

**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 Certiorari and Mandamus in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CA Writ Application No.406/2025**

**Disenthuwahandi Sampath Viraj  
Prasanjana,  
No. 23/43, Walawwatta,  
Hikkaduwa.**

**PETITIONER**

**Vs.**

- 1. R. M. P. Rathnayake,**  
Commissioner General of Buddhist Affairs,  
Department of Buddhist Affairs,  
“Dahampaya”  
No.135, Angarika Dharmapala  
Mawatha,  
Colombo 7.
- 2. M. Nalika P. Gunaratne,**  
Additional Secretary (Administration),  
Department of Buddhist Affairs,  
“Dahampaya”  
No.135, Angarika Dharmapala  
Mawatha,  
Colombo 07.
- 3. Sujeewa G. Palliyaguru,**  
Additional Secretary (Administration),  
Department of Buddhist Affairs,  
National Heritage Division,  
“Dahampaya”  
No.135, Angarika Dharmapala  
Mawatha,  
Colombo 07.

4. **N. K. Pathirana,**  
Additional Secretary (Administration),  
Department of Buddhist Affairs,  
Cultural Affairs Division,  
“Dahampaya”  
No.135, Anagarika Dharmapala  
Mawatha.  
Colombo 07.
5. **Hemanthi Kumari,**  
Senior Assistant Secretary  
(Administration),  
Ministry of Buddha Sasana, Religious  
and Cultural Affairs  
“Dahampaya”  
No.135, Anagarika Dharmapala  
Mawatha.  
Colombo 07.
6. **Yuresh Dammika Witharana,**  
Rangalla Palama Asala,  
Kalupe,  
Hikkaduwa.
7. **Agampodi Wimal Mendis,**  
Rangalla Palama Asala,  
Kalupe,  
Hikkaduwa.
8. **Kombu Dinuka Chathuranga  
Wijerathna,**  
Galu Para Asala,  
Werallana,  
Hikkaduwa.
9. **Hon. Attorney General,**  
Attorney General’s Department,  
Colombo 12

#### **RESPONDENTS**

**Before:**

**R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** Gamini Perera instructed by Manoj Kumar De Silva for the Petitioner.  
Shemanthi Dunuwelle, SC for the 1<sup>st</sup> Respondent

**Written Submissions:** By the Petitioner – not filed  
By the Respondents – not filed

**Supported on:** 03.06.2025.

**Order delivered On:** **24.07.2025.**

**Dr. Sumudu Premachandra J.**

1] The Petitioner, Disenthuwahandi Sampath Viraj Prasanjana, seeks a Writ of Certiorari to quash the decision of the 1<sup>st</sup> Respondent and the 2<sup>nd</sup> to 5<sup>th</sup> Respondents, as contained in document P5 dated 17.02.2025, recommending the 8<sup>th</sup> Respondent, Kombu Dinuka Chathuranga Wijerathna, as the Trustee of the Seenigama Sri Devol Maha Dewalaya. The Petitioner further seeks a Writ of Mandamus directing the 1<sup>st</sup> Respondent to appoint the Petitioner as the Trustee of said Dewalaya promptly. In addition, the Petitioner also prayed for interim orders staying the implementation of the said recommendation and preventing the 8<sup>th</sup> Respondent from acting as Trustee until the final determination of this application.

2] The learned counsels for the Petitioner and learned State Counsel for the 1<sup>st</sup> Respondent and the 2<sup>nd</sup> to 5<sup>th</sup> Respondents were heard on 03/06/2025 with regard to the issuance of formal notices and interim reliefs, which I now consider in detail.

3] The petitioner, a citizen of Sri Lanka, is a respected businessman and social activist from Hikkaduwa, who previously served as the Trustee of the Seenigama Sri Devol Maha Dewalaya from 2008 to 2013. He recently secured first place at the interview held on 13<sup>th</sup> and 14<sup>th</sup> March 2025 for the appointment of the Trustee of the same Dewalaya, conducted by the 1<sup>st</sup> to 5<sup>th</sup> Respondents. The Petitioner claims he met all statutory and eligibility requirements for the post. The 1<sup>st</sup> Respondent is the Commissioner General of Buddhist Affairs, with authority under the Buddhist Temporalities Ordinance No. 19 of 1931 to appoint trustees. The 2<sup>nd</sup> to 5<sup>th</sup> Respondents were members of the interview panel. Despite securing the highest marks, the Petitioner was informed that the 8<sup>th</sup> Respondent, who was ranked lower, was recommended as the Trustee of said Dewalaya on 17<sup>th</sup> February 2025 by P5. The Petitioner now challenges said recommendation on the basis of illegality and procedural impropriety.

