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

In the matter of an application for Mandates in the nature of Writs of Certiorari under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka

1. The All Ceylon Buddhist Congress,
   No. 380, Bauddhaloka Mawatha,
   Colombo 07.

Court of Appeal Writ Application No:

CA/WRT/1206/25

CA/WRT/30/2026

2. C.N. Wakishta,
   Chairman,
   The All Ceylon Buddhist Congress,
   No. 380, Bauddhaloka Mawatha,
   Colombo 07.

PETITIONERS

vs

1. Mohamed Sheriff Mohamed Samsudeen,
   Learned Magistrate,
   Magistrate's Court-Trincomalee.

2. W.L.A.S. Priyantha,
   Inspector General of Police,
   Police Headquarters, Colombo 02.

3. W.S.E. Jayasundara,
   Senior Deputy Inspector General of Police,
   Office of Senior Deputy Inspector General of Police,
   Eastern Province,
   Lady Manning Drive, Batticaloa

4. D.M.U.M. Dissanayake,
   Deputy Inspector General of Police,
   Trincomalee Range,
   Office of Deputy Inspector General of Police,
   82 Orr's Hill Centre Road, Trincomalee.

5. L.Y.A.S. Chandrapala
   Senior Superintendent of Police
   Trincomalee Division, Trincomalee.

6. K.D.G.S.K. Samarasinghe
   Chief Inspector of Police, Officer-In-Charge,
   Trinco Harbour Police-Police Station
   Trincomalee.

7. Prof. P.B. Terney Pradeep Kumara,
   Director General,
   Department of Coast Conservation & Coastal Resource Management,
   4th Floor, Ministry of Fisheries Building,
   New Secretariat, Maligawatta,
   Colombo 10.

8. Ven. Thrikunamale Kalyana Wansa Thissa Thero,
   Chief Incumbent,
   Sri Sambodhi Jayanthi Bodhiraja Viharaya, Fort Road, Trincomalee.

9. Ven. Balangoda Kassapa Thero,
   Buddhist Centre, Fort Fredric Road,
   Trincomalee.

10. Ven. Thrikunmale Sukithawansha Thissa Thero,
    Boralukanda Rajamaha Viharaya,
    Trincomalee.

11. Ven. Nanda Thero,
    Sirimapura Anandarama Viharaya,
    Trincomalee.

12. Dipani Liyanage,
Marathadiya,
Trincomalee.

13. Viduranga Lokugalappaththi,
Mahamayapura,
Trincomalee.

14. L.T. Perera,
Marathdiya,
Trincomalee.

15. Piyal Premasiri,
Yard Approach Road,
Trincomalee.

16. G.D.U.. Gunathilaka,
No.253/A, Galepaththu Road,
Wabada, Kaluthara.

17. Hon. Attorney General,
Attorney General's Department.
Colombo 12.

RESPONDENTS

Before: Hon. Justice N. R. Abeysuriya PC (P/CA)

Hon. Justice K. P. Fernando

Counsel: Manohara De Silva PC with Dilmini De Silva for the Petitioner instructed by Anusha Perusinghe (CA/WRT/1206/25)

Uditha Egalahewa PC with Damitha Karunarathna, Miyuru Egalahewa for the Petitioner instructed by Lilanthi De Silva (CA/WRT/30/26)

Vikum De Abrew PC, ASG, with Shanil Kularathne PC, ASG with Jemiah Sourajah SC, Tharaka Kodagoda SC for the 17th Respondent.

Supported On: 22/01/2026

Decided On: 03/02/2026

N. R. Abeysuriya, PC, J. (P/CA),

The aforementioned writ applications arise from the same series of events, and accordingly, the order made herein shall be applicable to both applications.

For the avoidance of confusion, it must be noted that in Writ Application No. 1206/25, the Petitioners are two Buddhist monks, namely Ven. Thrikunamalaye Kalyanavanshathissa Thero and Ven. Balangoda Kassapa Thero, whereas in Writ Application No. 30/26, the Petitioners are the All Ceylon Buddhist Congress and its Chairman.

