

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

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

Senior Prof. Udith Jayasinghe,
No.75,
Negombo Road,
Dunagaha.

PETITIONER

CA (Writ) Application No. 515/2025

Vs

1. University Grants Commission,
No.20,
Ward Place,
Colombo 07.

AND 29 OTHERS

RESPONDENTS

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

Hon. Justice K. P. Fernando

Counsel: Sapumal Bandara with Gangulali Dayaratne and Nisali Pieris for the Petitioner instructed by Amanda de Moore.

Shemanti Dunuwille, SC for the Respondents.

Supported On: 16/07/2025

Synopsis of Submissions Filed On: 25/07/2025 and 28/07/2025

Decided On: 17/09/2025

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

The Petitioner in the instant matter is a former Vice Chancellor of the University of Wayamba for two terms who had also applied for the same post for another term.

The University Grants Commission (hereinafter sometimes referred to as the UGC) who is the 1st Respondent had rejected his application to be considered for another term on the basis of a legal impediment for a person who had held the said position for two consecutive terms from reapplying for a third term.

In the instant writ application, the Petitioner *inter alia* has prayed for the following reliefs.

- a) Grant and issue a mandate in the nature of a Writ of *Certiorari* quashing the decision of the 2nd Respondent informed by way of letter dated 24.03.2025 bearing reference no. UGC/L/254 marked "P-25";
- b) Grant and issue a mandate in the nature of a Writ of *Certiorari* recalling the clarification sought by the 4th Respondent on behalf of the 5th to 22nd Respondents by way of letter dated 25.02.2025 bearing reference no. AE/01 marked "P-22";
- c) Grant and issue a mandate in the nature of a Writ of *Mandamus* directing the 2nd Respondent to issue a direction to the 5th to 22nd Respondents that the Petitioner is eligible to apply for the post of Vice Chancellor at the 3rd Respondent University for a second term;

Factual Matrix

The Petitioner's first term as Vice Chancellor of the Wayamba University commenced on 03.09.2020. As per the provisions of the Universities Act No 16 of 1978, a single term of office of a Vice Chancellor is for a period of three years.

The Petitioner prior to the expiry of the three-year term of office was appointed to the post of Secretary to the Ministry of Agriculture for a period of one year. (*Vide* document marked P5)

As per the said document, the Petitioner has sought to be released from the University Service for a period of one year to take up the aforementioned post of a Ministry Secretary. It does appear that the change of employment position was on his own volition. Due to the aforesaid reason, the council of the University of Wayamba decided to advertise the post of Vice Chancellor considering it to have fallen vacant on the directions of the first Respondent. (*Vide* document marked P7)

Although the Petitioner was appointed to the post of Secretary to the Ministry of Agriculture, it appears that he had served in that capacity also for a short period of few months only.

The process of appointing another Vice Chancellor had proceeded and the Petitioner too had applied for the post once again. Upon being successful at the interviews the Petitioner was reappointed as the Vice Chancellor for the second time. He served the full term as the Vice Chancellor which term was completed on 30th of June 2025.

The primary question of law before this Court is as to whether as per the applicable legal provisions, the Petitioner be permitted to re-apply for yet another term as Vice Chancellor on the basis that the first term in office was for a short duration and therefore cannot be considered as **his first term in office as Vice Chancellor**.

It was the contention of the Respondents that after relinquishing duties as Secretary to the Ministry of Agriculture, the Petitioner had not taken any steps whatsoever to request for his reinstatement as the Vice Chancellor. By the document marked as P14 which is dated 22.12.2021 the Petitioner has informed the Respondents that he has reverted back to his duties as senior professor of the Wayamba University. The 3rd Respondent which is the Wayamba University has sought clarification from the 1st Respondent with

regard to the status of the Petitioner. In response by letter dated 20th of January 2022 marked P16 which was addressed to the then Acting Vice Chancellor of the said University, the UGC has expressed the following opinion,

“The Commission has decided that Senior Prof. Udith K. Jayasinghe cannot be reinstated in the post Vice Chancellor of Wayamba University of Sri Lanka (WUSL) according to the existing provisions and therefore, you should continue as the Acting Vice Chancellor to carry on the duties of the office of the Vice chancellor of WUSL, until a permanent appointment is made”

In the course of the proceedings before this Court, the Respondents submitted that except for the legal impediment contained in the relevant law, there exist no blemish by way of any disciplinary proceedings against the Petitioner or want of competence for him to serve as the Vice Chancellor for another term.

The document impugned before this court is essentially P25 which is a letter written by the UGC addressed to the Registrar of the 3rd Respondent University. The following paragraph of P25 pertains to the issue under consideration,

“Therefore, the commission having considered the above facts decided to inform you that Senior Professor Udith K. Jayasinghe is not eligible to contest for the post of Vice Chancellor Wayamba University of Sri Lanka another time according to the above facts”

It was the contention of the Petitioner that given the factual position of the instant matter, there were no consecutive terms served as the Vice Chancellor by the Petitioner and therefore he is eligible to apply for yet another full term as Vice Chancellor. It is the contention of the Petitioner that only in situation where there was no interruption or break in the tenure of the Vice Chancellor who had already served for three year full term will be disqualified from applying again. Any tenure which is less than three years cannot be considered as involved term as envisaged under the relevant enactment. The Petitioner has also highlighted the fact that until the post of Vice Chancellor was filled by the subsequent second appointment given to the Petitioner there was no permanent holder of the said office and only acting appointments were made. Citing Black’s Law Dictionary (6th edn, West Publishing Co, 1990) the Petitioner has interpreted the word “consecutive” to mean successive; succeeding one another in regular order; to follow in uninterrupted succession.

Legal Issues

The legal provisions pertaining to the appointment and tenure of Vice Chancellors are contained in the Universities Act No 16 of 1978 (as amended).

The said provisions are contained in Sec 34 of the said enactment. The relevant sub sections are reproduced below.

(1) (a) *The Vice-Chancellor of a University shall, subject to the provisions of paragraph (b), be appointed for a term of three years by the President, upon the recommendation of the Commission, from a panel of three names recommended by the Council of that University.*

(b) No person shall be appointed as Vice-Chancellor of the same University for more than two consecutive terms.

As per the aforementioned provisions, one term as Vice Chancellor is for three years and cannot hold such office in the same University for more than two consecutive terms. It is clear from the plain reading from these provisions that the legislature intended to restrict the tenure of a Vice Chancellor at the University.

The Respondents contended that the said limitations to the tenure contained in the Act was introduced to prevent entrenchment in office and to ensure the leadership of the Universities are renewed periodically. The Respondents further submitted that such restrictions were included in the Act perhaps to prevent abuse of authority and corruption. In this context, it was contended that these restrictions pertains to **sequence** of appointments and not to the full passage of a three-year term.

The counter submissions advanced by the Petitioner is that if one full term of three years was not served by the holder of office of Vice Chancellor, it would not be a bar for him to apply and be selected to serve for two terms.

It is the view of this Court, that if such a construction is adopted, it would defeat the intention of the legislature which is to restrict the maximum time period a person could hold office of Vice Chancellor to two consecutive terms aggregating six years. In the instant matter, the Petitioner has already served one full term (three years) and by this writ application has sought the intervention of this Court to enable him to serve for another term of three years. When the first term he served as Vice Chancellor which was for a period of about 9 months taken into account, the total period he could serve as Vice

Chancellor would definitely exceed a period of six years. This in my view is not what was intended by the legislature.

It is a cardinal principle of law that when provisions of legislative enactments are interpreted it ought to be done in a manner which would give sufficient effect to the intention of the legislature as reflected in the unambiguous terminology used in the relevant piece of legislature. In **Saloman vs. A. Saloman & Co. Ltd**¹ it was held that in a court of law or equity what the legislature intended to be done or not to be done can only be legitimately ascertained from what it has chosen to enact, either in express words or by reasonable and necessary implications. In **SC Appeal No. 121/2019** decided on 30th May 2025 it was held that it is well established that courts, when interpreting statutes, should consider the intention of the legislature. In the aforesaid judgment their Lordships made the following observations,

“This court is mindful that while the judiciary plays a pivotal role in ensuring justice, it must do so within the bounds of legislative intent”

In **Court of Appeal Case No. CA/CPA/152/2022** which was decided on 31st August 2023, Court of Appeal considered section 5C of High Court of the Provinces (Special Provisions) (Amendment) Act No. 54 of 2006. The Court made the following observations,

“...section 5C becomes meaningless, and the intention of the legislature will blatantly be defeated, as any party dissatisfied with any Judgment or Order of the High Court of Civil Appeal can come before this Court by way of revision and/or restitutio in integrum. Then the party dissatisfied with the Judgment or Order of the District Court will have three appeals—first to the High Court of Civil Appeal, second to the Court of Appeal, and third to the Supreme Court. That was obviously never the intention of the legislature. One of the main objectives of setting up High Courts of Civil Appeal is to curb laws delays in civil litigation and not to expand it.”

In the case of **Chairman and Members of Debt Conciliation Board vs. Ranepura Devage Hector Jayasiri**², Court in interpreting an Amendment to the Debt Reconciliation (Amendment) Act No. 29 of 1999 interpreted the Act based on the purpose of the Amending Act, which was to prevent weaker borrowers from corrupt lenders. The Court made the following observations;

¹ 1897 AC 22 at 38

² [SC Appeal No.134/14 SC Minutes 14.07.2020]

“It is true that the court in interpreting statutes must give life to the intention of the legislature. In doing so, if the language is plain, the court must give effect to them. If the words are not capable of limited construction, apply the words as they stand. It is also correct to say that this amendment was brought to strengthen the weak borrower against the hitherto corrupt lender and to counter his subterfuges. Thus, there is no doubt that in constructing the provisions of the amending Act Judges should suppress the mischief and advance the remedy.”

In **SC Appeal 59/2024** decided on 12th September 2025, Achala Wengappuli J has cited the following passage from **Maxwell** (at Page 536) with approval,

“[I]f language is clear and explicit, the Court must give effect to it, for in that case the words of the statute speak the intention of the Legislature. And in so doing it must bear in mind that its function is jus decree, not jus dare: the words of a statute must not be overruled by the judges, but reform of the law must be left in the hands of Parliament. (emphasis added)”

The Supreme Court of Sri Lanka in the case of **SC Appeal No. 134/2014** decided on 14.07.2020 also considered the aspect of legislative intent. It was held thus,

“In interpreting statutes must give life to the intention of the legislature. In doing so, if the language is plain, the court must give effect to them. If the words are not capable of limited construction, apply the words as they stand”

The ratio of all the above cited judicial authorities is to the effect that the legislative intent should be accorded primacy in interpreting provisions contained in enactments.

As stated above, the intention of the legislature when it enacted the Universities Act No.16 of 1978 was to restrict the tenure of the Vice Chancellor of a particular university for two consecutive terms aggregating to six years.

For the foregoing reasons I hold that the Petitioner has not satisfied the minimum threshold requirements which warrants this court to issue formal notices to the Respondents

Application Dismissed.

PRESIDENT OF THE COURT OF APPEAL

K. P. Fernando, J.

I agree.

JUDGE OF THE COURT OF APPEAL