

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

In the matter of an application for mandates in nature of Writs of Certiorari, Mandamus and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C. D. Ekanayake,  
No.496/22,  
Piachaud Gardens,  
Kandy.

**PETITIONER**

**CA WRIT Application  
No.592/2025**

**Vs.**

1. University of Wayamba,  
Lionel Jayathilake Mawatha,  
Kuliyapitiya.
2. Snr. Prof. J.M.U.K. Jayasinghe,  
Vice Chancellor,  
Wayamba University of Sri Lanka.
3. Dr. S. Bowatte,  
Dean,  
Faculty of Medicine,  
Wayamba University of Sri Lanka.
4. Dr. S. B. Alagoda,  
Department of Obstetrics and  
Gynaecology,

Faculty of Medicine,  
Wayamba University of Sri Lanka.

5. Prof. R.M.C.J. Ratnayake,  
Department of Obstetrics and  
Gynaecology,  
Faculty of Medicine,  
Wayamba University of Sri Lanka.
6. Mr. Upendra Wijesinghe,  
Appointed Member of the Council.
7. Mr. Supun Adikari,  
Appointed Member of the Council.
8. Dr. R. Pramitha Shanthilaka,  
Appointed Member of the Council.
9. Mrs. P.A.S.M. Marasinghe,  
Appointed Member of the Council.
10. Mr. Chandana Prasad Yapa,  
Appointed Member of the Council.
11. Mr. T. Karunasena,  
Appointed Member of the Council.
12. Mr. P.B.M. Sirisena,  
Appointed Member of the Council.
13. Mr. S.M.K.S.M. Gamini Bandara  
Senanayake,  
Appointed Member of the Council.
14. Dr. W.K.C.P. Werawatta,

Appointed Member of the Council.

15.Mr. M.M.J.R. Bogamuwa,  
Appointed Member of the Council.

16.Prof. D.A.M. Perera,  
Senate Nominee of the Council.

17.Prof. M.D.S.T. De Croos,  
Senate Nominee of the Council.

18.Prof. J.R.P. Jayakody,  
Council Nominee.

19.M.N.A.S.N. Nissanka,  
Council Nominee.

20.W.D. Don Chitrananda,  
Registrar.

21.Mr. D.A.U. Dharmadasa,  
Bursar.

22.Mrs. A.S.K. Wijekoon,  
Deputy Registrar,  
Academic Division.

23.Mrs. H.M.D.S.Ekanayake,  
Assistant Registrar to the Vice  
Chancellor.

All of the above of  
Wayamba University,  
Lionel Jayatilleke Mawatha,  
Kuliyapitiya.

24.Dr. S. N. Senaratne,  
Wayamba University of Sri Lanka.

25. University Grants Commission,  
Ministry of Education, Higher  
Education and Vocational Education  
(Higher Education Division),  
No.18, Ward Place,  
Colombo 7.

**RESPONDENTS**

**Before:** **R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** Saliya Peiris, PC with Jagathdeesha Ranasinghe for  
the Petitioner.

Dilantha Sampath, SC for the 1<sup>st</sup> – 24<sup>th</sup> Respondents.

Ikram Mohamed, PC with Chanath Jayasekera and  
Harish Balakrishnan, instructed by Eranga Pinnaduwa  
for the 24<sup>th</sup> Respondent.

**Written Submissions:** By the Petitioner Not filed.

By the Respondents – Not filed.

**Supported On** : 03/07/2025, 01/08/2025, 01/10/2025, 23/10/2025  
and 18/12/2025.

**Order On** : 06/02/2026

**Dr. Sumudu Premachandra J.**

1] The Petitioner is a distinguished specialist in Obstetrics and Gynaecology, currently serving as a Professor at the Sabaragamuwa University of Sri Lanka. His credentials include an MBBS from the University of Peradeniya, an MD from the University of Colombo, and a PhD from the University of Kelaniya. Throughout his career, he has received numerous accolades, including the Dr. Nalin Rodrigo Gold Medal, a National Research Council Merit Award, and international recognition as a Young Gynaecologist in Asia and Oceania. He previously held a senior academic and clinical role at General Sir John Kotelawala Defence University (KDU), where his contributions were formally commended by the Vice Chancellor following the settlement of a previous legal dispute.

2] The core of the petition concerns two unsuccessful applications by the Petitioner for the post of Senior Lecturer (Grade 1) at the Faculty of Medicine, Wayamba University, in 2024 and 2025. Despite his extensive research portfolio and status as a board-certified specialist, the Petitioner was rejected on both occasions. He alleges that the candidates who were ultimately selected, some of whom were retired consultants from the Ministry of Health, possess inferior academic and research qualifications compared to his own. The Petitioner asserts that he is the only practicing obstetrician and gynaecologist in Sri Lanka with a PhD, making his rejection scientifically and academically questionable.

3] However, on the following his second rejection, the Petitioner sought information regarding the recruitment process under the Right to Information (RTI) Act. He requested details such as the composition of the selection panel, the schedule of applicants, and the marks assigned to candidates. The Petitioner claims that Wayamba University engaged in dilatory tactics to withhold this information, initially citing confidentiality and later requesting a small payment without providing account details. He argues that this lack of transparency suggests a deliberate attempt to hide a biased selection process that did not prioritize the best interests of the students or the institution.

4] In light of the above backdrop, the Petitioner contends that the selection process lacked a logical rationale and consistency, violating the established University Grants Commission (UGC) criteria. By selecting candidates with purportedly negligible research achievements over a sitting Professor with significant international awards, he argues that the university has displayed subjective bias. The petition frames the university's actions as a violation of his rights and a departure from the "natural progression" of academic recruitment. He maintains that access to the comparative marking schemes is essential to prove that the selection was meritocratically flawed and procedurally unfair.

5] The Petitioner, an established Professor and practicing Consultant, argues that the university's marking scheme is fundamentally flawed and prone to manipulation. A primary grievance is the use of "capped" marks for research and higher degrees; the Petitioner contends that this system unfairly equalizes candidates by awarding the same score to someone with only an MD as someone with both an MD and a PhD, thereby nullifying superior academic achievements and research output.

6] The Petitioner further alleges specific inconsistencies and bias in the evaluation of candidates, particularly comparing their results to those of the selected candidate, Dr. Senaratne, 24<sup>th</sup> Respondent. Evidence is provided showing that the Petitioner scored significantly higher in objective categories (academic qualifications and research) but was given the lowest marks in the interview, a pattern repeated across 2024 and 2025. Conversely, the selected candidate reportedly saw a "remarkable and abrupt" increase in research marks from 0.0 in 2024 to the maximum 20.0 in 2025, while the Petitioner's own marks for recognized distinctions were lowered without clear justification.

7] In the above circumstances, the Petitioner prays that this Court be pleased to:

- a. Issue notices on the Respondents;
- b. An interim order preventing the 1st to 23rd Respondents and 25th Respondent or any of their agents from taking any decision/action pertaining to recruitment of the 24th Respondent, Dr. Senaratne or any

- other candidate for the post of Senior Lecturer (Grade I) – Obstetrics & Gynaecology at the Faculty of Medicine, Wayamba University, until a final determination of this application;
- c. An interim order directing the 1st to 23rd Respondents and 25th Respondent and/or their subordinate officers to hand over all the other necessary and/or related documents pertaining to this interview for the post Senior Lecturer (Grade I) – Obstetrics & Gynaecology at the Faculty of Medicine, Wayamba University;
  - d. A mandate in the nature of a Writ of Prohibition, preventing 1st to 23rd Respondents and 25th Respondent from confirming the appointment of the 24th Respondent Dr. Senaratne or any other candidate other than the Petitioner as Senior Lecturer (Grade I) – Obstetrics & Gynaecology at Faculty of Medicine, Wayamba University;
  - e. A mandate in the nature of a Writ of Certiorari, quashing the decision to select and recruit the 24th Respondent Dr. Senaratne, by the 1st to 23rd Respondents and 25th Respondent, to the post of Senior Lecturer (Grade I) – Obstetrics & Gynaecology at the Faculty of Medicine, Wayamba University;
  - f. A mandate in the nature of a Writ of Certiorari, quashing any further consequential decisions that may be taken upon the said decision in terms of selecting any other candidate other than the Petitioner by the 1st to 23rd Respondents and 25th Respondent, including the appointment of the 24th Respondent Dr. Senaratne to the post Senior Lecturer (Grade I) – Obstetrics & Gynaecology at Faculty of Medicine Wayamba University;
  - g. A mandate in the nature of a Writ of Mandamus, directing one or more of the Respondents to appoint the Petitioner to the post of Senior Lecturer (Grade I) – Obstetrics & Gynaecology at Faculty of Medicine Wayamba University;
  - h. In the alternative a mandate in the nature of a Writ of Mandamus, directing 1st to 23rd Respondents and 25th Respondent to conduct a fresh interview for the post Senior Lecturer (Grade I) – Obstetrics & Gynaecology at Faculty of Medicine Wayamba University;
  - i. Grant costs; and/or

- j. Grant such other and further relief that Your Lordships' Court shall deem meet.

8] The Respondents resisted the application and interim reliefs and made limited objections. They argue that the Petitioner's application should be dismissed in limine (at the outset) due to the suppression of material facts and the failure to name necessary parties who would be prejudicially affected by the court's ruling.

9] Dr. S.N. Senaratne, the 24<sup>th</sup> Respondent details his extensive professional qualifications and career history to justify his selection as Senior Lecturer (Grade I) at Wayamba University. He is a board-certified Consultant in Obstetrics and Gynaecology with an MBBS and MD from the University of Colombo, along with specialized training from institutions in India and the UK. He notes that although he was not selected in the 2024 recruitment cycle due to a personal failure to produce research documents at the interview, he successfully provided all necessary documentation in the 2025 recruitment process, resulting in his lawful appointment to the post. He justifies the disparity in marking between the 2024 and 2025 interviews.

10] The 24<sup>th</sup> Respondent specifically addresses the Petitioner's grievances regarding interview scoring. He contends that the Selection Committee acted within its legal discretion when awarding marks for "Academic Distinction" and "Research." Furthermore, he argues that the Petitioner's claim for preference based on a PhD is invalid because the official scheme of marking gives equal weight to an MD with Board Certification, which Dr. Senaratne possesses. He points out that even with the additional marks the Petitioner seeks, the Petitioner's total score would still be lower than his own.

11] Finally, the 24<sup>th</sup> Respondent accuses the Petitioner of acting with malice and a history of animosity toward colleagues. He alleges that the Petitioner suppressed details of a previous Fundamental Rights case (SC/FR/227/2022), in which the Petitioner was reportedly required to tender formal apologies to several senior medical professionals.

12] I now consider the merits of this application on issuing notices. The Petitioner alleged that Respondent Wayamba University was significantly biased and had procedural irregularities in the selection process. He said that the Faculty of Medicine, Wayamba University, has awarded the 24th Respondent unfairly, marked for research and publications without providing actual evidence of published work, while the Petitioner's own superior academic distinctions and prizes were arbitrarily undervalued or ignored by the selection panel.

13] The Petitioner says that he should be awarded full 20 marks as he was a Gold Medalist (P9) and considering P10, P11, P12 and P13. The Learned President's Counsel for the Petitioner contended that the Petitioner with a Ph.D has been placed with bare minimal qualification MD and 20 marks were given for both. When considering the level of Qualifications, Sri Lanka Qualification Framework creates (SLQF) 12 tiers. It classified the minimum volume of learning required for each Level of SLQF. It shows;

(See Overleaf)

## Minimum volume of learning required for each Level of SLQF

SLQF Level	Qualification Awarded	Minimum Volume of Learning for the Award
12	Doctor of Philosophy / MD with Board Certification/Doctor of Letters/Doctor of Science	Minimum 3 years of fulltime or equivalent time of original research after SLQL 6 or above
11	Master of Philosophy	Minimum 2 years of fulltime or equivalent time of original research after SLQL 6 or above
10	Masters with course work and a research component	60 credits after SLQL 5 or SLQL 6 including a research component of minimum 15 credits
9	Masters by course work*	30 credits after SLQL 5 or SLQL 6
8	Postgraduate Diploma*	25 credits after SLQL 5 or SLQL 6
7	Postgraduate Certificate*	20 credits after SLQL 5 or SLQL 6
6	Bachelors Honours	120 credits after SLQL 2 of which 90 credits after SLQL 3, of which 60 credits after SLQL 4, of which 30 credits after SLQL 5
5	Bachelors	90 credits after SLQL 2 of which 60 credits after SLQL 3, of which 30 credits after SLQL 4
4	Higher Diploma	60 credits after SLQL 2 of which 30 credits after SLQL 3
3	Diploma	30 credits after SLQL 2
2	Advanced Certificate (GCE A/L or equivalent)	
1	Certificate (GCE O/L or equivalent)	

**Table 1**

SLQF Level	Qualification awarded	Comparable NVQ Levels
12	Doctor of Philosophy / MD with Board Certification/Doctor of Letters/Doctor of Science	
11	Master of Philosophy	
10	Masters with course work and a research component	
9	Masters by course work	
8	Postgraduate Diploma	
7	Postgraduate Certificate	
6	Bachelors Honours	
5	Bachelors	7
4	Higher Diploma	6
3	Diploma	5
2	Advanced Certificate (GCE A/L or equivalent)	4
1	Certificate (GCE O/L or equivalent)	3
		2

**Table 2**

(Vide: pages 10 and 11 in SRI LANKA QUALIFICATIONS FRAMEWORK [https://www.ugc.ac.lk/attachments/1156\\_SLQF\\_2016\\_en.pdf](https://www.ugc.ac.lk/attachments/1156_SLQF_2016_en.pdf) (access on 26/01/2026))

14] Thus, according to the Sri Lanka Qualifications Framework, PhD and MD with Board Certification were placed at a similar standard, that is, the highest level, 12. Thus, the Petitioner cannot claim that his qualification was undervalued. Thus, the contention that the marking scheme is irrational cannot be accepted. When a threshold qualification is placed, an added qualification will not help the candidate. It has the authority to select the best-suited candidate for the position, not the well-qualified candidate. When minimum

threshold requirements have been fulfilled thereafter, it is the authority to consider the background of each candidate with educational backdrop. The marking may vary for each candidate based on the performance of the interview. The awarding of relevant marks is somewhat discretionary with each panellist; it cannot be judicially ascertained. The court is, thus, reluctant to mingle the academic decisions. The above proposition is decided in several superior court matters.

15] In ***Dr. Karunananda v. Open University of Sri Lanka*** [2006]3SLR 225, where the court held there is "no necessity for the Courts to unnecessarily intervene in matters purely of academic nature." Shirani Bandaranayake, J (As she then was), held;

*"I am not in agreement with the view that academic decisions are beyond challenge, there is no necessity for the Courts to unnecessarily intervene in matters 'purely of academic nature' since such issues are best dealt with by academics who are fully equipped to consider the questions in hand"*

16] Further in ***Dr. Jayawardena v. University of Colombo***, CA. Writ 137/2018, Decided on: 22nd June 2020, His Lordship Arjuna Obeyesekere J., considered the aforementioned proposition and observed as follows;

*"This Court is therefore of the view that while due recognition will be given to the view of the decision maker, whether the decision relates to academic matters or otherwise, this Court can, and will, in the exercise of the jurisdiction vested in it by Article 140 of the Constitution, examine whether the impugned decision of the 1st Respondent is tainted with illegality, irrationality or procedural impropriety. This Court would however exercise extreme caution if asked to consider, for example as in this case, whether a decision of a selection board or panel to award less marks than what a petitioner claims is rightfully due, is irrational or unreasonable."*

17] Moreover, in **Abeyundara Mudiyansele Sarath Weera Bandara vs University of Colombo and others**, CA (Writ) Application No. 844/2010; CA Minutes of 8th June 2018., A.H.M.D. Nawaz, J. considered several English cases in this regard, held as follows:

*“The consistent judicial opinion, therefore, is that in matters which lie within the jurisdiction of the educational institutions and their authorities, the Court has to be slow and circumspect before interfering with any decision taken by them in connection therewith. Unless a decision is demonstrably illegal, arbitrary and unconscionable, their province and authority should not be encroached upon. This is mainly because of want of judicially manageable standards and necessary expertise to assess, scrutinise and judge the merits and/or demerits of such decisions.”*

18] In **A. T. Muditha Sahandani vs University Grants Commission and others**, C.A. Case No.WRT-286/20, DECIDED ON: 08.08.2023, WICKUM A. KALUARACHCHI, J. noted;

*“It is to be noted that when there is a written examination and an interview, the person who obtained the highest marks in the written examination would not essentially be selected as the first in the interview. Sometimes the person who obtained the highest marks in the written examination may be disqualified in the interview. Therefore, the argument that the petitioner had a legitimate expectation that she would be selected in the interview has no merit.”*

19] In **W.M. Namal Sanjeewa vs Neville Gunawardena Director General of Customs and others**, SC FR Application No. 244/2012, Decided on: 17-07-2020, Murdu N.B. Fernando, PC J.(As her ladyship then was)

*“In my view the criterion adopted by the Respondents in selecting the best candidate was based upon legitimate, reasonable and intelligible differentia. Hence, the said classification cannot be termed discriminatory or arbitrary as contended by the Petitioner. **The main object of the***

**Respondents were to select the most suitable candidates from a number of eligible candidates and an elimination system had to be adhered to, in such a situation...** ... In the said circumstances, I am of the view that the marking scheme adopted by the interview board cannot be deemed arbitrary, capricious or defy reasoning as contented by the Petitioner. Similarly, the marking scheme cannot be deemed unreasonable, or in violation of the fundamental rights of the Petitioner as submitted by the Petitioner before this Court.” [Emphasis is added]

20] Thus, I am of the view that when the Respondents are entrusted to select the best-suited candidate for the position, there is nothing left for this court to intervene in the decision unless the decision is apparent to be ultra vires, irrational or procedurally irregular.

21] The Learned President Counsel stressed that notice should not be issued on two grounds. That is; firstly, the Petitioner had failed to name the necessary; Dr. A.C.M. Musthaq, a party where similar marks (75%) had been obtained as the Petitioner, at the interview. In replying, the Petitioner stated that no relief has been prayed for against the said candidate; therefore, no addition is necessary. It is my considered view that the best-selected candidate was awarded 78% marks. The Petitioner obtained 75% marks. If the Petitioner’s application succeeds, non-added party also can claim that they should also be considered for the position.

22] It is settled law that if an order of the Court will affect a party, that party becomes a necessary party to the Application. Hence, it is the view of this Court that the failure to name the necessary party is fatal to this Application. In **Rawaya Publishers v. Wijedasa Rajapakse and others** (2003) 3 SLR 213 Justice Asoka De Silva President of the Court of Appeal (as he was then) held as follows,

*“In the context of writ applications as a necessary party is one without whom no order can be effectively made. A proper party is one in whose absence an effective order can be made but whose presence is necessary to a complete and final decision on the question involved in the proceedings....If they are not made parties then the petition can be dismissed in limine. It has also been held that persons vitally affected by the writ petition are all necessary parties. If their number is very large, some of them could be made respondents in a representative capacity.”*

23] In ***Ukwatte v DFCC Bank*** (2004) 1 SLR 164, the Petitioner sought to quash a resolution by the Board of Directors of a particular bank. Sripavan, J. observed as follows,

*“It has been constantly held that the party or parties against whom the relief is sought must be identified clearly and no room left for uncertainty. In the case at hand, the resolutions sought to be quashed are that of the Board of Directors of the ..... bank and one of the Directors have been made parties to the application.”*

24] Hence, there is room for uncertainty if the dropped party has not been made available in the case. It is up to him to contest the application; whatever this court sees, that Dr. A.C.M. Musthaq should be named as a party. Thus, the first preliminary objection is upheld.

25] Secondly, the 24<sup>th</sup> Respondent has mentioned that the Petitioner suppressed the material facts. The Respondent said that the Petitioner has not mentioned that he has tendered formal apologies to Dr. Indika Liyanage, Prof. Deepal Weerasekara and Dr. P.S. Thilakaratne as per the settlement of S.C.F.R. 227/2022 dated 04/04/2023. Though the Learned President Counsel said it does not matter for selection, the previous FR case involves the behaviour of the Petitioner within the academia, and he has to perform his duty within the academic fraternity.

26] In the case of **W. S. Alphonso Appuhamy v. Hettiarachchi** (1973) 22 NLR 77 the Court's determination was that, when an application for a prerogative writ or an injunction is made, it is the duty of the petitioner to place before the Court, before it issues notice in the first instance, a full and truthful disclosure of all the material facts; the petitioner must act with *uberrima fides*.

27] Further, in **Namunukula Plantations Limited Vs Minister of Lands and others** [2012] 1 SLR 376 it was inter alia held that,

*“It is settled law that a person approaches the Court for grant of discretionary relief, to which category and application for a writ of certiorari would undoubtedly belong, has to come with clean hands, and should candidly disclose all the material facts which have any bearing on the adjudication of the issues raised in the case. In other words, he owes a duty of utmost good faith (uberima fides) to the court to make a full and complete disclosure of all material facts and refrain from concealing or suppressing any material facts within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence.”*

28] For the above stated reasons, this Court is of the view that the Petitioner has failed to establish a prima facie case and therefore, this Application cannot succeed. Moreover, the preliminary objections are also tenable. Accordingly, this Court is not inclined to grant formal notice on the Respondents and proceed to dismiss this Application.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL