

**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 a Writs of Quo Warranto,  
Certiorari and Mandamus under and in  
terms of Article 140 of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.*

CA Writ Application No:  
**CA Writ 708/2025**

1. Kandaiya Vijayakumar  
10<sup>th</sup> Lane,  
Vairavar Temple Road,  
Vairavapuliyankulam,  
Vavuniya.

2. Sivasubiramaniam Piremadhas  
126, School Road,  
Pandarikulam,  
Vavuniya.

**Petitioners**

**Vs.**

1. Vavuniya Municipal Council,  
Vavuniya.

2. Balakiruban  
Secretary,  
Municipal Council,  
Vavuniya.

3. Sundaralingam Kandeepan  
Mayor,  
Vavuniya Municipal Council.

4. Parameshwaran Karththeepan  
Deputy Mayor,  
Vavuniya Municipal Council
5. Abdul Latheef Mohamed Munaffer  
Member,  
Vavuniya Municipal Council.
6. Farook Farsaan  
Member,  
Vavuniya Municipal Council.
7. Kanagaraththinam Krishnathash  
Member,  
Vavuniya Municipal Council.
8. Laxshana Nagarajan  
Member,  
Vavuniya Municipal Council.
9. Jayasekara Arachchige Dhammika Lalith  
Jayasekara  
Member,  
Vavuniya Municipal Council.
10. Palavalathunga Lekamlage Vipula  
Kumara  
Member,  
Vavuniya Municipal Council.

11. Sivalingam Raveenthiran  
Member,  
Vavuniya Municipal Council.
12. Siriskandharajah Arunan  
Member,  
Vavuniya Municipal Council.
13. Sivasothi Sivasangar  
Member,  
Vavuniya Municipal Council.
14. Uruththirasinagm Yogeshwari  
Member,  
Vavuniya Municipal Council.
15. Vairamuththu Varathaladsumi  
Member,  
Vavuniya Municipal Council.
16. Raveendhiran Lakshikha  
Member,  
Vavuniya Municipal Council.
17. Sajeevini Abishek  
Member,  
Vavuniya Municipal Council.
18. Nadaraasa Tharumarathnam  
Member,  
Vavuniya Municipal Council.

19. Sivaramalingam Kiritharan  
Member,  
Vavuniya Municipal Council.

20. Muhamathu Sapari Abdul Paari  
Member,  
Vavuniya Municipal Council.

21. Abdul Rasool Muhamathu Lareef  
Member,  
Vavuniya Municipal Council.

*The 1<sup>st</sup> to 21<sup>st</sup> Respondents all of ;*  
Vavuniya Municipal Council,  
Vavuniya.

22. Thevanthini Babu  
Commissioner of Local Government –  
Northern Province,  
Department of Local Government,  
Kaithadi,  
Jaffna.

23. P.A. Sarathchandra  
District Secretary,  
District Secretariat,  
Vavuniya.

24. Gangadaran Suresh  
Secretary,  
Democratic National Alliance,

253/2, Loris Road,  
Colombo 04.

25. R.M.A.L. Rathnayake  
Chairman,  
Election Commission of Sri Lanka,
26. M.A.P.C. Perera  
Member,  
Election Commission of Sri Lanka,
27. Ameer Faaiz  
Member,  
Election Commission of Sri Lanka,
28. A. Shanmuganathan  
Member,  
Election Commission of Sri Lanka,
29. Prof. Lakshman Dissanayake  
Member,  
Election Commission of Sri Lanka,
30. Saman Sri Rathnayake  
Commissioner General of Elections,  
Election Commission of Sri Lanka.

*The 25<sup>th</sup> to 30<sup>th</sup> Respondents all of;*  
Election Commission of Sri Lanka  
Election Secretariat,  
P.O.Box 02, Sarana Mawatha,

Rajagiriya.

31. S. Alokabandara  
Secretary,  
Ministry of Public Administration,  
Provincial Councils & Local Government,  
Independence Square,  
Colombo 7.

**Respondents**

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**

: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Saliya Pieris, PC with Sarinda Jayawardena,  
AAL, and Himesh Thewalarachchi, AAL for  
the Petitioner.

M. Nizam Kariapper, PC instructed by M.I.M.  
Iynullah For the 4<sup>th</sup> and 24<sup>th</sup> Respondents.

M. Jayasinghe, DSG with M. Fernando, SC for  
the 22<sup>nd</sup> , 25<sup>th</sup> and 31<sup>st</sup> Respondents.

Written Submissions : Petitioner filed on 01.10.2025

Supported on : 08.09.2025

Decided on : 21.10.2025

## **K. Priyantha Fernando, J. (CA)**

The 1<sup>st</sup> and 2<sup>nd</sup> Petitioners are elected members of the Vavuniya Municipal Council at the Local Authorities Election held on 6<sup>th</sup> May 2025. They have challenged the legality of the appointments of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents as Mayor and Deputy Mayor of the Council by the Petition dated 25.06.2025.

They have stated that although 21 members were elected, not a single party or independent group secured over 50% of the seats, necessitating an election for Mayor and Deputy Mayor in terms of Sections 66C, 66D and 66E of the Local Authorities Elections Ordinance No. 53 of 1946, as amended.

At the inaugural meeting on 16<sup>th</sup> June 2025, presided over by the Commissioner of Local Government of the Northern Province, the 3<sup>rd</sup> Respondent was declared Mayor with 11 votes, while the 13<sup>th</sup> Respondent received 10. Similarly, the 4<sup>th</sup> Respondent was declared Deputy Mayor with 11 votes against the 2<sup>nd</sup> Petitioner's 10 votes, both by open ballot.

The Petitioners contended that the 4<sup>th</sup> Respondent's membership itself is unlawful. Though he contested under the Democratic National Alliance from the *Vairavapuliyankulam* ward, he failed to secure sufficient votes. He was thereafter appointed through a bonus seat. However, the Petitioners stated that he is a resident and elector of *Kandapuram* ward, which belongs to Vavuniya South Tamil Pradeshiya Sabha, and not within the Vavuniya Municipal Council area. Hence, under Sections 3 and 8 of the Ordinance, he was disqualified from contesting or holding office. Despite objections being raised prior to the inaugural meeting, the 22<sup>nd</sup> Respondent allowed the 4<sup>th</sup> Respondent to participate and cast votes.

The Petitioners argued that his participation was fraudulent, illegal, ultra vires and rendered both his own appointment as Deputy Mayor and the election of the 3<sup>rd</sup> Respondent as Mayor null and void. They stressed that without his unlawful

vote, the election of Mayor would have been tied, requiring a decision by lots under Section 66E of the Ordinance.

The Petitioners therefore maintained that all subsequent decisions of the Municipal Council taken under the authority of the unlawfully appointed Mayor and Deputy Mayor are also invalid. They allege that the conduct of the 22<sup>nd</sup> Respondent in proceeding with the meeting despite knowledge of these disqualifications amounts to arbitrariness, irrationality, and abuse of power.

Accordingly, they invoke the writ jurisdiction of Court seeking:

- A Writ of Quo Warranto declaring that the 4<sup>th</sup> Respondent is disqualified to be a member and Deputy Mayor of the Council.
- A Writ of Prohibition restraining him from functioning in those offices.
- Writs of Certiorari quashing the results of the ballots for Mayor and Deputy Mayor held on 16<sup>th</sup> June 2025, and further quashing all decisions taken by the Council thereafter.
- A Writ of Mandamus directing fresh ballots to elect the Mayor and Deputy Mayor.
- Interim reliefs to stay Council proceedings and the appointments of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents until final determination.

DOES THE COURT OF APPEAL HAVE JURISDICTION?

When this matter was taken up for support, a preliminary objection was raised, asserting that the writ jurisdiction relevant to the present application is vested in the Provincial High Court pursuant to Article 154P(4)(b) of the Constitution.

The Petitioners maintain that writ jurisdiction of Provincial High Courts applies only to matters within a province and those listed in the Provincial Council List,

whereas the present case concerns “Elections”, which falls under the Reserved List of the Constitution. Hence, only the Court of Appeal has jurisdiction.

The Court of Appeal has jurisdiction to hear the writ application under Article 140 of the Constitution.

Pursuant to the enactment of the 13<sup>th</sup> Amendment to the Constitution, limited concurrent jurisdiction over writ applications has also been vested in the Provincial High Court under Article 154P (4) (b) of the Constitution.

However, the exercise of writ jurisdiction by the Provincial High Court is subject to two prerequisites: firstly, that such jurisdiction is vested only in respect of persons exercising power within the province, and secondly, that the said jurisdiction pertains to matters enumerated in the Provincial Council List of the Constitution.

*“Article 154P (4) Every such High Court shall have jurisdiction to issue according to law-*

- a. Orders in the nature of habeas corpus, in respect of persons illegally detained within the province; and*
- b. Orders in the nature of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the province, any power under-*
  - i. Any law; or*
  - ii. Any statutes made by the Provincial Council established for that Province*

*In respect of any matter set out in the Provincial Council List”*

The scope of the instant Writ application mainly on the appointment of the 4<sup>th</sup> Respondent to the Vavuniya Municipal Council, on the basis that the 4<sup>th</sup> Respondent is disqualified from being appointed as a member of the Vavuniya Municipal Council and unlawful and ab initio null and void decisions taken in

the Vavuniya Municipal Council pursuant to the appointment of the 4<sup>th</sup> Respondent as a member of the Vavuniya Municipal Council.

The subject matter of the present writ application pertains to “Elections” is expressly included in the “Reserved List” of the Constitution. The relevant portion is reproduced as follows:

*“Elections including Presidential, Parliamentary, Provincial Councils, Local Authorities.*

*This would include:*

*Elections to Parliament, Provincial Councils, Local Authorities and to the office of President; the Department of Elections”*

Therefore, the jurisdiction to hear and determine the present writ application is exclusively vested in this Court and not in the Provincial High Court. The Respondents’ preliminary objection is overruled.

On the substantive issue, the Petitioners have submitted that the 4<sup>th</sup> Respondent was unlawfully appointed as a member and Deputy Mayor of the Vavuniya Municipal Council.

Under Section 8 read with Section 3 of the Local Authorities Elections Ordinance No. 53 of 1946, a person must be ordinarily residing within the electoral area of that local authority. The 4<sup>th</sup> Respondent, however, is shown by his polling card and the affidavit of the 30<sup>th</sup> Respondent to be an ordinary resident of Ward 11 *Kandapuram*, which belongs to the Vavuniya South Tamil Pradeshiya Sabha, not the Vavuniya Municipal Council.

Because of this disqualification, his nomination and appointment are alleged to be fraudulent and void *ab initio*. His vote in the election of the ‘Mayor’ is also void; without it, both candidates for Mayor would have received 10 votes each, requiring the ‘Mayor’ to be chosen by drawing lots under **Section 66E** of the

Ordinance. Therefore, the appointment of the 3<sup>rd</sup> Respondent as Mayor and all subsequent decisions of the Council are unlawful and ultra vires.

The Petitioners conclude that the appointments of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents and all decisions taken thereafter by the Vavuniya Municipal Council are null and void, and they request the Court to issue notices and grant the interim reliefs sought in the petition.

### CONCLUSION:

In terms of Section 8 read together with Section 3 of the Ordinance, a person is eligible to be appointed to a Local Government authority only if his or her ordinary residence is situated within the Electoral Area of the relevant Local Government.

