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

In the matter of an Application for Orders in the nature of Writs of *Certiorari* and *Mandamus* under and in terms of Article 140 of the Constitution.

Court of Appeal Case No:
CA/WRIT/202/2022

1. S.M.S.P. Wanasinghe,
   No. 152/9A,
   Pahala Bomiriya,
   Kaduwela.

2. R.P.S.M. Kumararathna,
   No. 4/2/34, Nungamuwa,
   Pallewela.

3. E.A.D.Y.U. Wijayasiri,
   No. 180/A, Niwandama,
   Jaela.

4. R.W.M.N.T. Lokubandara,
   No. 10/A, Aluamba,
   Pilawala, Kandy.

5. P.A.S. Perera,
   No. 323/9,
   Pahala Bomiriya,
   Kaduwela.

6. B.H.K. Banagala,
   New 82, Balagolla,
   Kengalla.

7. K.S.A. Fernando,
   No. 388/9E,
   Kularatne Road,
   Kimbulapitiya Road,
   Negombo.

8. M.B.C. Jinadasa,
   10th Lane,
   Regland Estate,
   Boyagane.

9. V.N.Senarath,
   No. 05,
   Baduwatta Lane,
   Lewella, Kandy.

10. R.K.A.D.V.R. Rathnasekara,
    No. 02, Gunathilakawatta Road,
    Nagoda,
    Dodangoda.

11. B. Ruwanpura,
    No. 166/8,
    Balika Niwasa Road,
    Rukmale, Pannipitiya.

12. K.S. Wedaarachchi,
    No. 10/B,
    Kuruduwatta, Isadeen Town,
    Matara.

13. I.E. Vidyananda,
    No. 30,
    Army Housing Scheme,
    Thumbowila Road,
    Bokundara, Piliyandala.

14. O.N. Godellawatta,
    No. 35/A/3, 1st Lane,
    Rubberwatta Road,
    Gangodawila, Nugegoda.

15. D.M.A. Devindi,
    No. 12,
    River Side Road,
    Badulla.

16. U.I. Abhayathunge,
    No. 120, Poojagoda,
    Handessa.

17. D.P. Madanayaka,
    No. 35/2,
    Wekunagoda Lane,
    Bope, Galle.

18. D.K. Wickramarachchi,
    Lower Junction,
    Yatadolawaththa,
    Mathugama.

19. H.A. Pitagampola,
    No. 34, Eksath Mawatha,
    New Town,
    Rathnapura.

20. R.M.N.C. Rathnayake,
    No. 61, Maithree Mawatha,
    Ekala.

21. R.M.N.S. Rathnayake,
    No. 70, Jaya Mawatha,
    Bagawanthalawa Waththa,
    Uyandana, Hindagolla.

22. A.A.D.N. Dhananjani,
    No. 22/2C, Morandha Road,
    Makandhana, Piliyandala.

23. R.S.R. Withanage,
    No. 44/1, Negenahira Mawatha,
    Kirillawala, Kadawatha.

24. K.N. Yasaswin,
    No. 132/1, Rajamawatha Road,
    Rathmalana.

25. P.P. Gunawardana,
No. 72, Sooriya Uyana,
Kalahe, Wanchawala,
Galle.

26. P.S. Shanaka,
No. 270/18,
Dickwella Road,
Siyambalape.

27. S.S. Edirisinghe,
No. 151/3, Elliot Road,
Galle.

28. W.A.S.T. Weerasinghe,
No. 201, Batagama North,
Ja-ela.

PETITIONERS

Vs.

1. The Institution of Engineers, Sri Lanka,
120/15, Wijerama Mawatha,
Colombo 07.

2. Eng. A. Manamperi,
President,
The Institution of Engineers, Sri Lanka,
120/15, Wijerama Mawatha,
Colombo 07.

3. Eng. Dr. Kamal Laksiri,
President Elect,
The Institution of Engineers, Sri Lanka,
120/15, Wijerama Mawatha,
Colombo 07.

4. Eng. (Prof.) K.T.M. Udayanga Hemapala,
   Secretary,
   The Institution of Engineers, Sri Lanka,
   120/15, Wijerama Mawatha,
   Colombo 07.

5. Eng. Neil Abeysekera,
   CEO & Executive Secretary,
   The Institution of Engineers, Sri Lanka,
   120/15, Wijerama Mawatha,
   Colombo 07.

6. Eng. Prof. T.M. Pallewatte,
   Past President and Council Member,
   The Institution of Engineers, Sri Lanka,
   120/15, Wijerama Mawatha,
   Colombo 07.

7. Eng. P.W. Sarath,
   Chairman,
   Education Standing Committee,
   The Institution of Engineers, Sri Lanka,
   120/15, Wijerama Mawatha,
   Colombo 07.

8. General Sir John Kotelawala Defence University,
   Kandawala Road,
   Rathmalana.

9. Retired Major General Milinda Peiris,
   Vice Chancellor,
   General Sir John Kotelawala Defence University,
   Kandawala Road,
   Rathmalana.

10. Eng. S.U. Dampage,
    Dean – Faculty of Engineering,
    General Sir John Kotelawala Defence University,
    Kandawala Road,
    Rathmalana.

11. Dr. Mrs. D.D.T.K. Kulathunge,
    Head of Department – Department of Civil Engineering,
    Faculty of Engineering,
    General Sir John Kotelawala Defence University,
    Kandawala Road,
    Rathmalana.

12. Engineering Council, Sri Lanka,
    4th Floor, Irrigation Department Premises,
    230, Bauddhaloka Mawatha,
    Colombo 7.

13. Tilak De Silva,
    Chairman,
    Engineering Council, Sri Lanka,
    4th Floor, Irrigation Department Premises,
    230, Bauddhaloka Mawatha,
    Colombo 7.

14. University Grants Commission,
    No. 20, Ward Place,
    Colombo 7.

RESPONDENTS

Before:	Mayadunne Corea, J Mahen Gopallawa, J
Counsel:	Shantha Jayawardena with Hirannya Damunupola and Azra Basheer for the Petitioners. Uditha Egalahewa, PC with N.K. Ashokbharan instructed by Chandrakumar de Silva for the 1st to 7th Respondents. Zuhri Zain, DSG for the 8th to 11th and 14th Respondents.
Argued on:	13.02.2025 and 22.05.2025
Written Submissions:	For the Petitioners on 04.07.2025. For the 1st to 7th Respondents on 11.07.2025.
Decided on:	19.09.2025

Mayadunne Corea J.

The Petitioner is seeking, inter alia, the following reliefs:

"*(c) Call for and quash by way of an order in the nature of Writ of Certiorari quashing the decision (if any) of the 1st to 7th Respondents to refuse recognition of the IESL for the Degree Programme of Bachelor of Science (BSc) of Engineering (Hons) in Civil Engineering offered by Faculty of Engineering of the KDU pertaining to the 31st, 32nd, 33rd and 34th intakes of the Department of Civil Engineering*

(d) Grant and issue an order in the nature of a Writ of Certiorari quashing the decision of the 1st to 7th Respondents in directing the Petitioners to sit for the GQE Paper C Examination.

(e) Grant and issue an order in the nature of a Writ of Mandamus directing the 1st to 7th Respondents to grant the Full Recognition of IESL for the Degree Programme of Bachelor of Science (BSc) of Engineering (Hons) in Civil

Engineering offered by the Faculty of Engineering of the KDU pertaining to the 31st, 32nd, 33rd and 34th intakes of the Department of Civil Engineering.

(f) *In the alternative to prayer (e) above, grant and issue an order in the nature of Writ of Mandamus directing the 1st to 7th Respondents to grant the Conditional Recognition of the IESL for the Degree Programme of Bachelor of Science (BSc) of Engineering (Hons) in Civil Engineering offered by the Faculty of Engineering of the KDU pertaining to the 31st, 32nd, 33rd and 34th intakes of the Department of Civil Engineering.*"

The facts of the case briefly are as follows. The Petitioners hold degrees of Bachelor of Science (BSc) of Engineering (Honours) in Civil Engineering awarded by the General Sir John Kotelawala Defence University (hereinafter referred to as 'KDU'). The Petitioners state that according to section 14(1) of the Engineering Council Act, No. 4 of 2017, an engineering practitioner cannot engage in the practice of the engineering profession unless he is registered under the provisions of the Act. The Petitioners further state that Schedule A of the Act stipulates the qualifications required for registration, and according to Schedule A, in order to be registered as an Associate Engineer he is required either to complete a four-year full-time degree in Engineering recognized by the Institution of Engineers, Sri Lanka (hereinafter referred to as 'IESL') or to be an Associate Member of the IESL.

The Petitioners state that according to the by-laws made under the Institute of Engineers, Ceylon, Act, No. 17 of 1968 (sometimes referred to as 'IESL Act'), in order to be recognized as an Associate Member of the IESL, a candidate must possess a four-year full-time degree in Engineering recognized by the IESL, and if a degree is not recognized the candidate must sit for the General Qualifying Examination (hereinafter referred to as 'GQE') conducted by the IESL. The Petitioners state that, in October 2018, the 1st Respondents published a "Manual for the Recognition of Four-Year Engineering Degrees Conducted in Sri Lanka", and KDU had submitted applications to IESL along with self-evaluation reports for recognition of Engineering degree programmes. The IESL Degree Evaluation Panel conducted an inspection and evaluation and submitted a report to the Education Standing Committee of the IESL recommending a conditional recognition for two years for the degree programme of Bachelor of Science (BSc) of Engineering (Honours) in Civil Engineering, and the Education Standing Committee recommended the same to the Council of the IESL. However, it is alleged that the Council had appointed a sub-committee to re-evaluate the recommendations, and the sub-committee rejected the

aforesaid recommendations and instead recommended that the Council should not recognize the aforementioned degree programme. Thereafter, the Council refused recognition of the Bachelor of Science (BSc) of Engineering (Honours) in Civil Engineering.

The 17th to 28th Petitioners submitted their applications for evaluations of academic qualifications for Associate Membership of IESL. The IESL directed the Petitioners to sit for the General Qualifying Examination since their degree programme was not recognized. The Petitioners state that the examination was based on a new syllabus and thus, they failed this examination.

The Petitioners' contention

The Petitioners challenge the acts of the Respondents on the following grounds:

- The appointment of a sub-committee is *ultra vires* and contrary to the Institute of Engineers, Ceylon, Act, the by-laws marked as P4, and the Degree Recognition Manual marked as P5.
- The Council acted contrary to the recommendations of the Degree Evaluation Panel and the Education Standing Committee.
- The Respondents are biased and prejudiced against the KDU Engineering Graduates.
- Violation of Petitioners' legitimate expectations.

The Respondents' contention

The Respondents raised the following objections, *inter-alia*:

- When a decision to be taken by the Council requires an in-depth analysis, the practice is to appoint a sub-committee to assist the Council under its by-law.
- The decision to not recognise the degree programme in Civil Engineering offered by the KDU was based on the existence of major weaknesses in the programme.
- The Petitioners are not legally barred from working as engineers merely because they lack IESL/IIESL membership.

- The IESL is a private body; degree recognition is for internal membership. Therefore, there is no public duty.
- There is an alternative pathway available to the Petitioners via the GQE.
- The IESL is not bound by the decisions of the Evaluation Panel or any standing/sub-committee.
- Recognition decisions are academic and discretionary and not subjected to judicial intervention.
- The Petitioners have no *locus standi*. Only KDU can challenge degree recognition.
- The Petitioners have failed to substantiate the allegation of prejudice.
- The reliefs are defective.
- The Petitioners have failed to comply with Rules 3(1)(a) of the Court of Appeal Rules by not submitting certified documents.

Analysis

It is common ground that at the time the Petitioners enrolled or passed out, KDU was not a recognised University by the 1st Respondent. It is also common ground that for a degree awarding institution to be recognised by the 1st Respondent, the said institution has to make an application on payment of a fee. Subsequently, after an evaluation by a team of members of the 1st Respondent and followed by a rigorous scrutiny process, only then would 1st Respondent consider the recognition of the said institution.

The Petitioners are students of the 8th Respondent and they had qualified with the Civil Engineering degree from the KDU. Given the above background the 8th Respondent has made an application for the recognition of its degree programme in engineering.

The Petitioners belong to four separate intakes of the KDU. They are as follows:

- The 28th Petitioner belongs to the 31st intake and had been enrolled in 2014.
- The 25th to 27th Petitioners belong to the 32nd intake and have been enrolled in 2015.
- The 18th to 24th Petitioners belong to the 33rd intake and had been enrolled in 2016.
- The 1st to 17th Petitioners belong to the 34th intake and had been enrolled in 2017.

Though the 8th Respondent had been elevated to a university status by an Act it had not sought recognition for its engineering degree programme by the Institution of Engineers, 1st Respondent (hereinafter called the "IESL") till around 2015. However, the 8th Respondent had only deposited the required payments for the degree programme to be evaluated in 2017. In the same year the 1st Respondent had sent an initial Evaluation Panel to evaluate the 8th Respondent.