4] It is seen that the applications for the Trustee position were publicly called on 1st July 2023 (marked P2), and the Petitioner applied along with others. After a preliminary round, five candidates were shortlisted for a second interview, at which the Petitioner ranked third, and the top-ranked candidate was appointed. However, a non-shortlisted applicant filed CA/Writ Application No.504/2023 against the appointment. During proceedings, the Hon. Attorney General, representing the 1<sup>st</sup> Respondent, undertook to hold a fresh interview for the original candidates. At this subsequent interview, the Petitioner ranked first, yet was bypassed in favour of the 8<sup>th</sup> Respondent, whose appointment is now being contested in the present application. That was the grievance of the Petitioner.

5] According to P5, following the undertaking given in CA/Writ Application No. 504/2023, to hold a fresh interview for the post of Trustee of the Seenigama Sri Devol Maha Dewalaya was held on 13<sup>th</sup> and 14<sup>th</sup> February 2025 by the 1<sup>st</sup> to 5<sup>th</sup> Respondents. Since the Petitioner was not informed of the results and marks of the subsequent interview, he obtained them through a Right to Information request, which revealed that he had ranked first, while the 8<sup>th</sup> Respondent ranked fourth. It is seen that the 1<sup>st</sup> to 5<sup>th</sup> Respondents recommended the 8<sup>th</sup> Respondent for the trusteeship over the Petitioner, considering alleged adverse reports against the higher-ranked candidates.

6] The said report was marked as P6, contains no adverse findings against the Petitioner, and the Petitioner says that he is not disqualified under Section 14 of the Buddhist Temporalities Ordinance No. 19 of 1931 (as amended), which specifies disqualifying offences such as theft, fraud, or other infamous crimes. He asserts that his prior conviction was for a minor motor traffic offence (drunken driving), not an infamous crime, and therefore does not affect his eligibility.

7] According to the Petitioner that he was unable to attend the interview due to an unforeseen medical issue on 12<sup>th</sup> February 2025, followed by a sudden arrest and remand in relation to a traffic offence. Although the court date for the offence was scheduled for 17<sup>th</sup> February, he was unexpectedly produced before court on 12th February and remanded until 13th February. However, his brother, unaware of the remand, submitted the Petitioner's medical certificate to the interview board. The petitioner argues that this incident involved a minor traffic violation and is not grounds for disqualification under the Ordinance.

8] The Petitioner claims that the decision not to appoint him, despite being the most qualified candidate, is illegal, arbitrary, unreasonable, and violates principles of natural justice and legitimate expectation. He seeks a writ of

*certiorari* to quash the appointment of the 8<sup>th</sup> Respondent and a writ of *mandamus* directing the 1<sup>st</sup> Respondent to appoint him instead.

9] The Learned State Counsel contends that under section 8(1) of the Buddhist Temporalities Ordinance, the 1<sup>st</sup> Respondent has the discretion, under the circumstances, not to appoint the Petitioner as the trustee. The reason for non-appointment was that the Petitioner misled the interview board by submitting a bogus medical certificates while he was in remand for arrest on a warrant for an offence of drunken driving.

10] When the illegality of the 1<sup>st</sup> Respondent is concerned, it is seen that the powers of the 1<sup>st</sup> Respondent are mentioned in section 5 of the Buddhist Temporalities Ordinance. It says;

*“Every trustee and every controlling Viharadhipati shall, to the extent authorised by the provisions of this Ordinance, be subject to the general supervision of the Commissioner-General of Buddhist Affairs, who shall, in the manner prescribed by regulations under this Ordinance, be assisted in the exercise of such supervision by an advisory Board.”*

11] Section 8(1) of the Buddhist Temporalities Ordinance enacts the appointment of trustees in Dewalaya. It says;

*“8(1) The trustee for a dewale for which it has been customary to appoint a Basnayake Nilame shall be the Basnayake Nilame thereof. The trustee for every other dewale shall be a person appointed by the Public Trustee (Commissioner-General of Buddhist Affairs as amended by Buddhist Temporalities (Amendment) No. 34 of 2013)”*

12] The eligibility and disqualification of trustees have been discussed in section 14 of the Buddhist Temporalities Ordinance, and it says;

**“14 No person shall be eligible to be elected or to be appointed, or if elected or appointed shall act, as trustee-**

*a)...*

*(b) if he has been convicted of theft, fraud, forgery, perjury or other infamous crime, such conviction not having been subsequently reversed in appeal, and such person's disqualification on account of such conviction not having been removed by an order of the President;”*

13] In paragraph 28 of the petition, the Petitioner admitted that he was remanded by the Galle Additional Magistrate's Case bearing No 74852 on 12/02/2025 (certified copy marked as P8). The Petitioner says that the court date was fixed for 17/02/2025; however, he was arrested and produced before the Magistrate. When the case was called before the Magistrate, his counsel informed the court that he had mistaken the date as;

“වි/ව/කරු/ ඉ/ කරසි දිනය වැරදුණු බවට නී / ප්‍රසන්ෂන ගමගේ මයා දන්වා සිටි.”

14] By the time of the interview, while he was in remand, on 13/02/2025, he submitted a medical to the Interview Board. The Petitioner has taken a double stand, and his version, therefore, cannot be accepted. Thus, his integrity, conduct and dealings are questionable.

15] On the findings of the security reports, the Interview Board concluded as;

“සම්මුඛ පරික්ෂණයේ දී 1, 2, 3 ස්ථාන ලබාගත් අයදුමකරුවන් සම්බන්ධව අයහපත් තොරතුරු වාතරා පවතී. ඇමුණුම 01, ඇමුණුම 02, ඇමුණුම 03, ඇමුණුම 04. එබැවින් 4 වන ස්ථානය ලබාගත් කොමො දිනුක විතුරුග විශේරත්න මහතා හාරකාර බුරයට පත්කර ගැනීම නිර් දේ කරමු. **2025/02/17** වන දින නිදේරේය සටහන් කරන ලදී.”

16] Thus, we cannot see any action of the Respondents relating to illegality, procedural impropriety, arbitrariness, unreasonableness, or violation of principles of natural justice and legitimate expectation.

17] In ***Fonseka v. Lt. General Jagath Jayasuriya and Five Others*** [(2011) 2 S..L.R. 372 the Court held that:

*“(1) A petitioner who seeks relief by writ which is an extra-ordinary remedy must in fairness to Court, bare every material fact so that the discretion of Court is not wrongly invoked or exercised”.*

18] In the case in hand, the Petitioner has misled the Additional Magistrate and the interview Board and suppressed that he was remanded for a “minor traffic offence”. This minor traffic offence was driving under the influence of alcohol. It is commonly known as drunken driving, and it can indeed be considered an infamous offence. It is a criminal offense with severe penalties, including fines, imprisonment, and license suspension, due to the high risk it poses to public safety. The consequences can be life-altering for the offender and devastating for victims. Thus, this court of the view that it could be taken as an infamous offence as mentioned in section 14(b) of the Buddhist Temporalities Ordinance. In the above Galle Additional Magistrate's Court Case, the Petitioner was fined Rs.

25,000/= on his own plea and his Driving License was suspended for 3 months. This shows the severity of the offence as infamous crime, and this material was suppressed from the Interview Board to gain first place in the interview. This is not an acceptable conduct.

19] In **Jayaweera V. Asst. Commissioner of Agrarian Services Ratnapura And Another** [1996] 2 SLR 70, where it was held that;

*“A Petitioner who is seeking relief in an application for the issue of a Writ of Certiorari is not entitled to relief as a matter of course, as a matter of right or as a matter of routine. Even if he is entitled to relief, **still the Court has a discretion to deny him relief having regard to his conduct**, delay, laches, waiver, submission to jurisdiction - are all valid impediments which stand against the grant of relief.”* [Emphasis is added]

20] Further, in **Dahanayake and Others v. Sri Lanka Insurance Corporation Ltd. and Others** [2005] 1 Sri. L.R. 67] Court held that if there is no full and truthful disclosure of all material facts, the Court would not go into the merits of the application but would dismiss it without further examination. In this matter, the Petitioner's conduct and suppression cannot be treated lightly. The writ of certiorari, mandamus, and prohibition are discretionary remedies of the court, particularly in the context of writ jurisdiction. As observed above, it is not conferred as of right but is to be exercised by courts with caution and circumspection. In the case in hand, I am of the view that the conduct of the Petitioner rendered him unsuitable to be a trustee.

21] For the foregoing reasons, formal notices on the Respondents are refused. The application is dismissed. No costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL