

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

In the matter of an Application for a Writ of *Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka against the Central Bank of Sri Lanka to implement the ruling given on 2022.05.13 against Seylan Bank PLC.

CA (Writ) application No: 726/2025

Panagodage Shamal Fernando
80, Edirisinghe Road,
Nugegoda.

PETITIONER

-Vs-

1. Central Bank of Sri Lanka,
30, Janadhipathi Mawatha,
Colombo 01
2. Hon. Attorney General,
Attorney General Department,
Colombo 12

RESPONDENTS

Before: S. U. B. Karalliyadde, J.

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

Counsel: Petitioner appears in person

Amasara Gajadheera, SC for the Respondents.

Supported on: 17.09.2025

Order delivered on: 03.10.2025

S. U. B. Karalliyadde, J.

This Order pertains to the issuance of formal notices of this Writ Application on the Respondents. The Petitioner has obtained a leasing facility from the Seylan Bank PLC, and he had made a complaint to the Central Bank of Sri Lanka, the 1st Respondent, in the year 2022 regarding a commission charged for his leasing facility being paid to a third party by the Seylan Bank PLC. The position of the Petitioner is that the Seylan Bank PLC had fraudulently added an additional interest at the rate of 1% to the interest rate agreed upon for the leasing facility without his consent. By producing a letter dated 13.05.2022 marked as P1, the Petitioner argues that the 1st Respondent had issued a ruling on the Seylan Bank PLC to refund the amount charged at the added rate of 1% to be paid back to the Petitioner and stop charging it thereafter. The Petitioner states that he has obtained information through the Right to Information Act, and came to know that the Seylan Bank PLC has agreed to implement the ruling said to have been issued against it by the 1st Respondent on 13.05.2022, marked as P1. Under such circumstances, the Petitioner has invoked the writ jurisdiction of this Court seeking, *inter alia*, a Writ of Mandamus directing the 1st Respondent to implement what he is interpreting as a ruling dated 13.05.2022 marked as P1.

When this matter was taken up for support, the learned State Counsel appearing for the Respondents made objections as to the maintainability of this Application. The learned State Counsel argued that the Petitioner has failed to satisfy that the Respondents owe a statutory duty towards the Petitioner to issue a Writ of Mandamus. The learned State

Counsel submitted that the 1st Respondent has considered the allegation levelled by the Petitioner against the Seylan Bank PLC, merely requested to resolve the issue amicably between the parties, but not issued any ruling on the Seylan Bank PLC as stated by the Petitioner.

The Petitioner's contention is that the 1st Respondent has the power to implement the ruling marked as P1 by the powers vested in the 1st Respondent by virtue of Section 30(1) of the Monetary Law Act, No. 58 of 1949 and Section 45 of the Banking Act, No. 30 of 1988. Section 30(1) of the Monetary Law Act refers to the power of the Monetary Board to suspend or restrict the business of a banking institution in a situation where the institution is insolvent or likely to become unable to meet the demands of its depositors, or where its continuance in business is likely to involve loss to its depositors or creditors. The matter at hand is a situation where a customer of a bank has complained to the 1st Respondent. Therefore, Section 30(1) of the Monetary Law Act has no application to the instant Application. Under Section 45 of the Banking Act, if a licensed commercial bank engages in unsafe or unsound practices that could endanger depositors or make the bank unable to meet its obligations or violates or fails to comply with banking laws, regulations, or directions, the Director of Bank Supervision (the head of the Department of Bank Supervision of the 1st Respondent established under Section 28 of the Monetary Law Act) can order the bank to stop the improper practice or violation, comply with the law or regulations, and to take corrective action to remedy

the situation. For the reasons that follow, this Court is of the view that Section 45 has no application to the matter at hand.

The Financial Consumer Relations Department (FCRD) has been established under the provisions of Section 33 of the Monetary Law Act to handle external complaints from financial consumers of the entities (licensed Commercial Banks, licensed Specialised Banks, licensed Finance Companies, specialized Leasing Companies, authorized Primary Dealers, participants of Payments and Settlement Systems (other than financial institutions)) regulated by the 1st Respondent. Upon receiving a complaint, the FCRD assesses the complaint based on the details provided by the complainant and refers it to the relevant financial institution for consideration. The concerned institution must directly respond in writing to the complainant within the stipulated time and notify FCRD of the steps taken to resolve the matter. If the complainant is dissatisfied with the financial institution's response, the FCRD reviews the actions taken and requires the complainant to resubmit the latest position of the complaint for further consideration. The FCRD then forwards the updated complaint, together with its comments, to the financial institution for reconsideration within the specified timeframe. Where the institution's actions are found to be non-compliant with legal or regulatory requirements, the FCRD refers the matter to the competent authority for necessary enforcement action.

In the letter marked P1, the Director of the FCRD of the 1st Respondent has requested the Chief Executive Officer of the Seylan Bank PLC to take necessary action to hold

the charging of the additional interest at the rate of 1% and refund the additional interest already charged from the Petitioner. P1 further stipulates that a written response on the actions taken to resolve the matter must be submitted to the 1st Respondent within seven working days from the receipt of P1. Therefore, it is evident from P1 that the FCRD has only assessed the complaint made by the Petitioner and made a request to the Seylan Bank PLC to take necessary actions to resolve the matter. According to the information provided by the Deputy Governor of the 1st Respondent, on a request made by the Petitioner under the Right to Information Act marked as P2 (RTI request No. 0180/2022), it is clear that FCRD has only given instructions to settle the matter amicably, and it is not a ruling that has been interpreted by the Petitioner. When pursuing the information provided under RTI request No. 0180/2022, it is clear that the Seylan Bank PLC has agreed to refund the additional interest charged from the Petitioner. However, the Petitioner has refused to settle the matter and made a counterclaim for compensation of five million Rupees. The Petitioner has now come before this Court seeking a Writ of Mandamus directing the 1st Respondent to implement P1. This Court is of the view that P1 contained no enforceable decision but merely an instruction which Seylan Bank PLC has already agreed to follow, and which the Petitioner himself has rejected. Under such circumstances, it is the view of this Court that the Petitioner has failed to establish that the 1st Respondent is under a statutory duty to implement P1. It is trite law that a Writ of mandamus is issued to compel a public authority to perform a public legal duty (vide *Ratnayake and others v.*

C.D. Perera and others).¹ In *Credit Information Bureau of Sri Lanka v. M/s Jafferjee and Jafferjee (Pvt) Limited*,² the Supreme Court held that,

“There is rich and profuse case, law on Mandamus on the conditions to be satisfied by the Applicant. Some of the conditions precedents the issue of Mandamus appear to be:

- (a) The Applicant must have a legal right to the performance of a legal duty by the parties against whom the Mandamus is sought ... The foundation of Mandamus is the existence of a legal right*
- (b) The right to be enforced must be a “Public Right” and the duty sought to be enforced must be of a public nature.”*

In the case of *Kaluarachchi v. Ceylon Petroleum Corporation and Others*,³ referring to the judgment in *Credit Information Bureau of Sri Lanka v. M/s Jafferjee and Jafferjee (Pvt) Limited* (supra), Murdu N.B. Fernando, PC. J. (as she then was) reiterated that,

“the foundation of mandamus is the existence of a legal right. A court should not grant a Writ of Mandamus to enforce a right which is not legal and not based upon a public duty.”

The learned State Counsel appearing for the Respondents further argued that there is a delay in filing this Application. The instant Application has been filed on 07.07.2025.

¹ [1982] 2 Sri. L.R. 451

² [2005] 1 Sri LR 89

³ SC Appeal No. 43/2013; SC Minutes of 19.06.2019

The letter marked as P1 has been issued on 13.05.2022. The Petitioner has not explained the delay of more than three years in filing this Application. In the case of *P. B. Dissanayake v. I. O. K. G. Fernando and another*,⁴ the Supreme Court held that,

“where the extraordinary process of this Court is sought after such a long lapse of time, it is essential that the reasons for the delay in seeking relief should be set out in the papers filed in this Court.”

In *Seneviratne v. Tissa Bandaranayake and another*,⁵ it was held that,

“If a person were negligent for a long and unreasonable time, the law refused afterwards to lend him any assistance to enforce his rights; the law both to punish his neglect nam leges vigilantibus, non dormientibus, subveniunt, and for other reasons refuses to assist those who sleep over their rights and are not vigilant”

In the case of *Hopman and others v. Minister of Lands and Land Development and others*,⁶ it was held thus,

“The appellants have failed to give a satisfactory explanation for their conduct and the delay in making their application to the Court of Appeal, and hence that Court cannot be faulted for exercising its discretion against the issue of the writ.”

⁴ 71 NLR 356

⁵ 1999(2) SLR 341 at page 351

⁶ [1994] 2 Sri L.R. 240

Considering the above facts, this Court is of the view that the Petitioner has failed to explain the delay in filing this Application. Therefore, it is the view of this Court that the Petitioner is guilty of laches.

Considering all the above-stated facts and circumstances, it is the view of this Court that this is not a fit case to issue formal notices on the Respondents. Therefore, this Court refuses to issue formal notices on the Respondents. Application dismissed. No costs ordered.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

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

I agree.

JUDGE OF THE COURT OF APPEAL