondent, who was eventually awarded the Gold Medal, were themselves First Class graduates. It is therefore submitted that the limitation of eligibility to First-Class holders, though not fully consonant with the broader criteria, did not adversely affect the Petitioner's own standing.-

Even if both principal candidates were First-Class holders, the Court must determine whether the exclusion of an eligible class of candidates reflects a deeper procedural malaise that undermines confidence in the decision-making process; the presence or absence of prejudice to the Petitioner is relevant but not always determinative of legality. This exclusion of Second-Upper candidates, contrary to the adopted marking scheme, makes the process tainted and procedurally improper.

As Fernando, J. held in ***Bennet Rathnayake v. The Sri Lanka Rupavahini Corporation and others*** [(1999) 2 Sri LR 93 at 107],

“Uncertainty as to procedure and criteria tends to result in a denial of the equal protection of the law”.

Furthermore, the material before Court shows that upon the adoption of the revised criteria, only the ten students who had applied under the initial notice were personally informed, while eligibility under the new scheme was extended to graduates with a Second-Class Upper Division and a GPA of 3.5 or above. Such students were not individually notified; instead, a notice was placed on the Faculty notice board. While this may have sufficed during an academic term when students were regularly present on campus, by this time all academic activities had concluded. The Respondents submit that they assumed other students might nevertheless visit the University for various purposes, but this assumption does not discharge the duty to communicate effectively.

In the present age, universities are equipped with electronic communication systems, and the failure to utilise such means to notify eligible students of an opportunity of this nature amounts to a lapse in administrative responsibility. The duty to notify is not satisfied by passive methods when more direct and reliable means are available. Such lapses reflects that the administrators were going through some procedural steps merely to project a due process in calling for applications.

Arbitrariness

The Petitioner challenges the allocation of the marks for the interview, which was never held, yet in respect of which the 312th Respondent received the full allocation of 10 marks. She submits that she was only awarded 8 marks, and that this disparity is irrational and arbitrary.

As explained above, the Respondents acknowledge that no interview was held. They state that all candidates were given a base allocation of 8 marks, and that additional marks were awarded only where students had received prizes or awards not otherwise accounted for in the other categories. It is submitted that the 312th Respondent was given

two extra marks for having obtained the Professor Bartholomeusz Prize for Engineering Mathematics in 2015, which had not been considered elsewhere in the marking scheme.

As explained in ***City of Livingston v. Park Conservation District*, 2013 MT 234, 371 Mont. 303, 307 P.3d 317,**

“A decision is arbitrary if it comes about seemingly at random or by chance or as a capricious and unreasonable act of will”

The allocation of marks for an interview that was never held is manifestly unreasonable and arbitrary. To award a candidate the full 10 marks, while another received only 8, despite no interview being conducted, is a decision no reasonable authority could have made. To award additional marks under this head, even for a legitimate achievement such as a faculty prize, is to alter the purpose of the category and to blur the boundaries of assessment. While it may be desirable to recognise unaccounted achievements, doing so under the guise of “interview marks” is both arbitrary and unreasonable. If prizes or awards merited recognition, they should have been expressly incorporated into the scheme, rather than accommodated in an improvised and inconsistent manner. Such an approach undermines the integrity and transparency of the process and taints the entire process.

Commenting on the applicability of the equality clause in terms of Article 14 of the Indian Constitution Bhagwati, J. (as he then was) in **Ajay Hasia v Khalid Mujiba [AIR (1981) SC 487]** held that:

"Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an 'authority' under Article 12, Article 14 immediately springs into action and strikes down such State action. In fact, the concept of reasonableness and non-arbitrariness pervades the entire constitutional

scheme and is a golden thread which runs through the whole of the fabric of the Constitution”

The Petitioner further submits that the new criteria was vitiated by irrationality and unreasonableness on the basis that academic achievements were allocated excessive weightage of 50% of the marks and the inclusion of a separate percentage for research publications is unreasonable. Reliance is placed on the affidavit marked P2D of Senior Professor S.B.S. Abeykoon, former Vice Chancellor and former Dean of the Respondent University, wherein it is affirmed that the attainment of a First-Class degree had historically been regarded as the benchmark of academic excellence and was treated as a prerequisite for eligibility for the Gold Medal.

The 2nd Respondent in his affidavit also asserted this position with regards to the non-entertainment of applicants of anything lower than a First-Class. However, under the amended criteria embodied in P6B and P6C, 50% of the marks were separately allocated for academic excellence, thereby rendering the possession of a First-Class an element to be assessed rather than an absolute threshold for eligibility.

Similarly, the Petitioner alleges that carving out 10% specifically for research, without adequate justification, distorted the balance between scholastic and extra-mural performance envisaged by the Statute. It is argued on the basis that different research projects carry differing weightage and it is irrational to consider them on an equal setting, as such achievements fall within the broader rubric of academic excellence and should not have been treated as a separate criterion.

Here I must observe that this contention falls within the ambit of “purely academic matters” which the Court is reluctant to intervene, as acknowledged in the case of **Dr. Karunananda (supra)**. This is not to say for a moment that academic decisions are beyond challenge.

In the academic context, we are cautious before interfering with qualitative judgments but will intervene where the decision is manifestly arbitrary or lacks any rational basis. Based on this precept, I note that whilst the Petitioner's contention that in the past practice, greater emphasis had been placed on sports and extra-curricular activities once a First-Class was attained, and this contention reflects the Petitioner's perception of the historical approach, the Court finds it difficult to accept that the primary emphasis of the award should be shifted away from academic achievement in a university context.

The Gold Medal is awarded within a Faculty of Engineering, where scholastic excellence is necessarily central. Extra-mural achievements are important and were rightly intended to be considered, but they cannot be elevated above the academic purpose of the institution. The Court observes that the expression "*extra-mural*" in isolation ordinarily connotes activities undertaken outside the classroom or the formal curriculum, and in some contexts even outside the university itself. In the context of P2C, however, the reference to extra-mural activities must be understood more broadly to include pursuits beyond formal academic coursework, such as participation in sports, arts, societies, clubs, publications, research, and other student activities. It cannot be read as confined exclusively to sporting achievements. Accordingly, the Court does not find the Petitioner's criticism of the weightage accorded to academics and research to be sustainable.

Legitimate Expectation

The Petitioner submits that, unlike the other thirty medals in the Faculty which are based solely on academic achievement, the Gold Medal was intended to recognise the most outstanding student by combining academic excellence with extra-curricular achievement, particularly in sports. She contends that historically, eligibility was confined to First-Class graduates, with sports performance being the decisive factor, and no separate marks were given for research or other academic prizes.

The Respondents contend, however, that P2C simply requires consideration of both scholastic and extra-mural excellence, and that “extra-mural” is not confined to sports. They argue that activities such as arts, societies, clubs, publications, research, and prizes equally fall within its scope, and that the Petitioner’s narrow interpretation is inconsistent with the language of the Statute.

Learned Counsel for the Petitioner further submits that there was a consistent practice in the Faculty, where sports (75% of marks), amongst other extra-curricular activities were accorded greater weight in the evaluation. It was submitted that the Petitioner had a legitimate expectation that the same practice would be followed, and that the sudden departure from it, without notice, amounts to a violation of the petitioner’s legitimate expectations. The affidavit of Mr. S.B.S. Abeykoon, former Vice Chancellor and former Dean of the Faculty, affirms that the marking practice historically treated the attainment of a First-Class as sufficient proof of academic excellence, with greater weight thereafter being accorded to sports and extra-curricular activities, thereby supporting the Petitioner’s contention as to the intended criteria.

The Respondents, on the other hand, submit that there was no settled or uniform practice in awarding the medal from year to year, but rather an *ad hoc* adoption of different schemes. Accordingly, the Petitioner cannot rely on any legitimate expectation.

For an expectation to be legitimate it must be founded upon a promise or practice by the public authority that it said to be bound to fulfil the expectation.

According to P2C(2)(d), the criteria is broadly mentioned as “*In making the award, both the scholastic and extra mural excellence of the student shall be taken into account.*” In the instant case, in scrutinizing the evidence presented to this court by both parties, although in most years on the surface level it seems that sports have been considered with greater weightage, no consistent or transparent marking criteria had been prescribed. The marking sheets that were produced in evidence are not sufficiently

detailed to disclose a concrete basis upon which percentages were to be allocated for academic performance, sports, and other extra-curricular activities.

While such administrative laxity is regrettable and emphasizing that the 1st Respondent ought to adopt clear, consistent, and accountable procedures in the preparation of marking schemes, the absence of a settled practice or binding representation prevents the Petitioner from establishing a legitimate expectation.

Infringement of Article 12

The failure to apply eligibility criteria consistently, together with the arbitrary allocation of interview marks, raises concerns of unequal treatment. I hold that the right to equality under Article 12(1) of the Constitution is infringed not only by overt discrimination but also by failure to ensure transparency, fairness and consistency in the application of rules.

The record reveals administrative ambiguity: marking sheets with inadequate explanatory detail, mistaken service of a non-applicable document, lack of transparent publication of criteria, and in particular the unlawful allocation of marks for an interview that was never held.

I observe that as a matter of equal protection of law, awarding bodies should adopt and publish clear, measurable, and intelligible marking schemes in advance, ensure lawful constitution of selection panels, and provide timely, non-selective notice to all eligible candidates. Administrative institutions are accountable to the standards of rationality, transparency and equality; shortcomings in these respects undermine confidence in awards of institutional prestige and the fairness of the process.

For the reasons more fully set out above, I hold that the procedure adopted in awarding the Gold Medal for the year 2015 was vitiated by procedural impropriety and arbitrariness, resulting in a violation of the Petitioner's fundamental rights under Article

12(1) of the Constitution. However, given the defects in the process, I am not in a position to direct that the Gold Medal for 2015 be awarded to the Petitioner.

Accordingly, the decisions of the Faculty Board, the Senate, and the Council to award the medal to the 312th Respondent are hereby quashed. Neither the Petitioner nor the 312th Respondent shall be entitled to receive the Gold Medal in respect of the 2015 convocation. In view of the lapse of time, and the impracticality of calling for fresh applications, no further selection shall be made for that year.

In the circumstances of this case, there shall be no order as to costs.

Before parting with this matter, the Court observes that the confusion which has arisen stems primarily from the absence of a clear and consistently applied marking scheme. Universities, in conferring medals of this nature, must ensure that criteria are transparent, uniformly applied, and publicly available in advance. This Court therefore strongly recommends that the University of Peradeniya takes appropriate steps to formulate and publish clear regulations governing the award of the E.O.E. Pereira Gold Medal, so that future recipients are selected through a process that is fair, consistent, and beyond reproach.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

Sobhitha Rajakaruna, J.

I agree.

JUDGE OF THE SUPREME COURT