The Petitioners in the two instant applications seek, *inter alia*, the following reliefs:

(a) An order quashing the proceedings instituted before the Magistrate's Court of Trincomalee bearing case number BR/1784/01/PC/25; and

(b) An order prohibiting the Police from taking further action in relation thereto.

The legal issues arising in the instant matters require careful and structured examination in order to avoid ambiguity and to ensure a categorical analysis of each contention advanced by the respective parties. While judicial economy ordinarily favors brevity, such an approach is not feasible in the present circumstances, as the factual matrix is complex and bears directly upon the determination of the legal questions involved. Accordingly, it is necessary to set

out the factual background in greater detail than I might otherwise have preferred.

The matters before Court stem from an incident involving the Police, the Coast Conservation authorities, and the petitioners, which arose when the petitioners commenced the construction of a Dhamma School building within the premises of the Sambuddha Jayanthi Temple situated in Trincomalee.

According to the Petitioners, the said temple is located in Fort Fredric Road, Trincomalee, and an area falling within the Trincomalee coastal zone. It is their contention that the construction in question relates to a Dhamma School building which had previously been damaged during the tsunami. The Petitioners further state that, with this objective in mind, the Chief Incumbent of the temple, together with several invitees, conducted a ceremony at an auspicious time on the 16th of November 2025 to recommence the construction of the Dhamma School building.

In contrast, the Respondents contend that the sequence of events leading to the incident is materially different. According to the Respondents, the temple had been granted a *conditional permit* authorizing the construction of a trade stall on temple land, limited to an extent of 127 Sq. ft. It is alleged that the temple authorities subsequently exceeded the demarcated and specified extent of the permit by acquiescing construction extending to approximately 400 Sq. ft., thereby acting in violation of the conditions attached to the permit.

As a consequence of this alleged violation, the Coast Conservation authorities notified the temple authorities that the conditions of the permit had been breached, and accordingly cancelled the permit by way of a letter marked P23A. The Respondents further state that the temple authorities availed themselves of the appellate procedure provided for under the relevant statutory framework by appealing to the Secretary to the line Ministry in charge of the subject of Coast Conservation. Such appeal, however, was refused.

It is the Respondents' position that, in terms of Section 21 of the relevant Act, the decision of the Secretary on such an appeal is final.

Following the refusal of the statutory appeal, when the authorities were poised to proceed with the demolition of the said trade stall on the 17th of November 2025, the temple authorities are alleged to have organized an event overnight and to have commenced construction of what is described as the Dhamma

School building on the 16th of November which the Respondent claim is not coincidental.

It is the position of the Respondents that this course of conduct constitutes a violation of the Coast Conservation and Coastal Resource Management Act, No. 57 of 1981 (hereinafter sometimes referred to as "the CCA"), and that the alleged offence is disclosed under Section 14(1) thereof.

The said provision is reproduced below,

> ***14 (1)*** *Notwithstanding the provisions of any other law, no person shall engage in any development activity other than a prescribed development activity within the Coastal Zone except under the authority of a permit issued on that behalf by the Director.*

It should be noted that the legislature has accorded primacy to this enactment by stipulating that its provision shall prevail notwithstanding the provisions of any other conflicting law.

The term *"development activity"* as appearing in Sec 14 is defined in the interpretation section of the Act which reads thus:

> ***42*** *'development activity' means any activity likely to alter the physical nature of the Coastal Zone* ***in any way*** *and includes the construction of buildings and works, the deposit of waste or other material from outfalls, vessels or by other means, the removal of sand, sea shells, natural vegetation, sea grass and other substances, dredging and filling, land reclaiming and mining or drilling for minerals, but does not include fishing; (emphasis added)*

Accordingly, as contended by both parties, the central question that has arisen in the instant matter is whether the acts complained of amounted to a violation of the aforesaid statutory provisions, and whether the Petitioners were in possession of a valid permit authorizing them to engage in such development activity within the Coastal Zone.

At this juncture, it becomes necessary to place the Coast Conservation and Coastal Resource Management Act in its proper statutory and policy context, and to consider the intention of the Legislature in enacting the said legislation.

Environmental protection in Sri Lanka is not an incidental concern but a constitutional, statutory, and judicially reinforced obligation, grounded in the

recognition that nature and its resources are held in trust for both present and future generations. The Constitution of Sri Lanka, while not expressly guaranteeing a fundamental right to a clean and healthy environment, embeds environmental protection within its normative framework through the **Directive Principles of State Policy** and **Fundamental Duties**.

Article 27(1) of the constitution states that the Directive Principles of State Policy herein contained shall guide Parliament, the President and the Cabinet of Ministers in the enactment of laws and the governance of Sri Lanka for the establishment of a just and free society.

Article 27(14) of the Constitution mandates that ***"the State shall protect, preserve and develop the environment for the benefit of the community."*** (Emphasis added)

Complementing this, Article 28(f) imposes a corresponding duty on every citizen to ***"protect nature and conserve its riches."*** Article 28 stipulates that the exercise and enjoyment of rights and freedom are inseparable from the performance of duties and obligation and accordingly it is the duty of every person in Sri Lanka to perform the duties stipulated therein which includes as contained in Article 28(f) protect nature and conserve its riches.

Though these provisions are non-justiciable in isolation, Sri Lankan courts have consistently held that they serve as interpretative guides, informing the scope and content of executive power, statutory interpretation, and judicial review. Together, these provisions reflect a constitutional vision that environmental protection is a collective responsibility, binding the State, citizens, and institutions alike.

Environmental law thus emerges as a critical instrument for balancing development with sustainability. As recognized in Sri Lankan jurisprudence, unregulated development poses a direct threat to ecological integrity, public health, and inter-generational equity. Consequently, courts have assumed an increasingly proactive role in protecting and preserving nature, treating environmental resources not as commodities for unchecked exploitation but as national assets held in public trust.

Legislative Intent and the Coast Conservation Act

Within this framework, the **Coast Conservation Act No. 57 of 1981 (CCA)** occupies a position of particular importance. Enacted at a time when

environmental governance was still evolving globally, the Act reflects the legislature's early recognition of the unique vulnerability of Sri Lanka's coastal zone and the need for a strict regulatory regime. The long title of the Act makes its objectives clear, *inter alia, "to regulate and control development activities within the coastal zone."* This wording underscores that regulation, rather than facilitation of development, is the primary legislative concern.

Furthermore Sec 2 of the act states that the administration, control, custody and management of the coastal zone are vested in the Republic.

In Section 42 the following definition is given for the term **"coastal zone",**

> *'Coastal Zone' means that area lying within a limit of three hundred meters landwards of the Mean High Water line and a limit of two kilometres seawards of the Mean Low Water line and in the case of rivers, streams, lagoons, or any other body of water connected to the sea either permanently or periodically, the landward boundary shall extend to a limit of two kilometres measured perpendicular to the straight base line drawn between the natural entrance points thereof and shall include the waters of such rivers, streams and lagoons or any other body of water so connected to the sea, and shall also include the area lying within a further extended limit of one hundred metres inland from the Zero Mean Sea Level along the periphery;*

The interpretation clause of the Act defines "development activity" in notably broad terms, encompassing **any activity likely to alter the physical nature of the coastal zone in any way.** This expansive formulation is not accidental; it reflects a deliberate legislative intention to prevent loopholes and to ensure that even seemingly minor or indirect activities fall within the regulatory net. Sri Lankan courts have consistently favoured such purposive and precautionary interpretations, recognising that environmental harm is often incremental and cumulative rather than immediate or obvious.

A particularly significant feature of the CCA is that Sri Lanka's Environmental Impact Assessment (EIA) regime was first introduced through this Act, with Part III titled "Permit Procedure." This legislative choice demonstrates clear foresight. By embedding environmental assessment within coastal regulation, Parliament signaled that development decisions affecting sensitive ecosystems must be preceded by scientific evaluation, public accountability, and administrative scrutiny. The EIA process thus serves as an expression of

legislative intent to institutionalize preventive environmental governance, rather than reactive enforcement after damage has occurred.

Upon the consideration of the scheme and structure of the CCA, this Court observes that the legislature by way of amendments brought to the principal enactment in 2011 and 1988 (Acts No. 49 and 64 respectively) have introduced special provisions which enhance the powers of the Police with regard to offences recognized by the Act. These amendments currently appear as Sec 35A, 35AA, 35AAA and 35B in the consolidated version of the CCA.

The aforesaid amendments are reproduced below.

> ***35A.***
>
> ***(1)*** *A police officer may without an order from a Magistrate and without obtaining a warrant, arrest any person reasonably suspected of having been concerned in, or connected with, the commission of an offence under this Act, punishable with imprisonment for a term exceeding six months.*
>
> ***(2)*** *Every police officer making an arrest under this section shall, without unnecessary delay take or send the person arrested to the nearest police station, together with a statement setting out the offence with which the accused is charged. The officer in charge of the police station shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate.*
>
> ***35AA.*** *Every offence under this Act shall be a cognizable offence within the meaning, and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979 and the provisions of such Act shall apply accordingly.*
>
> ***35AAA.*** *No civil or criminal action shall be instituted against a police officer acting under the provisions of this Act, for any lawful act which is done or purported to be done in good faith by such police officer in pursuance of his duties under this Act.*
>
> ***35B. Every police officer shall prevent, and may interfere for the purpose of preventing, the commission of any offence under this Act. (Emphasis added)***

In my view, the legislature has by way of amendments incorporated the aforesaid provisions due to the importance of achieving the objectives of the CCA effectively and efficiently.

Temporary Structures and Environmental Impact

The question of permitting so-called "temporary" structures within the coastal zone raises a fundamental issue of environmental law: whether duration can ever negate environmental impact. From an ecological perspective, even temporary constructions are capable of altering coastal morphology, disrupting habitats, accelerating erosion, and interfering with natural processes. The Coast Conservation Act does not distinguish development based on permanence; instead, it focuses on the likelihood of alteration to the physical nature of the coast.

Accordingly, whether a structure is temporary or permanent is legally irrelevant if its impact falls within the statutory definition of development. The regulatory framework requires that even such activities require obtaining the necessary approvals from the relevant state authorities. These procedural safeguards are not mere formalities; they exist to ensure due diligence, transparency, scientific assessment, and the prevention of abuse or misuse of environmentally sensitive areas.

Judicial Role and Landmark Environmental Jurisprudence

Sri Lankan courts have played a decisive role in giving practical effect to constitutional values and environmental statutes. In **Bulankulama vs Secretary, Ministry of Industrial Development (Eppawela Case)**[1], the Supreme Court recognized the doctrine of **public trust**, holding that natural resources are held by the State in trust for the people and future generations. The Court emphasized that economic development cannot override the State's duty to protect the environment, drawing directly from Articles 27(14) and 28(f) of the Constitution.

Similarly, in **Sugathapala Mendis vs Chandrika Bandaranaike Kumaratunga (Waters Edge Case)**[2], the Supreme Court invalidated executive action that permitted environmentally harmful development, reaffirming that State authorities must act within the bounds of environmental law and public trust. The Court stressed that **environmental protection is inseparable from good governance**, and that arbitrary or politically motivated decisions cannot justify ecological destruction.

[1] 2000 3 SLR 243
[2] 2008 2 SLR 339

In **Jayawardena vs Akmeemana Pradeshiya Sabha**[3], the courts recognized that local authorities too bear responsibility for environmental protection and cannot authorize development in disregard of statutory safeguards. This case reinforced the principle that **environmental obligations permeate all levels of governance**, from central authorities to local bodies.

Collectively, these decisions demonstrate that Sri Lankan courts have not treated environmental law as a peripheral concern. Instead, they have consistently adopted a **rights-conscious, trust-based, and future-oriented approach**, ensuring that statutory provisions like those in the Coast Conservation Act are interpreted in light of constitutional values and ecological realities.

In essence, environmental protection in Sri Lanka is anchored in constitutional principles, strengthened by progressive legislation such as the Coast Conservation Act, and actively enforced through judicial intervention. The broad definition of development activities, the early incorporation of the EIA process, and the insistence on regulatory approvals even for temporary structures, reflect a clear legislative intent to safeguard the coastal zone from degradation. The courts, acting as custodians of constitutional morality and environmental justice, play an indispensable role in ensuring that nature and its riches are preserved, not merely for immediate use, but as a legacy for generations yet to come.

It must be observed at the outset that environmental protection in Sri Lanka is not a matter left to administrative discretion or policy preference, but one that is firmly rooted in the constitutional framework. Although the Constitution does not expressly recognize a fundamental right to a clean and healthy environment, Articles 27(14) and 28(f) clearly articulate the obligation of the State and the duty of citizens to protect, preserve and conserve the environment and its natural resources. These provisions, though contained in the Directive Principles of State Policy and Fundamental Duties, cannot be treated as devoid of legal significance. They constitute guiding principles which must be taken cognizance of when interpreting statutes, the exercising executive power, and discharging judicial functions.

In construing environmental legislation, Courts have consistently adopted a purposive approach, giving effect to the object and intention of the legislature rather than a narrow or literal interpretation. The Coast Conservation Act was

[3] 1998 1 SLR 316

enacted in recognition of the fragile and irreplaceable nature of the coastal zone, and its preambular objective to regulate and control development activities reflects a clear legislative policy of environmental protection. The definition of "development activity" under the Act is deliberately wide, extending to any activity likely to alter the physical nature of the coastal zone in any way. Such breadth admits of no artificial distinction based on scale, duration, or form, and must be understood as an intentional safeguard against piecemeal or disguised encroachments.

The contention that a structure is "temporary" cannot, in our view, be determinative of its legality. The Act does not exempt temporary constructions from its regulatory framework. What is material is the potential impact on the coastal environment. Even temporary structures may interfere with natural coastal processes, accelerate erosion, or disturb ecological balance. To accept temporariness as a basis for exemption would be to undermine the statutory scheme and open the door to circumvention of environmental safeguards. The law requires that all development activities, whether temporary or permanent, comply strictly with the permit procedure prescribed by statute.

Precautionary Principle

Environmental regulation, by its very nature, must operate on a preventive basis. This Court recognizes the applicability of the precautionary principle, which requires that where there is a threat of serious or irreversible environmental harm, the absence of full scientific certainty should not be used as a reason for postponing protective measures. This principle is implicit in the structure of the Coast Conservation Act, particularly in the requirement of prior approval and environmental assessment before development is permitted. The introduction of the Environmental Impact Assessment process through the Act itself is a clear manifestation of the legislature's intent to prioritize prevention over remediation.

The role of the State in matters of environmental governance is not that of an absolute owner, but that of a trustee. Natural resources, including the coastal zone, are held in trust for the benefit of the people and for future generations. This Court has previously affirmed the public trust doctrine as forming part of our law, imposing a fiduciary obligation on the State to protect environmental resources from degradation and misuse. Any decision permitting development must therefore withstand scrutiny not only for procedural compliance but also for consistency with this trust obligation.

Comparative jurisprudence offers persuasive support for this approach. The Supreme Court of India has, in a series of decisions, recognized the public trust doctrine and the precautionary principle as essential components of environmental governance. In **M.C. Mehta v Union of India**[4], the Court held that the State holds natural resources in trust for the public and cannot abdicate its responsibility by permitting their exploitation in a manner detrimental to ecological balance. In **Vellore Citizens' Welfare Forum v Union of India**[5], the precautionary principle was expressly affirmed as part of environmental law, requiring proactive measures to prevent environmental harm.

While such decisions of foreign jurisdiction are not binding on courts in this country, they reinforce principles already embedded in our constitutional and statutory framework and are of great persuasive value. They underscore the judicial responsibility to ensure that development is pursued only within the limits imposed by environmental law and constitutional duty.

In matters of this nature, courts do not function merely as arbiters of competing interests. They act as guardians of the environment and as custodians of the constitutional obligation to protect nature and its riches. Judicial intervention, where warranted, is not an encroachment upon executive or administrative authority, but a necessary exercise of judicial power to uphold the rule of law, ensure fidelity to legislative intent, and safeguard the environmental heritage of the nation for generations yet unborn.

The learned President's Counsel appearing for the Petitioners vehemently contended that the material placed before the Learned Magistrate was insufficient to warrant an arrest, and that the B Report, on a bare perusal thereof, neither disclosed the commission of an offence nor was sustainable in law.

However, upon the plain reading of the B Report, it is evident that the material was placed before the Magistrate under the provisions of the Coast Conservation and Coastal Resource Management Act, together with ancillary penal provisions of the Penal Code cited there under, *inter alia* including Sections 140, 146, 410, 323.

[4] 1987 AIR 1086
[5] 1996 AIR 2715

The Learned Magistrate was therefore required to examine whether the suspects had obtained the requisite permit to engage in a development activity within the Coastal Zone, and at the material time, it is undisputed that no such permit had been obtained.

Significantly, the Petitioners themselves, in the pleadings filed before this Court, assert that they were in the process of potentially obtaining a permit in the future. This assertion, in and of itself, reinforces the conclusion that the Petitioners were conscious of the legal requirement to obtain a permit prior to engaging in such activity. I must also place on record that the Petitioners were fully aware of the necessity of a permit, particularly in light of the fact that a permit had been previously issued to them in respect of the same premises to erect a fence and to construct a "temporary hut"(vide documents marked by the Petitioner as P23 and P26(a))

The learned President's Counsel for the Petitioners further submitted that the structure in question was a temporary hut, intended to be removed, and therefore did not constitute a development activity within the meaning of the Act.

However, the submissions advanced by the Respondents, read together with the annexure to the B Report, reveal a materially different factual position. The structure in question was supported by ready-made concrete pillars affixed to the ground using cement, and a roof constructed with asbestos sheets had been erected at the location in dispute. These features are inconsistent with the characterization of the structure as a purely temporary or makeshift construction.

In any event, I place substantial reliance on the statutory scheme of the CCA, which makes it clear that the distinction between a temporary and a permanent structure is immaterial, provided that the activity in question falls within the definition of a "development activity" and is undertaken without a valid permit. The Act does not carve out any exception based on the alleged temporariness of a structure.

Indeed, it would be pragmatically unworkable, if not legally untenable, to determine the legality of coastal constructions based on subjective assessments of duration or impermanence.

The Respondents, in their submissions, raised a preliminary objection to the maintainability of the instant writ applications, contending that the writ

jurisdiction of this Court ought not to be invoked where adequate and efficacious alternative remedies are available to the Petitioners.

Accordingly, as observed elsewhere in this order, if the B Report was alleged to be defective, unsustainable, or otherwise lacking legal foundation and therefore the remand orders are illegal, the proper remedy available to the Petitioners was to invoke the revisionary jurisdiction of the High Court or to seek appropriate relief before the High Court vested with supervisory and revisionary jurisdiction to hear and determine such matters.

The same reasoning applies with equal force to the issue of bail under the Coast Conservation and Coastal Resource Management Act. Section 31H of the said Act clearly stipulates that a party aggrieved may seek bail from the High Court of the relevant Province. Section 31H is reproduced below;

> "*No bail shall be allowed by a Magistrate during the continuance of any proceedings in respect of an offence under this Act:*
>
> *Provided however that the High Court of the Province established under Article 154G of the Constitution may, for exceptional circumstances shown to the satisfaction of the Court, allow bail to an accused person in respect of on offence under this Act. "*

In light of this express statutory remedy, the invocation of the writ jurisdiction of this Court on matters relating to bail is neither warranted nor appropriate.

The Petitioners further drew the attention of this Court to the circumstance that certain invitees and individuals allegedly only remotely connected to the incident had also been remanded. However, a perusal of the proceedings before the Magistrate's Court reveals that the Learned Magistrate was briefed on the individual criminal involvement of each suspect prior to issuing the remand orders *(vide Page 12 of Certified Copy of proceedings of the Magistrate's Court of Trincomalee - BR/1784/01/PC/25 dated 14.01.2026).* Even assuming that any person's personal liberty had been curtailed in an arbitrary or excessive manner, the Petitioners had the opportunity to place such material before the Learned High Court Judge, together with cogent proof, and to seek bail or even discharge where warranted.

In the circumstances, the availability of these alternative statutory and judicial remedies further reinforces the position that the extraordinary writ jurisdiction of this Court ought not to be exercised in the instant matters.

The law and precedents of this country aptly demonstrates remedies and course of action that aggrieved parties can resort to in the event a Magistrate acts *ultra vires* or beyond the four corners of the law.

This is one of those instances where this Court bears a higher threshold responsibility to ensure that the administration of justice does not descend into disorder through the routine filing of writ application seeking to quash B reports.

Court must therefore be vigilant to ensure that the administration of justice does not become unmanageable by entertaining indiscriminate challenges seeking to quash B Reports.

Judicial review is an extraordinary remedy and is not intended to supplant ordinary legal processes provided by statute. It is well settled that where the law provides an equally effective alternative remedy, a party is required to exhaust such remedy before invoking the writ jurisdiction of this Court. Judicial review must therefore be regarded as a remedy of last resort, to be exercised sparingly and only in circumstances where no adequate alternative remedy exists or where exceptional circumstances warrant immediate intervention.

In the instant matters, it is evident that the Petitioners have failed to avail themselves of the statutory remedy of revision, by which they could have challenged both the institution of proceedings and the subsequent orders of remand. The availability of such a remedy is neither illusory nor ineffective. On the contrary, revision constitutes a well-recognized and effective mechanism for correcting jurisdictional error, illegality, or procedural impropriety at an early stage of proceedings.

The Supreme Court in **Kulasooriya vs Officer-in-Charge, Kirindiwela Police Station**[6] unequivocally held that an application for revision is an equally effective remedy. The Court emphasized that a litigant cannot bypass established procedural avenues and seeks discretionary relief under writ jurisdiction as a matter of convenience. The failure to pursue such alternative remedies is a material consideration when assessing the maintainability of writ applications.

[6] SC Appeal No. 52/21, SCM dated 14.07.2023

This position is consistent with several other judicial authorities. In **Ishak vs Lakshman Perera**[7], the Court observed that requiring parties to exhaust alternative remedies prior to resorting to judicial review is in accord with the principle that judicial review is properly regarded as a remedy of last resort. This requirement reflects judicial discipline and respect for the statutory framework established by law.

In the **Kulasooriya case**[8]**,** Malalgoda J held thus,

"With regard to the powers vested with the Court of Appeal under Article 140 in issuing orders in the nature of writs, it is well settled that when an alternative and equally efficacious remedy is available to a party, the party should be required to pursue that remedy before invoking the writ jurisdiction."

Shirani Thikawardane J in **Ishak vs Lakshman Perera**[9] made the following pronouncement,

"Where there is an alternative procedure which will provide the applicant with a satisfactory remedy the Courts will usually insist on an applicant exhausting that remedy before seeking judicial review. In doing so the Court is coming to a discretionary decision." Where there is a choice of another separate process outside the Courts, a true question for the exercise of discretion exists. For the Court to require the alternative procedure to be exhausted prior to resorting to judicial review is in accord with the judicial review being properly regarded as being a remedy of last resort. It is important that the process should not be clogged with unnecessary cases, which are perfectly capable of being dealt with in another tribunal. It can also be the situation that Parliament, by establishing an alternative procedure, indicated either expressly or by implication that it intends that procedure to be used, in exercising its discretion the Court will attach importance to the indication of Parliament intention."

Malalgoda J having cited with approval the aforesaid paragraph from the judgment in **Ishak vs Lakshman Perera**[10] held thus,

"Her ladyship had considered invoking the writ jurisdiction as the "last resort." In the above circumstances, it is necessary for the Petitioners in a writ application either to aver that the party had exhausted the alternative remedy or

[7] 2003 3 SLR 18
[8] (supra)
[9] (supra)
[10] (supra)

explain why the party decided to invoke writ jurisdiction without resorting to the alternative remedy available to them."

I also wish to cite the following paragraph from the said **Kulasooriya case[11],**

"A party who invokes the revisionary jurisdiction is required to satisfy Court that there are exceptional circumstances for the party to invoke such jurisdiction and the Court will use its discretion when deciding to grant such relief. Similarly, a party invoking the writ jurisdiction of the Court of Appeal is necessary to satisfy Court that the said party had exhausted all equally efficacious remedies available to them before invoking the writ jurisdiction. In other words, failure by a party to make use of equally efficacious remedies available to them will become a ground for the Court to use its discretion and refuse to grant such relief."

The Court of Appeal, in **Dialog Axiata PLC vs Director General of Customs[12]**, examined this issue in detail and reaffirmed that where an adequate and effective alternative remedy exists, a writ application will not lie. The Court made it clear that the existence of such remedy is not a mere technical bar, but a substantive limitation on the exercise of writ jurisdiction, grounded in the discretionary nature of such relief.

It is recognized that this rule is not absolute. Courts have accepted that exceptional circumstances may justify departure from the requirement to exhaust alternative remedies. As stated in **Somasundaram vs Forbes & Walker Ltd[13],** judicial review may still be available where the impugned action is ex facie illegal, where there is a clear lack of jurisdiction, or where the alternative remedy is shown to be inefficacious. However, such exceptions must be strictly construed and clearly demonstrated. Mere inconvenience, apprehension of delay, or dissatisfaction with the statutory process does not suffice.

In the absence of any disclosed exceptional circumstances, and given the clear availability of the revisionary remedy and provisions for bail contained in the Coast Conservation Act, this Court is constrained to hold that the present applications are premature and not maintainable.

---

[11] (supra)
[12] CA/WRT/464/2008 decided on 06.05.2016
[13] 1993 2 SLR 362

In this regard I wish to cite the judgment of **Laffar J in Binara Yohan vs Director General Coast Conservation,**[14] which has a somewhat similar factual matrix as the instant matter and legal context wherein it was held thus,

> *"When a Magistrate is exercising powers within the purview of the Coast Conservation Act, the Writ court should not interfere with those functions, either directly or indirectly. If the Petitioners believe they will not receive justice from the Magistrate, they are entitled to challenge the Magistrate's order through the appropriate forum, such as an appeal or revision. Since such alternative remedies are available in law, seeking discretionary relief through prerogative Writs is not justifiable at this stage."*

I am of the view that superior courts must not unnecessarily interfere with the functions of lower courts in matters of this nature. A Magistrate plays a vital role under the Code of Criminal Procedure in facilitating investigations.

This Court would also wish to strongly discourage the unnecessary characterization of matters of this nature as involving issues of racial or religious disharmony. The present matter is entirely rooted in statutory compliance with the Coast Conservation and Management Act and does not involve any issue of ethnicity or religion. To portray such proceedings as arising from communal considerations is misleading, unwarranted, and serves only to divert attention from the core legal issues before Court.

Therefore this Court, for the foregoing reasons, is not inclined to issue formal notices on the Respondents and accordingly dismiss the applications in *limine*.

No costs.

PRESIDENT OF THE COURT OF APPEAL

K. P. Fernando, J.
I agree.

JUDGE OF THE COURT OF APPEAL

[14] CA/WRT/81/2025 decided on 26.03.2025