It is common ground that the IESL Evaluation Panel had evaluated and visited the Department of Civil Engineering on 23.05.2017 and 24.05.2017. Thereafter, on 09.03.2018 the Evaluation Panel had visited the faculty once again. The Evaluation Panel afterwards had submitted their report to the Education Standing Committee of the IESL. While the Petitioners have tendered part of an unsigned copy of the report marked as P8, the Respondents had tendered the signed evaluation report marked as R4a. Though the Petitioners' main contention is that the said Evaluation Panel had recommended a conditional recognition for a period of 2 years for the degree programme for Bachelor of Science (BSc) in Engineering (Hons) in Civil Engineering. The Respondents submitted that the said report highlighted many infirmities that have to be improved by the 8th Respondent if recognition is to be given to the said degree programme. Some of the glaring issues were pointed out as:

- The vacancies in the cadre positions in the engineering faculty.
- The staff to student ratio does not meet the norm of 1:12.
- The number of total practicals to be improved as it is at present inadequate for a Civil Engineering undergraduate programme.
- The staff to be allowed to exercise academic freedom to enable to pursue truth, educate students and disseminate knowledge and understanding.
- Improvement of the module deliveries.

The Evaluation Panel in their report marked as R4(a) imposed several conditions that should be met to improve the existing conditions namely as follows,

(i) The laboratory facilities shall be improved. Out of five laboratories three laboratories, namely, Structural Engineering, Environmental Engineering and Hydraulic Engineering shall be established in the new building with necessary equipment. The number of practicals conducted in five laboratories shall be increased to an acceptable level of a Civil Engineering degree programme. The above excludes Surveying practicals, which is satisfactory. The safety aspects of the laboratories shall be improved to acceptable standards related to safety.

(ii) The number of academic staff which stands at 9 is required to be improved. It was noticed that the total carder of the Engineering Faculty of six departments stands at 65 and 14 vacancies to be filled. Further, there are 15 Military Engineers involved in academic work. The total number of students is around 900. Therefore, faculty as a whole satisfies the IESL staff-student ratio of 1:12, but at department level it does not reflect as satisfactory. Therefore at least 15 academic staff could be considered as satisfactory and that shall be satisfied. It is recommended to maintain a maximum intake number, which is considered to be around 50.

(iii) Quality assurance system shall be improved. Student feedback process, student evaluation process, peer review process, semester balance process, and other areas identified shall be improved.

(iv) The external examiners have given valuable recommendations for improvements. Those shall he implemented.

The panel had refused to give full recognition for five years. However, the panel had recommended a conditional recognition for 2013-2014 intakes for a period of two years. This decision had been communicated to the Education Committee of the 1st Respondent, which again was based on the same report that had recommended a conditional recognition for a period of two years for the same degree programme. It was the contention of the 1st Respondent that since there were serious omissions and improvements to be met, the 1st Respondent had decided to appoint another Committee to look into the issue of conditional recognition. It was their contention that the issues raised by the Evaluation Panel were serious and especially in view of the fact that they had unanimously not recommended the recognition for a five-year period. The 1st Respondent had appointed another committee. The Petitioners' main argument is that once the Evaluation Panel and Education Committee (sometimes referred to as "Education Standing Committee") made their decision the 1st Respondent cannot appoint another committee and that there is no provision for appointing a third committee (herein referred to as "the sub-committee"). Thus, it was argued that the appointment of the sub-committee is *ultra vires*.

The appointment of the sub-committee

This Court has carefully considered the submissions of the Petitioners and the response of the learned Counsel appearing for the Respondents. In my view, the 1st – 7th Respondents had given a reason as to why the sub-committee was appointed. It was argued that the 1st Respondent was accredited to a world body and that is the recognition the Petitioners are seeking. It was submitted in view of the accreditation with the world body, the Respondents have to maintain and keep the high standards of the world body and the said standards should be maintained by the degree awarding institutions that seeks recognition of the 1st Respondent. It was further argued that if the 1st Respondent recognises an institution that falls short of the requirements there is a danger of the 1st Respondent's accreditation to the world body being challenged. Therefore, it is 1st-7th Respondents contention that by encouraging the institutions to promote their degree programmes to IESL recognised standards, the institutions improve themselves and thereby the final product, the fully qualified engineers. It appears as submitted to keep with the said purpose, it is necessary to maintain a strict and rigorous scrutiny of the institutions which seek recognition. Therefore, it is argued that until the said institute improves their quality of education, the said institutes and their degree awarding programmes would not be given recognition by the 1st Respondent. In keeping with the above and taking into consideration the serious infirmities in the degree programme offered by the 8th Respondent, the 1st Respondent had decided to appoint a sub-committee to consider the application pertaining to the awarding of the recognition.

The sub-committee had scrutinized the reports and recommended not to recognize the 8th Respondent and had also recommended not to give a two-year conditional recognition to the 8th Respondent which had previously been recommended.

Is the appointment of the sub-committee *ultra vires*?

Let me now consider whether the appointment of a sub-committee is an act of *ultra vires* the powers of the 1st Respondent. It is common ground that the 1st Respondent is governed by the by-laws and also the recognition process is codified in the Manual for Recognition of Four-Year Engineering Degrees Conducted in Sri Lanka (October 2018) (sometimes referred to as "the manual") which is marked as P5.

The attention of the Court was brought to the Institution of Engineers, Ceylon, Act, No. 17 of 1968. Especially to by-law clause 63. For clarity let me now reproduce the said clause 63.

> *63 The Council may appoint Committees which may consist of Members of Council only or Members of Council and other members. All Committees shall conform to any directions that may be given to them by the Council and subject to such directions, may regulate their procedure as they think fit.*

Thus, as per clause 63 of the by-laws which is marked as P4, the Council has the power to appoint a committee. Hence, in my view, the 1st Respondent had the legal right to appoint a sub-committee under by-law 63 to look in to the issue of recognition regardless of the appointment and the reports submitted by the earlier appointed Evaluation Panel and the Education Committee. Especially this sub-committee has been appointed subsequent to the report submitted by the other two committees which did not recommend granting of full five-year recognition or unconditional recognition for a period of two years to the degree programme. Hence, the Petitioners' main contention that the appointment of a sub-committee by the 1st Respondent is *ultra vires* is not tenable. Therefore, the main argument of the Petitioners in impugning appointment of the sub-committee has to fail.

Is the 1st Respondent bound to accept the recommendations of the Evaluation Panel and Education Committee without taking its own decision?

The Petitioners' next contention is that once the Evaluation Panel and the Education Committee makes their recommendations, the 1st Respondent is bound to implement it. In short, the Petitioners contend that if the above mentioned panel and committee make a recommendation the 1st Respondent should only rubberstamp it. This contention was vehemently rejected by the learned President's Counsel appearing for the 1st-7th Respondents. It was their contention that the 1st Respondent is not bound by the findings of the panel and committee and the 1st Respondent would consider all matters pertaining to the issue before coming to a conclusion. This is specifically pleaded by the 1st - 7th Respondents in their objections in paragraph 25.

As per the structure of the by-laws and the submissions of the learned President's Counsel for the 1st -7th Respondents, it is clear the first panel namely the Evaluation Panel does an in-depth study of the institution, which includes considering the studying environment, course material etc. Thereafter, their report is then submitted to the Education Standing Committee. The said Committee is created under rule 123 of the Regulations marked as P4. The said rule states as follows:

"*123. There shall be Standing Committees named as given below:*

a. Professional Standards Management Committee

b. Professional Affairs Committee

c. Education Committee

d. Finance and Procurement Committee

e. Library Publications, Publicity and Conferences Committee

f. Continuing Professional Development Committee" (emphasis added).

The responsibilities and the terms of reference of the said Committee which would have shed light on the issue before me was not tendered to this Court by either party. In the absence of such and in any event, it was common ground that the said Committee too, only has the power to make recommendations and not decisions.

It is also common ground that the said Education Committee has not agreed to grant full recognition and after considering the weakness and the factors highlighted in the Evaluation Panel report, has recommended a two-year conditional recognition. In response, as submitted by the learned President's Counsel appearing for 1st -7th Respondents it appears the 1st Respondent had considered all three reports and come to the conclusion that in view of the serious infirmities identified in the reports, the 1st Respondent was not willing to grant the recommended conditional recognition until the suggested improvements were given effect to. Coming back to the question before me, I find there is no regulation nor any other material to substantiate the Petitioners' contention that the 1st Respondent is bound to accept the recommendations of the Education Committee. In my view, this argument is not tenable because the final decisions are only taken by the 1st Respondent. Further, the Education Committee only makes a recommendation, which may or may not be accepted by the 1st Respondent. If the 1st Respondent was bound to give effect to the recommendation of the Evaluation Panel, the decision of the said panel would not be a recommendation but a final decision. However, the drafters of the by-law have used the

words carefully and had opted to use the word "recommendation" as opposed to the word "decision."

Further, according to section 12 (a) of the IESL Act, a function of the IESL is to accept, approve or reject any application for recognition. Section 12 (a) of the IESL Act states as follows:

> "*Section 12*
>
> *The Council shall be charged with the function of registering engineering practitioners holding such qualifications as set out in the Schedule A hereto, and also-*
>
> ***(a) accept, approve or reject any application submitted for registration under this Act;***
>
> *(b) cancel any registration granted by the Council;*
>
> *(c) keep, maintain and publish from time to time the list of the engineering practitioners registered under this Act;*
>
> *(d) hold inquires on any matter relating to the professional misconduct of the engineering practitioners;*
>
> *(e) determine the remuneration payable to the staff of the Council; and*
>
> (f) *make representations to the Government and relevant bodies on matters relating the practice of engineering profession in Sri Lanka."* (Emphasis added).

Therefore, the final decision regarding applications for the recognition of degree programmes lies not with the Education Committee but with the 1st Respondent, the IESL. Hence, in my view, the said argument is not tenable as the decision making power is vested with the Council.

Legitimate expectation of the Petitioners

The Petitioners' argument on legitimate expectation is two folds. Firstly, they argue that they have followed the university degree awarded by the 8th Respondent and they had a legitimate expectation that on completion of the said degree they would be able to obtain IESL recognition. Secondly, it is contended that when the Evaluation Panel and the Education Committee recommended the degree programme to be given two years conditional recognition. Therefore, it was their contention that the degree programme offered by the 8th Respondent would be recognised at least during the said period. I will now deal with the said argument based on legitimate expectations.

The IESL recognition is given to an institute after a thorough evaluation processes. This is not disputed by the parties. Once it is recognised, it is included in the recognised institutions list of the 1st Respondent. For a non-recognised institution to be recognised, the said institution has to make an application. Hence, merely because an institute awards a degree or has an engineering degree programme the recognition does not come to an institution as of right. If the Petitioners were eager to receive a degree that is recognised by the IESL then, when the Petitioners joined the 8th Respondent and commenced their studies it was incumbent on them to ascertain whether the institution, they had joined is recognised by the IESL. As it was submitted at the argument stage, it is not all students who want the said recognition. Therefore, a student who wishes to be qualified as an engineer from a IESL recognised degree programme should be aware of the fact as to whether the institution awarding the degree programme is IESL recognised or not. Hence, when a student joins a degree programme it is of paramount importance for the student to ascertain whether the institution they join to complete the degree has IESL recognition for the degree. Unfortunately, at the time the Petitioners joined the degree programme at the KDU, the 8th Respondent, they had not considered this factor. As at the time of joining as well as at the time of their qualifying as engineers the 8th Respondent had no recognition from the IESL for its degree programmes. Thus, the Petitioners could not have harboured a legitimate expectation to obtain IESL recognition at the time they graduated.

However, as stated above, it is not disputed that the 8th Respondent had subsequently made an application to obtain IESL recognition. The second limb of the Petitioners' argument is based on this ground. The Petitioners contend that pursuant to the Evaluation Panel's report, the Petitioners had discovered by means that were not disclosed to the Court that the said committee had recommended a conditional two-year period.

It was further argued that upon receiving the Evaluation Panel report, the Education Committee of the 1st Respondent too had agreed and recommended a conditional recognition for a degree which the Petitioners were following. Hence, it is their contention that they had a legitimate expectation of obtaining a conditional recognition. Thus, when the 1st Respondent refused to grant the said conditional recognition by P10, the said expectation was frustrated. In considering this submission, I find that for legitimate expectations to be harboured, the said expectation should be derived from an undertaking or specific, explicit expression made by a person of authority, and I would consider the said expression or communication should be communicated to the person who argues that by the said act there was a legitimate expectation created in him. A party can always argue that there is an expectation, however, whether the said expectation becomes legitimate or not depends on the circumstances and facts of each and every case, as the concept of legitimate expectation in a given circumstance becomes a question of fact rather than law. In coming to the said conclusion, I have considered the judgments of ***Samarakoon and Others v. University Grants Commission and others*** **(2005) 1 SLR 119** and also ***Siriwardena v. Seneviratne and others*** **[2001] 2 SLR 1**.

As Wade and Forsyth explain in their book "Administrative Law" (11th Edn) *"It is not enough that an expectation should exists; it must in addition be legitimate. A crucial requirement is that the assurance must itself be clear, unequivocal and unambiguous. The test is 'how on a fair reading of the promise it would have been reasonably understood by those to whom it was made'…*

First of all, for an expectation to be legitimate it must be founded upon a promise or practice of a public authority that is said to be bound fulfil the expectation. Second, clear statutory words, of course, override any expectation howsoever founded. Third, the notification of a relevant change of policy destroys any expectation founded upon the earlier policy, fourth, there is no artificial restriction in the material on which a legitimate expectation rests may be based. Fifth, the individual seeking protection of the expectation must themselves deal fairly with the public authority, sixth, consideration of the expectation may be beyond the jurisdiction of the court."

In the recent case of ***Bibile Kotagama Multipurpose Cooperative Society Limited v. K. M. G. Kapila Bandara (Former) Divisional Secretary CA Writ 208/2019 decided on 09.09.25*** considered the above 2 judgements as well as the case of ***Multinational Property Development Limited v Urban Development Authority. 1996(2) Sri LR 51*** and held that *"A public body may act in a manner which creates an expectation in the mind of a person*

or body. A legitimate expectation will arise in the mind of a person where such person has been led to understand by the words or actions of the decision-maker that a certain act may or may not be done. Moreover, those who form expectations tend to act in reliance of such expectations."

The Petitioners in this instance submits that the legitimate expectation of receiving recognition for their degree programme was created when the Evaluation Panel made a recommendation to grant the 8th Respondent a conditional recognition for a period of two years, which the Petitioners state was further recommended by the Education Committee. The Petitioners have marked the said recommendation as P8. On a careful consideration of document P8, the Court finds that the said document is an evaluation report by the initial Evaluation Panel. However, the said report is not made officially available to the Petitioners and not addressed to the Petitioners. As quite correctly argued by the learned President's Counsel for the 1st – 7th Respondents. The document P8 is a confidential document prepared by the Evaluation Panel, meant to be submitted to the Education Standing Committee and then sent to the 1st Respondent. Hence, it is not a public document, and it is not a document issued to the Petitioners. Further, the Petitioners have failed to inform the Court on which basis and how the Petitioners have obtained the document P8. However, they did not contest the contention that it was an internal confidential document. Based on given circumstances, in my view such a document that was never meant to be given to the Petitioners cannot create a legitimate expectation to the Petitioners.

The learned President's Counsel for 1st – 7th the Respondents further submitted that they have marked the correct copy of the said document as R4(a), which bears the date of signing as 09.03.2018. In the said document too, it is clear that the Evaluation Panel has in no uncertain terms have recommended not to grant a full recognition for five years due to the infirmities in the programme. However, under the comments they have commented and recommended to have a conditional recognition for a period of two years. That too is only pertaining to the batches of 2013 and 2014. Further, the recommendation clearly states the conditions to meet and the improvements the 8th Respondent has to fulfil. Another ground militates against the Petitioners are the said recommendations are conditional and it cannot be accepted or implemented as it is for it to be accepted the conditions stipulated should be fulfilled and complied. Whether these conditions were fulfilled or complied with was never informed to the Court and there is no material to demonstrate that it had been informed to the 1st Respondent. Without evidence of the said conditions being complied with the said recommendations become mere recommendations and cannot be implemented. Furthermore, given the fact that the document was an internal confidential document and not in public circulation nor was it addressed to the Petitioners, it does not create an

expectation among the Petitioners. Let alone it be a legitimate one. Therefore, in my view, such conditional recommendations cannot in any event create a legitimate expectation to the Petitioners.

I have also observed that as stated above in this judgment, the final decision-making body is the 1st Respondent. Hence, they can accept, vary, or disregard the said recommendation. Hence, I cannot subscribe to the Petitioners' argument that this has created a legitimate expectation on them for their degree programme to be given IESL recognition. Therefore, in my view, both limbs of the Petitioner's contention that frustration of the legitimate expectation is not tenable and has to fail.

This situation is more exacerbated when one reads the Regulations and the manual, both of which were marked and tendered to this Court, as both documents do not contain any provisions which compels the IESL to accept the recommendations of the Evaluation Panel or the Education Committee as submitted. On a plain reading, it is clear that the two Committees are submitting mere recommendations and not decisions.

Further, this Court observes that the Petitioners submitted that the Petitioners belong to 4 intakes of the Faculty of Engineering at KDU as pleaded in paragraph 10 of their Petition. Respectively in the years of 2014, 2015, 2016 and 2017. However, it is observed that the Evaluation Panel's recommendation marked as P8 and also marked by the 1st to 7th Respondents as R4(a) only make a conditional recommendation pertaining to the 2013 and 2014 intakes. As per the Petition there is no material to demonstrate that any of the Petitioners belong to the 2013 intake. However, as per paragraph 3 read with paragraph 10 of the Petition, only the 28th Petitioner belongs to the 31st intake which is the 2014 batch. Hence, in any event, the Court observes that the Petitioners cannot succeed in their argument on legitimate expectations based on the document P8 as the said document does not consider the intakes to which the Petitioners, other than the 28th Petitioner, belong to. Hence, even for arguments sake none of the Petitioners other than the 28th Petitioner can even harbour a legitimate expectation based on P8.

Can an engineer practice engineering without being a member of the IESL?

Let me now consider the next argument brought forward by the Petitioners and denied by the Respondents.

It was argued by the Petitioners that no engineer can practice engineering as a profession if they are not recognised under the IESL. Though this argument was brought by the learned Counsel for the Petitioners, he did not pursue the said argument with vigour as compared with his other submissions. However, for completeness, let me now consider this argument.

My attention was brought to the Act, No. 04 of 2017. Observing the long title, the IESL is empowered to regulate and register the engineering practitioners. Section 9 of the said Act specifically states that all decisions should be made by the Council by majority vote. The important sections pertaining to this argument are sections 12 and 14. Section 12 of the Act empowers the Council to register engineering practitioners who hold qualifications enumerated in Schedule A of the Act. It is important to bear in mind that by this section the Council is empowered to approve or reject any applications that are submitted. The basic qualification for registering is that the applicant should be qualified under Schedule A. Schedule A of the Act states as follows:

SCHEDULE A

Qualifications of the Engineering Practitioners

Engineering Practitioner	*Qualifications*
Chartered Engineer	Chartered Engineer of the Institution of Engineers, Sri Lanka established by the Institution of Engineers, Sri Lanka Act, No.17 of 1968.
Chartered Engineer	Four year Full-time degree in Engineering recognized by the Institution of Engineers, Sri Lanka established by the Institution of Engineers, Sri Lanka Act, No.17 of 1968 or an Associate Member of the Institution of Engineers, Sri Lanka established by the Institution of Engineers, Sri Lanka Act, No.17 of 1968.