**Section 8 and Section 3** of the Ordinance read as follows:

*“Section 8-Every person who is not disqualified as provided by section 9 shall be qualified at any time for election as a member of any local authority if-*

*(a) He was, on the date of the commencement of the preparation or revision of the parliamentary register for the time being in operation for any electoral district in which that electoral area or any part thereof is situated, qualified to have his name entered in that register; and*

*(b) He was, on the first day of June in the year of the commencement of the preparation or revision of that register, ordinarily resident in that electoral area.*

*“Section 3-Every Municipality, town, or village area shall be an electoral area for the purposes of this Ordinance”.*

It was the position of the 4<sup>th</sup> Respondent that his residence falls within the Electoral Area of the Vavuniya Municipal Council, specifically within ward 4-Vairavapuliyakulam.

According to the polling card issued to the 4<sup>th</sup> respondent for the Local Government Elections held on 6<sup>th</sup> May 2025 (P11), his address of ordinary residence, as recorded in the electoral register, is No. 96, Goodshed Street (Part), Vavuniya. It expressly states that the Electoral Area of the 4<sup>th</sup> Respondent is Vavuniya South Tamil Pradeshiya Sabha, specifically in Ward 11 – *Kandapuram*.

As per the Gazette Notification declaring the Electoral Areas for Local Government Elections marked as P1 and P10, the portion of Goodshed Street in which the 4<sup>th</sup> Respondent's ordinary residence is situated falls within Ward 11 – *Kandapuram*, which belongs to the Vavuniya South Tamil Pradeshiya Sabha.

Upon the direction of this Court, the 30<sup>th</sup> Respondent has filed the Affidavit dated 25<sup>th</sup> September 2025 with extracts of the electronic registration details of the Elections Commission of Sri Lanka. It has provided conclusive proof that the 4<sup>th</sup> Respondent is an ordinary resident of the Vavuniya South Tamil Pradeshiya Sabha **but not an ordinary resident of the Vavuniya Municipal Council**.

Therefore, the 4<sup>th</sup> Respondent is not an ordinary resident of the Electoral Area of the Vavuniya Municipal Council and in terms of section 8 read together with section 3 of the Ordinance, the 4<sup>th</sup> Respondent is disqualified from being appointed to the Vavuniya Municipal Council and the Deputy Mayor thereof.

Pursuant to the alleged unlawful appointment of the 4<sup>th</sup> Respondent to the Vavuniya Municipal Council he has voted for the 3<sup>rd</sup> Respondent to be appointed as the Mayor of the Vavuniya Municipal Council. That vote of the 4<sup>th</sup> Respondent is void since his appointment to the Vavuniya Municipal Council is *ab initio null and void*.

At the open ballot taken for the purpose of appointing a Mayor to the Vavuniya Municipal Council, the 4<sup>th</sup> Respondent has casted his vote for the 3<sup>rd</sup> Respondent. When the said vote of the 4<sup>th</sup> Respondent is not considered, the votes obtained by the 3<sup>rd</sup> Respondent would thus be 10 votes and the 13<sup>th</sup> Respondent also obtained 10 votes. Whereas in such circumstances, the Mayor

should have been appointed by drawing lots as provided in section 66E of the Ordinance.

Therefore, it is *prima facie* established that the election of the 3<sup>rd</sup> Respondent as the Mayor of the Vavuniya Municipal Council is unlawful and ultra vires and his election as Mayor is null and void.

Therefore, I am of the view that the appointment of the 4<sup>th</sup> Respondent to the Vavuniya Municipal Council, and as Deputy Mayor thereof, the election of the 3<sup>rd</sup> Respondent as Mayor of the Vavuniya Municipal Council, and all decisions taken by the Council pursuant to the appointment of the 4<sup>th</sup> Respondent, are *prima facie* null and void.

Accordingly, I am inclined to issue formal notices and grant the interim reliefs (c), (d) and (e) of the Petition dated 25<sup>th</sup> June 2025.

**Judge of the Court of Appeal**

**Hon. Rohantha Abeysuriya PC, J.(P/CA)**

I agree.

**President of the Court of Appeal**