

**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, Prohibition and Mandamus
under Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

Rohan Wickramarathna Wijekoon
alias Peter Rohan Wijekoon,
No. 154,2/1, Jayanthi Mawatha,
Aluthgama,
Gampaha.

CA (Writ) App. No. 484/2025

PETITIONER

Vs.

1. A.K.S. Indika Kumari Liyanage,
Commissioner General of
Examinations, Department of
Examinations of Sri Lanka,
Pelawatta,
Battarmulla
2. A.G. Anura,

Deputy Commissioner - Examinations,
Department of Examinations of Sri
Lanka,
Pelawatta,
Battarmulla

3. W.A.S. Buddika Perera,
Commissioner Examinations
(Administration & Investigation),
Department of Examinations of Sri
Lanka,
Pelawatta,
Battarmulla

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

RESPONDENTS

Before: S. U. B. Karalliyadde, J

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

Counsel:

Gamini Perera with K.T.K.P. Arampath and T.P.S. Kanchana instructed by Manoj Kumar
De Silva for the Petitioners.

Dilantha Sampath, S.C. for the Respondents.

Supported on: 18.09.2025

Order delivered on: 15.10.2025

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

Order

Introduction

The Petitioner joined the Department of Police in 1988 as a Sub-Inspector, and subsequently rose through the ranks, serving in both the regular police and the Criminal Investigation Department. When it came time for the next promotion for Gazetted Officers, there was a requirement to take a written examination covering four papers. He sat for this exam, which was administered by the Department of Examinations. However, when the results were released, he received results for only two of the subjects, while the results for the remaining two subjects were withheld, as shown in **P2**.

The Petitioner then appealed to the Department of Examinations and lodged a complaint to the Human Rights Commission. In response, the officers of the Examinations Department filed objections, stating that their inquiry revealed the Petitioner had been found guilty of exam malpractice.

As a result, the Petitioner has filed this application seeking a *Writ of Certiorari* to quash the 1st Respondent's decision to withhold his results and cancellation of his result for two subjects. In

addition, the Petitioner requests a *Writ of Mandamus* compelling the 1st Respondent to release said results.

This application was supported on 18th September 2025, and the following submissions were made by the Counsel on behalf of both parties.

Arguments

The Counsel for the Petitioner, Mr. Perera's main argument is that the Respondents have decided to withhold the results of two papers that the Petitioner sat for, without releasing the results for exam malpractice, without sufficient evidence; therefore, the decision is irrational and capricious. In addition, he argued that although there are certain photographs of notes and other notes annexed to **P9**, no photograph was taken of the Petitioner along with those notes. Therefore, there is no sufficient connection with the Petitioner and the annexures to **P9**. However, upon questioning, he conceded that the notes on pages 24 to 30 of the brief are his own notes in his handwriting, including a photograph of his index number on page 31 and certain other photographs on page 32 of the brief, in addition to the admission card marked as **P9**.

However, on the other hand, Mr. Sampath, the learned State Counsel, argued that the Petitioner is not an ordinary student who merely sat for G.C.E. Ordinary Levels or G.C.E. Advanced Levels as a school-attending student, but a seasoned investigator who had even worked in the Criminal Investigation Department. Therefore, if the notes written in his handwriting and annexed to **P9**, along with other annexures to **P9**, were found by the invigilators, the person in charge of the examination hall, but were not found on his person, he could have immediately raised the matter and made a complaint. No such complaint or objection was made by the Petitioner when he was

caught red-handed while answering the paper using those prepared notes in his handwriting. Furthermore, when the contemporaneous photographs were taken, he did not object to them either. In addition, he argued that under Sections 10, 12, and 13 of the Public Examination Act, No. 25 of 1968, the Petitioner could be charged under criminal law.

Factual matrix

According to the Petitioner, he had joined the Police Department as a Probationary Sub-Inspector in the year 1988. Thereafter, he rose through the ranks and became an Assistant Superintendent of Police, with effect from 15th July 2013. This application relates to his promotion to the post of Probationary or Acting Superintendent of Police, and in order to be promoted to the said post, a bi-annual Efficiency Bar examination must be taken. The bi-annual examination, originally scheduled for 2018, was conducted on 13th May 2023, and the Petitioner sat for four papers at D.S. Senanayake College, Colombo. The said examination was conducted by the Department of Examinations, and two of the papers, subject No. 80, covering fundamental rights, the Criminal Procedure Code, and the Evidence Ordinance, and subject No. 81, covering the Penal Code and the Police Ordinance, were scheduled from 09.00 am to 12.00 pm and from 01.00 pm to 04.00 pm. After the examination, when the results were released, the Petitioner's results for the mentioned subjects were withheld.

In the meantime, after the examination held on 13th May 2023, he had received a letter dated 7th June 2023 asking him to appear before the Department of Examinations Investigating Unit on 15th June 2023, which he had complied with. The Petitioner asserts that there had been an inquiry, and at the said inquiry, he was confronted with his short notes, which he had taken along with him to the examination center, but not to the examination hall. The Petitioner further asserts that he had

left the said short notes outside the examination hall. It is the Petitioner's stand that he had explained the necessary details, and also denied that, though the short notes belonged to him, he had not made use of them to answer the test papers, or that any of them were taken into custody by the invigilators or observers while he was answering the paper; further it is his position that he had answered the paper without any incident or interference by anybody during the examination.

Further, it is his position that, after the inquiry, he was informed that it would be reported to the relevant authorities. Since the results for the other two subjects were released, the results of subject numbers 80 and 81 were not released. Therefore, he had made a representation to the 1st Respondent. However, the 1st Respondent did not respond to the representation, and thereafter, the Petitioner lodged a complaint with the Human Rights Commission.

After receiving notice that the Respondents had filed their written objections to the said application before the Human Rights Commission, according to the written objections submitted by the Respondents, an inquiry had been conducted based on the complaint; according to the inquiry, the Petitioner and several other candidates were found to have been in possession of prepared notes, which they had used in answering the examination papers. After the Petitioner was caught with the notes, photographs of the notes, along with his admission card and identity card, were taken in his presence. Relevant material, including contemporaneous observations by the invigilators in the examination hall, was forwarded to the Commissioner, who then decided to cancel his results. The said objections filed by the Respondents in the Human Rights Commission is annexed to the Petition as **P9** along with the relevant documents supposed to have been taken contemporaneously when the Petitioner was engaged in answering the test paper.

However, the Petitioner denies that such an incident has taken place during the time of answering his test paper.

Petitioner's right a *Writ of Certiorari*

The issue before us is whether the Petitioner is entitled to a *Writ of Certiorari* to quash the decision of the Respondents not to release his results from the Efficiency Bar Examination held on 13th May 2023. If the answer is in the affirmative, then he would be entitled to a *Writ of Mandamus*, compelling the Respondents to release his results, which would benefit the Petitioner in obtaining his promotion effective from that day. Accordingly, I will now consider whether in fact the Petitioner has made out a case to obtain notice against the Respondents, for them to answer to the complaint made out against them by the Petitioner based on the factual matrix of this case explained above.

As argued by Mr. Sampath, the learned State Counsel, if such photographs or photocopies of such notes, including the Petitioner's identity card and other related documents, were taken by the invigilators or observers who were present at the examination hall, the Petitioner should have immediately reported this matter to the relevant authorities, as taking such documents could be detrimental to his examination and results. However, he did not do so.

As a police officer who joined the Police Department as a Probationary Sub-Inspector as way back as in 1988, and rose to the rank of Assistant Superintendent of Police in March 2015, the Petitioner has received those promotions on merits, due to his investigative ability and other commitments as a police officer, particularly as an investigator attached to the Criminal Investigation Department. Officers recruited into the Criminal Investigation Department are not ordinary individuals; they possess more than just the basic five senses, that is why they are recruited so

anywhere in the world. Therefore, as someone with these additional faculties like the Petitioner should have raised the issue the moment his notes, which he claims were left outside the examination hall, were taken into custody and photographed.

In addition to that, according to the Petitioner's own showing, if he had left the notes outside the hall, there would have been no way for invigilators or observers to seize them or take them into their custody. Therefore, the stand taken by the Petitioner cannot be accepted by an ordinary simpleton mind, and certainly not by a CID officer, who possesses an additional sense beyond the five basic senses. As such, the report attached to **P9** is very important, as it stultifies the theory placed before us to obtain formal notice against the Respondents to file their objections.

Accordingly, I find no merit in this application to issue formal notice since in these circumstances a *Writ of Certiorari* does not lie.

Conclusion

Since I decided that *Writ of Certiorari* does not lie in this case due to the reasons adumbrated above, I further hold that the issue of issuing a *Writ of Mandamus* also does not lie. As such, I refuse to issue formal notice and dismiss the case *in limine*.

JUDGE OF THE COURT OF APPEAL

S. U. B. Karalliyadde, J.

I agree.

JUDGE OF THE COURT OF APPEAL