Affiliate Engineer	Three year full time degree in Engineering recognized by the Institution of Engineers, Sri Lanka established by the Institution of Engineers, Sri Lanka Act, No.17 of 1968.
Incorporated Engineer	Incorporated Engineer of the Institution of Incorporated Engineers, Sri Lanka established by the Institution of Incorporated Engineers of Sri Lanka (Incorporation) Act, No. 64 of 1992.
Engineering Diplomate	Diploma in Engineering from a recognized University or Technical or Technological Institute recognized by the Institution of Incorporated Engineers of Sri Lanka (Incorporation) Act, No. 64 of 1992.
Engineering Technician	(i) National Vocational Qualification Level IV of Engineering Technology or equivalent qualification recognized by the Tertiary and Vocational Education Commission established by the Tertiary and Vocational Education Act, No. 20 of 1990. (ii) one year full-time academic course in Engineering Technology and has gained one year industrial experience in the relevant field or a holder of a Diploma or Certificate in Technology by a University or a Technical or Technological Institute of the Government of Sri Lanka.

It is clear that for an engineer to apply to become an engineering practitioner, he has to be qualified within the meaning of Schedule A. As per Schedule A, an engineer who is qualified from a recognised institution is eligible to register. In this instance, I observe that the Petitioners have qualified from the 8th Respondent University after completing a four-year course. However, the 8th Respondent is not a recognised university within the meaning of Schedule A at the time of conferring the degree on the Petitioners. Hence, the

Petitioners' grievance is that they cannot be registered under the IESL. Another important section to consider is section 14 of the Act.

"*Section 14*

(1) No engineering practitioner shall engage in the practice of engineering profession unless such engineering practitioner is registered under section 15 or 18:

Provided however, that any engineering practitioner who is engaged in the practice of engineering profession on the date of commencement of this Act shall, within six months from the date of commencement of this Act, register himself under section 15.

(2) Any engineering practitioner who contravenes the provisions of subsection (1) commits an offence."

Section 14 specifically imposes a bar which stated that no engineering practitioner shall engage in practice unless registered under section 15 or 18.

"Section 41.

In this Act unless the context otherwise requires "Engineering Practitioner" means

(a) a Chartered Engineer;

(b) an Associate Engineer

(c) an Affiliate Engineer;

(d) an Incorporated Engineer;

(e) an Engineering Diplomate; or

(f) an Engineering Technician,

who possesses corresponding qualifications specified in Schedule A hereto;"

However, the learned President's Counsel appearing for the 1st – 7th Respondents contended that section 14 does not bar an engineer from working as an engineer. His contention was that an engineer cannot use the word "practitioner' and practice engineering unless he is registered with the IESL. In a nutshell, the pith and substance of his argument is that a qualified engineer from a qualified university, even if the said university is not recognised by the IESL, can practice as an engineer. However, he cannot use the word

enumerated in the Schedule or be an engineering practitioner within the meaning of section 14.

However, when an application is rejected by the IESL an opportunity is availed to appeal against the decision under section 19. The learned Counsel for the Petitioners nor the Counsel for the 8th Respondent made any submissions as to whether they have availed this opportunity under section 19 and appealed against the decision of not recognising the 8th Respondent's degree programme. Strangely, in the prayers, the Petitioners are not conceding that they should be registered under the IESL Act instead they are only seeking a Writ of *Mandamus* directing to grant full recognition of IESL for the degree programme, Bachelor of Science (BSc) in Engineering (Hons) in Civil Engineering offered by the 8th Respondent, or in the alternative, for conditional recognition pertaining to the 31st, 32nd, 33rd and 34th intakes of the 8th Respondent. It is also observed that if a person has a degree from an institution not recognised by the IESL, he still has an alternative pathway to be an Associate member of IESL by sitting for the GQE.

Alternate pathways to obtain IESL recognition

Hence, in my view, two pathways are available for a qualified engineer to seek recognition from the IESL. One is an automatic registration upon application if he has a degree from a recognised university. If not, he can still utilize the second pathway where he can sit for an exam conducted by the IESL and upon passing the said exam, he will be registered as an engineering practitioner. The Petitioners themselves in paragraph 45 of the Petition have conceded on this path and stated that the 17th – 28th Petitioners had followed this path and sat for the GQE as Associate Engineers of the IESL. Hence, it is established that if an engineer has a degree in civil engineering that is not recognised by the IESL, he can still obtain IESL recognition and be an Associated Member by siting for the GQE paper. Thus, in my view, the Petitioners have an alternative remedy to obtain recognition for their degree. In this instance it is also pertinent to observe that the Petitioners contended that passing the said GQE examination is extremely difficult and the 17th- 28th Petitioners have sat for the exam and failed. In response, the learned President's Counsel appearing for 1st -7th Respondents submitted that the 1st Respondent has to maintain the high standard that is maintained by them under the Washington Accord and that was the main reason why the IESL does not grant recognition for each and every degree programme as their evaluation would fall less than the accepted standard. It was further submitted that once the 8th Respondent complied with the recommendation and improves their degree programmes it

would be in par with the accepted standards of the Washington Accord, whereby the 8th Respondent's degree programme could be granted recognition.

Do the Petitioners have an alternative remedy?

It was contended by the learned President's Counsel for the 1st – 7th Respondents that the Petitioners have a more efficacious and speedy alternative remedy to overcome the obstacle of them not being able to practice as engineering practitioners in Sri Lanka. The attention of the Court was drawn to by-law 7, whereby it was argued that the Petitioners can apply themselves to be Associate Members in the absence of their university degree being recognised by the 1st Respondent.

It was submitted that they can still sit for the GQE and upon obtaining the prescribed pass mark they would become eligible to apply for admission as an Associate Member. However, the learned Counsel for the Petitioners submitted that the only a few applicants have passed the said examination. Hence, they submitted that it is not an alternative remedy. In response, the learned President's Counsel for 1st to 7th Respondents vigorously contended that the entire syllabus for the said GQE exam is set in accordance with the Washington Accord. Hence, if an applicant is not fit to pass the examination, he is unsuitable to be granted Associate Membership. This Court is mindful in keeping the standards in accordance with the Washington Accord is the duty of the examiner and the Court should not and would not wear the shoes of the examiners. However, I am inclined to accept the submissions of the Respondents that in keeping with the Washington Accord and the international accreditation and recognition, the standard and quality of the exam has to be high.

Does the 1st Respondent have the power to recognise universities?

The learned Counsel for the Petitioners also advanced an argument to state that in refusing recognition to the 8th Respondent, which is a recognised university under the University Grants Commission (hereinafter referred to as 'UGC') the 1st Respondent' is usurping the powers of the UGC. Further it was contended that through the decision refusing to extend the recognition to the 8th Respondent, the 1st Respondent acts in *ultra vires* the powers granted as they do not have the power or the competence to recognise universities. It was their contention that the power to recognise universities is vested with the UGC and KDU

being recognised as a university by an Act should be recognised as a University under the IESL.

In advancing the said argument, the learned Counsel contended that KDU had sought recognition from the 1st Respondent by the document marked as P6. Hence, by refusing the recognition by P10, the 1st Respondent had acted in violation of the law. Therefore, the said decision is bad in law. I am not in agreement with this contention as the IESL has nothing to do with recognising or not recognising the institution as a university. As quite correctly submitted by the 1st to 7th Respondents counsel the IESL recognition is given to degree programmes of a University and the IESL is not engaged in recognising or non-recognising universities.

It was the contention of the learned Counsel for the Petitioners that by P3a, the UGC has recognised the degree afforded by the KDU. The letter dated 24.05.2010 and the reply dated 12.06.2010 marked as P3a was brought to the attention of this Court. Hence, based on these two documents it was argued that the UGC had recognised the degree programmes which are more fully stated in the letter dated 24.05.2010 which is addressed to the UGC by the Vice Chancellor of the KDU. In view of these letters the Petitioners contended that when a degree programme is recognised by the UGC, the 1st Respondent cannot refuse to recognise the said degree programme (P10). As stated earlier, this Court observes that the 1st Respondent, as per Act No. 04 of 2017 has the power to register and recognise certain degree programmes. The degree programmes awarded by all universities are not automatically recognised by the 1st Respondent. The by-laws of the 1st Respondent and the manual marked P5 specifies the procedure to recognise an engineering degree. Knowing this, the 8th Respondent had made the application to recognise the degree and willingly on the payment of money had subjected its degree programmes for the evaluation process, which was carried out and resulted in P10, where the IESL for the reasons stated therein refused to recognise the degree programme.

As stated above in this judgement and in view of what I have stated above I am not inclined to accept the argument that if an engineering degree programme is accepted by the UGC it would and should be accepted by the IESL without any evaluations. I would further observe that this position had not been advanced even by the 8th Respondent who conducts the degree programme and who sought recognition for its degree programmes from the IESL.

It is also observed by this Court that the procedure of the 1st Respondent to recognise a degree programme is clearly depicted in P5 which reads "Manual for the Recognition of Four-Year Engineering Degrees Conducted in Sri Lanka". The said manual clearly sets out how and the mode of recognising a degree programme of the IESL. The learned Counsel for the Petitioners also submitted that under rule 8.4 of the document marked P5, it was imperative for the IESL to make its decision for the recognition for its programme of study and the said recognition should be based on the recommendations of the Education Standing Committee. Hence, any deviations from this manual were argued to be *ultra vires* and bad in law.

Though this argument was advanced by the Petitioners, they themselves conceded that this manual came into effect in October 2018 and by that time the application for recognition had already been made and by P10 in August 2018, the 1st Respondent had already rejected the said application. Hence, in my view, the document P5 will have no bearing on the degree programme marked as P10. However, even as per rule 8.4 it demonstrates that the 1st Respondent is not bound to make a decision on recognition for a programme of study only based on the recommendation made by the Education Standing Committee as rule 8.4 also allows the 1st Respondent to take into consideration any other relevant submissions. Hence, I am compelled to agree with the submissions made by the learned President's Counsel for the 1st-7th Respondents. In refusing to recognise the degree programme of the 8th Respondent, the 1st Respondent had considered the infirmities of the 1st Evaluation Panel and the infirmities and recommendations for improvement by the Education Standing Committee and the sub-committee appointed by by-law 63. In my view, even if P5 was to apply, I do not find the 1st Respondent had deviated or acted *ultra vires* the provisions therein contained.

At this stage, I will consider the issue of malice that was advanced by the learned Counsel for the Petitioners.

Was there a discriminatory approach or malice visible in refusing to recognise the 8th Respondent's degree programmes?

The learned Counsel for the Petitioners submitted that when it came to the application of the 8th Respondent for recognition of its Bachelor of Science (BSc) of Engineering (Honours) in Civil Engineering degree the 1st Respondent had acted discriminately and with bias towards the 8th Respondent University as it was only their degree programme

which was not recognised. This has been pleaded in paragraphs 50, 52, and 56 of the Petition and as per the submissions the learned Counsel had argued that the 1st Respondent had acted with malice and bias when acting in pursuant to the application of the 8th Respondent.

It is surprising and strange that the learned Counsel for the Petitioners made such a submission, when this allegation was not made by the learned DSG for 8th Respondent in her submissions. In my view, the said allegation, even if this Court is to assume is true should have been brought by the 8th Respondent. However, the 8th Respondent had not only accepted the refusal but had subsequently resubmitted an application for recognition.

It was further submitted by the learned DSG for the 8th Respondent that when the second application was submitted in 2020, the 8th Respondent had complied with the recommendations of the Evaluation Panel and Education Standing Committee of the 1st Respondent and after complying with the recommendations and attempting to improve the infirmities they had made the second application for recognition. This act alone militates against the Petitioners' argument that in refusing to recognise the degree programme of the 8th Respondent, the 1st Respondent had acted with bias, in malice and the decision was *ultra vires* the powers of the 1st Respondent.

Further it was brought to the attention of this Court in paragraph 49 of the objections of the 1st-7th Respondents whereby the 1st Respondent has clearly stated the engineering degree programmes that have not been recognised by the 1st Respondent. Some of these degree programmes are offered by the University of Sri Jayawardenepura, University of Jaffna, University of Ruhuna, Southeastern University, Open University of Sri Lanka and University of Moratuwa. Hence, the argument that the 1st Respondent has acted in malice in refusing to recognise the degree programme of the 8th Respondent has to fail.

The prayers of the Petitioners

Let me now consider the prayers pleaded by the Petitioners. The learned President's Counsel for the 1st-7th Respondents submitted that the prayers are defective and the Application has to fail. Let me now deliberate on the substantive relief the Petitioners have prayed for.

By Prayer (c) of the Petition, the Petitioners seek a Writ of *Certiorari.* The said prayer is reproduced here.

> *"Call for and quash by way of an order in the nature of Writ of Certiorari quashing the decision (if any) of the 1st to 7th Respondents to refuse recognition of the IESL for the Degree Programme of Bachelor of Science (BSc) of Engineering (Hons) in Civil Engineering offered by Faculty of Engineering of the KDU pertaining to the 31st, 32nd, 33rd and 34th intakes of the Department of Civil Engineering."*

As per the prayer, the Petitioners have not annexed the decision they seek to quash. By using the words '*the decision (if any)*' it is apparent that the Petitioners themselves are not sure of the existence of such a decision. Hence, in my view, the Petitioners are seeking and inviting this Court to quash a decision that is not before the Court and a decision the Petitioners themselves are unaware of thus making the prayer vague. This Court in many instances have held that if a Petitioner is seeking a Writ, they must be specific. It is pertinent to observe that the Court should not be invited to ascertain whether there are decisions that affect the Petitioners and also to fish them out and quash them. In coming to this conclusion, I am guided by the case of ***Chandra P. Withana v. Divisional Secretary, Nuwaragam Palatha East, Anuradapura CA Writ 505/24 decided on 30.10.2024*** the Court considered the case of ***Amerasinghe and Others v. Central Environmental Authority and Others CA/WRIT/132/2018, decided on 10.09.2020*** and held that

> *"When a Petitioner invokes the extraordinary remedy of Writ jurisdiction of the Court of Appeal under Article 140 of the Constitution, it is imperative for the Petitioner to know her grievances and the reliefs that she is praying for. The Petitioner cannot plead for an appropriate order the Court deems fit to suit the Petitioner. This Court on many occasions has held that in the absence of any clear and specific reliefs prayed, the prayer becomes vague. In this instance, this Court is inclined to uphold the objection of the Respondents that the prayer as pleaded is vague and for the said reason this Application has to fail."*

This Court has considered the document P10. However, the said document also refers to another letter and the said letter is not before this Court and the said document does not indicate whether it refers to the refusal of recognition for the 31st, 32nd, 33rd, and 34th intakes of the Department of Civil Engineering of the 8th Respondent. Therefore, this prayer must fail.

Prayers (e) and (f) seek Writs of *Mandamus* against the 1st- 7th Respondents to grant full recognition of IESL for the degree programme of the 8th Respondent pertaining to the 31st-34th intakes. I observe that this prayer is completely contrary to the recognition of the procedure which is tendered to this Court. Further, the 8th Respondent themselves have made an application pertaining to the recognition of its degree course which was evaluated by the Evaluation Panel and the Education Committee. The 1st Respondent did not recommend full recognition due to the infirmities highlighted in their report. The 1st Respondent had replied by P10 when refusing to grant recognition. The said recognition is granted after evaluation of the degree programme offered by the 8th Respondent and that is pursuant to the application of the 8th Respondent after paying a fee. In the view of this, the Court finds that the Petitioners do not have a legal right to seek a Writ of *Mandamus* to direct the 1st -7th Respondents to grant full recognition in violation of the said procedure.

In other words, what the Petitioners are seeking by this relief is for this Court to wear the shoes of the Evaluation Panel, the Education Standing Committee, and the 1st Respondent itself. The said three committees consists of professionals and experts in the said field. The Petitioners are seeking a Writ of *Mandamus* to get a recognition for an educational institute which the 1st Respondent Institution had refused to grant recognition and which the said institution itself has accepted. In my view, the Court should be reluctant to impose the Court's opinion pertaining to the recognition of degrees by education institutes over the opinion of experts in the field. In coming to this conclusion, I am guided by the decision in ***Abeysundara Mudiyanselage Sarath Weera Bandara v. University of Colombo and others CA Writ 844/2021decided on 08.06.2018*** where the Court held "*The consistent judicial opinion, therefore, is that in matters which lie within the jurisdiction of the educational institutions and their authorities, the Court has to be slow and circumspect before interfering with any decision taken by them in connection therewith."* The said judgment goes further, and states as follows, *"This is mainly because of want of judicially manageable standards and necessary expertise to assess, scrutinise and judge the merits and/or demerits of such decisions."*

This Court takes cognizance of the case ***Prof. (Dr.) Chelliah Elankumaran v. University of Jaffna CA (Writ) Application No. 147/2013 decided on 17.05.0218***, where the Court considered the case of ***Abeysundara Mudiyanselage Sarath Weera Bandara v. University of Colombo and others (supra)*** and reiterated that the Court should exercise caution when reviewing academic decision. It was stated that

> *"This Court is therefore of the view that in the exercise of the jurisdiction vested in it by Article 140 of the Constitution, it can examine whether the impugned decision*

of the 1st Respondent is illegal, irrational or procedurally improper but would exercise extreme caution if asked to consider, for example whether the Petitioner is entitled to more marks than what has actually been given by the examiners."

Further, this Court observes that in accepting the recommendation as submitted by the learned DSG for the 8th -11th and 14th Respondent they had submitted a fresh application for recognition of their degree courses. Hence, this prayer has to fail.

Further, relief (f) cannot succeed as stated elsewhere in this judgement the Petitioners cannot seek a Writ of *Mandamus* to grant conditional recognition to the degree programmes awarded by the 8th Respondent when the said recognition is conditional and in the absence of any evidence submitted by the 8th Respondent to establish that they had complied with any of the conditions in the recommendation.

In prayer (d) the Petitioners are seeking a Writ of *Certiorari* to quash the decision of the 1st Respondent directing the Petitioners to sit for the GQE. The Court observes that in this instance also the Petitioners have failed to annex and tender the said decisions which they seek to quash. Further, the procedure established by the material submitted would be for an engineer whose degree programme is not recognised by the Respondents is to sit for the GQE. Hence, the Petitioners seek to quash the decision which would amount to the 1st -7th Respondents acting *ultra vires* to their own by-laws and manuals. As correctly submitted by the learned President's Counsel appearing for the Respondents and was disputed by the Petitioners, the Petitioners who are qualified with an engineering degree are not barred from carrying out their engineering duties without being registered by the 1st Respondent. Hence, if the Petitioners do not wish to sit for the GQE which allows degree holders whose degree programmes are not recognised by the 1st Respondent, to obtain the 1st Respondent's Associate Membership. The Petitioners are free to engage in their duties as engineers without sitting for the exam. However, they would not fall within the definition of engineers practicing engineering within the meaning of the Act. The Petitioners have failed to impugn the purported decision which they claim directed them to sit for the GQE. Hence, in my view, the main substantive prayers of the Petitioners have to fail. Though the learned President's Counsel for the 1st -7th Respondents raised many other preliminary objections, in view of my findings above, there is no necessity to consider the said objections.

Being mindful of the fact that the Application before me being a Writ Application, what is important to consider is the decision-making process as the application before me is not an

appeal arising from the decision of the 1st Respondent but in fact a challenge and a request to review the process adopted and the manner in which the said decision was made. As stated above I find that the Petitioners have failed to establish any illegality, irrationality or failure to follow proper procedure, nor have they been able to establish any particular malice or bias towards the 8th Respondent or the Petitioners themselves. It is also particular to note that no such allegations were made by the university conducting the degree programme.

Conclusions

Accordingly, after considering the submissions of the learned Counsel and after giving careful considerations to the documents tendered, in my view, the Petitioners have failed to establish that they are entitled to the reliefs sought. Accordingly, for the above stated reasons I dismiss this Writ Application. The parties are to bear their own costs.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal