

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

C.A. (Writ) Application

No: 0482/2019

K.A. Jayasekara,
No.07A,
Reservoir Road,
Bandarawela.

PETITIONER

Vs.

1. M.J.D. Fernando,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

1A. H.M.K.W. Bandara,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

1B. J.I.D. Jayasundara,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

- 1C. Ravindra Pathmapriya,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
2. G. Gamage,
Additional General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
- 2A. H.N.S.P.K. De Silva,
Additional General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
3. A.D.G. Senevirathne,
Transport Operation Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 3A. N.J. Indipolage,
Transport Operation Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
4. G.W.S. Sisira Kumara,
Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.

- 4A. P.D.S. Bandara,
Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
5. W.S. Chandana,
Deputy Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 5A. W.G. Ananda Karunaratna,
Deputy Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
6. H. Liyanagamage,
Land Officer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 6A. Anjana De Silva,
Land Officer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
7. W.G. Ananda Karunaratna,
Regional Superintendent of Railway,
Railway Station,
Nawalapitiya.

- 7A. K.P.N.S. Lionel Singha,
Regional Superintendent of Railway,
Railway Station,
Nawalapitiya.
8. D.W.N Amarasena,
District Engineer (Upper Division),
Railway Station,
Naanu Oya.
- 8A. D.M.P.S. Bandara,
District Engineer (Upper Division),
Railway Station,
Naanu Oya.
9. W.P.M. Fernando,
Chief Engineer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 9A. E.M.P.S.K. Deegala,
Chief Engineer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
10. L.P. Jayampathy,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

10A. Ranjith Ganganath Rubasinghe,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

10B. Prof.Kapila C.K. Perera,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Upul Jayasuriya, P.C. with Laknath Senevirathne for the Petitioner.
Prabhashanee Jayasekara, S.C. for the Respondents.

Argued on : 11.12.2025

Written Submission

Tendered on : 27.01.2026 by the Petitioner
09.03.2026 by the Respondents

Decided on : 13.03.2026

Adithya Patabendige, J.

The Petitioner was employed as a Railway Guard with Sri Lanka Railways on 02nd December 1985.

Factual Background

The father-in-law of the Petitioner gave him a state land belonging to the Railway Department in 1989, which is the subject matter of this application. The Petitioner states that the father-in-law occupied the land to put up a house as his residence and to obtain a permit for the said land.

The Petitioner states that he thereafter made several requests to the 1st Respondent, the General Manager of the Railway (GMR), seeking to obtain the said land on lease. According to the Petitioner, such a request was recommended by the **FPL** (Foreman Plate Layer) Bandarawela, marked **P1a**, the Chief Engineer (Signal and Telecommunication) marked **P1c**, and the District Transport Inspector dated 08th October 1994, marked **P1d** and **P2**.

The Commercial Superintendent, the 4th Respondent, by his letter dated 29th December 1995 marked **P3**, instructed the Petitioner to refrain from any construction on the land for which a permit was sought for cultivation, as steps had been taken to survey and prepare plans.

The Petitioner was informed by the GMR in his letter dated 04th January 2008, marked **P5**, to vacate the premises and hand over the vacant possession. The Petitioner states that vacant possession was handed over to the Station Master at Bandarawela.

The Petitioner states that afterward, the matter was brought to the attention of the Parliament Advisory Committee on Transport, which decided that no further action should be taken until a policy decision was made on this issue. Accordingly, the GMR (covering) directed the return of the keys to the occupants as per the documents marked **P7** and **P8**.

The Secretary to the President issued a circular No. SP/RD/02/10 dated 03rd February 2010 marked **P9** relating to the proper management of State lands. According to the Petitioner, the said circular empowered the General Manager of Railways to lease such lands for a period not exceeding five years, subject to the right to recover possession upon expiration of the lease.

Thereafter, the Petitioner, together with four other employees, addressed a letter dated 26th March 2013, marked **P11**, to the 1st Respondent requesting that the lands occupied by them be granted on lease. The 1st Respondent made a minute on the said letter directing the relevant officer to examine the matter and report the lease amount payable for leasing the subject land to the Petitioner, and referred the matter for necessary action.

Subsequently, the 1st Respondent appointed a committee to investigate the feasibility of granting leases of the lands occupied by the Petitioner and other similar categories of employees. The committee submitted its report dated 07th February 2014, marked **P12**, recommending that the lands be granted on lease.

Following the said recommendation, the 1st Respondent, by letter dated 16th June 2014, marked **P13**, forwarded the matter to the Minister of Transport and Railways, seeking approval to grant the lands occupied by the Petitioner and others on lease under utility charges, which was the usual practice adopted by the Railway Department for leasing such lands.

The Petitioner further states that he made a formal application to the Land Officer of Sri Lanka Railways seeking to obtain the land on lease under the program relating to the regularization of occupations of railway reservation lands marked **P14**.

The Petitioner also relies on a Cabinet Memorandum dated 17th March 2016 and the Cabinet approval dated 07th April 2016, marked **P16**, relating to the proposal to grant leases of certain railway reservation lands occupied by unauthorized dwellers in the Haputale–Badulla area.

According to the Petitioner, the matter was thereafter referred to the Divisional Committee of Lease to consider the viability of granting leases of the lands occupied by the Petitioner and other similarly situated persons (vide. **P17–P19a**). Subsequently, the Cabinet of Ministers appointed a Ministerial Sub-Committee on 15th February 2018, to consider the issue of unauthorized dwellers occupying railway reservation lands.

The Petitioner further states that, notwithstanding the above developments, the Respondents initiated steps to commence disciplinary proceedings against him, alleging that he was in unauthorized occupation of the said land. Thereafter, by letter dated 30th September 2019, marked **P21**, the 1st Respondent directed the Petitioner to vacate the land and hand over possession of the premises, and indicated that failure to comply with the said direction would result in disciplinary action, including dismissal from service.

The Petitioner states that he had constructed a residential house on the said land using bank loans and his personal savings, and that he continues to repay the loan obtained for that purpose. He estimates the value of the house he constructed to be approximately Rs. 3,645,881.02.

The Petitioner, therefore, contends that if he is evicted from the premises without being granted a lease, he and his family would suffer serious and irreparable prejudice, particularly as he has no alternative residence and his children are still pursuing their higher education.

The Petitioner therefore argues that the impugned decision contained in the letter dated 30th September 2019 marked **P21**, directing him to vacate the premises, is arbitrary and unreasonable and defeats the legitimate expectation created by the conduct of the authorities. Accordingly, the Petitioner seeks the intervention of this Court to quash the said decision and to prevent his eviction from the land.

Reliefs Sought by the Petitioner

- A mandate in the nature of a *writ of certiorari* to quash the decision dated 30th September 2019, marked **P21**,
- A mandate in the nature of a *writ of prohibition* preventing the Respondents from taking any disciplinary action and/or evicting the Petitioner from the disputed land,
- A mandate in the nature of a *writ of mandamus* directing the Respondents to implement the promises stipulated in documents marked **P6, P7, P8, P9, P10, P11, P12, P13, P15, P15a, P16, and P20**.
- Other incidental reliefs.

Position of the Respondents

The Respondents deny that the Petitioner has any lawful right to occupy the land in question. It is their position that the land forms part of the railway reservation belonging to the State and that the Petitioner, who is an employee of the Sri Lanka Railways, has occupied the said land without obtaining any permit or lease from the competent authority. The Respondents further stated that the Petitioner had been specifically instructed not to construct any structures on the said land, yet he proceeded to construct a house without prior approval.

The Respondents contend that several notices were issued requesting the Petitioner to vacate the premises and that the impugned quit notice was issued by the General Manager of Railways in terms of the provisions of the **State Lands (Recovery of Possession) Act No.7 of 1979**. The Respondents further submit that the Petitioner cannot claim any legitimate expectation to remain on the land, as no representation was made, nor any approval granted, authorizing the Petitioner to occupy or lease the said property.

Issues for Determination

According to the factual matrix of the case, the issues for the determination can be summarized as follows.

- Whether the Petitioner's occupation of railway reservation land was lawful.
- Whether the Petitioner has established a legitimate expectation to obtain a lease of the said land.
- Whether the impugned decision marked **P21** is liable to be quashed in the exercise of writ jurisdiction.

The Petitioner's Occupation in the Disputed Land

The Petitioner himself admits in his Petition that the land forming the subject matter of this application belongs to Sri Lanka Railways. However, the Petitioner failed to establish that his father-in-law had any legal right or authority to permit him to occupy the said land.

In these circumstances, unless and until the Petitioner obtained a valid permit, lease, or other lawful authorization from the Railway authorities, his occupation of the said land cannot be regarded as lawful.

It is a well-established principle that State land cannot be occupied or possessed without lawful authority, and mere occupation, even for a longer period, cannot confer any legal right or entitlement to such land.

Therefore, the GMR has legal authority to protect the properties of the Sri Lanka Railway and take steps to remove unlawful occupants therefrom.

Legitimate Expectation

The fundamental requirement for invoking the doctrine of legitimate expectation is the existence of a **clear representation, promise, or established practice made by a public authority** from which the expectation arises.

vide.

Council of Civil Service Unions and Others v Minister for the Civil Service (1985) AC 374

Attorney General of Hong Kong v NG Yuen Shiu (1983) 2 WLR 735

M.R.C.C. Ariyaratne & Others v N.K. Illangakoon & Others SCFR444/2012 decided on 30th July 2019.

In the present case, the Petitioner relies on several documents and administrative developments, including the discussions before the Parliamentary Advisory Committee on Transport, the letters marked **P7** and **P8**, and the direction given by the 1st Respondent in document **P11**, requesting the relevant officer to determine a lease amount in respect of the land in question.

However, upon examination of these materials, it becomes apparent that none of them amounts to a clear and unequivocal representation by GMR that the Petitioner would be granted a lease of the said land.

The decision of the Parliamentary Advisory Committee merely indicated that eviction should not proceed until a policy decision was taken, which cannot reasonably be interpreted as an unconditional promise that the land would eventually be granted to the Petitioner.

Similarly, the direction contained in **P11**, requesting the 5th Respondent to determine a lease amount and report, merely reflects an administrative step taken for the purpose of considering the Petitioner's request. Such a step does not constitute an express assurance or promise that a lease would necessarily be granted.

Furthermore, the documents relied upon by the Petitioner do not demonstrate the existence of a consistent past practice of granting leases to railway employees occupying railway reservation lands in similar circumstances. On the contrary, the Respondents have maintained that railway lands can only be leased upon compliance with the applicable legal and administrative procedures. The Petitioner has produced documents marked **P26a** to **P26i**,

which, according to him, demonstrate that certain other persons who were occupying railway lands had been granted leases by the Railway authorities.

However, the production of a few isolated instances of leases granted to other individuals is insufficient to establish a regular and consistent administrative practice or policy of granting leases to persons occupying railway reservation lands without lawful authority.

The doctrine of legitimate expectation requires proof of a clear representation or regular and consistent course of conduct by the authority.

The documents marked **P26a** to **P26i**, even if accepted at face value, merely indicate that leases had been granted in certain individual cases. They do not demonstrate the existence of a general policy or consistent administrative practice of granting leases to railway employees occupying railway lands without lawful authority.

Furthermore, the grant of a lease in an individual case may depend on several factors, including the nature of the land, administrative approval, compliance with applicable regulations, and the requirements of the Railway Department. Such isolated instances cannot be treated as a binding representation or established practice capable of giving rise to a legitimate expectation.

Accordingly, the documents relied upon by the Petitioner, marked **P26a** to **P26i**, do not establish the existence of a representation or established practice sufficient to satisfy the first essential requirement of the doctrine of legitimate expectation.

In these circumstances, the materials relied upon by the Petitioner, taken either individually or collectively, do not disclose a clear representation, promise, or established practice capable of giving rise to a legitimate expectation.

Improvements carried out on railway reservation land, in the absence of prior lawful approval from the competent authority, cannot by themselves found a legitimate expectation of continued occupation or entitlement to a lease.

Accordingly, the essential requirements of the doctrine of legitimate expectation are not satisfied in the present case.

In these circumstances, the issuance of the letter marked **P21**, requiring the Petitioner to vacate the premises, cannot be regarded as illegal, irrational, or otherwise unlawful.

Relief Sought in Paragraphs (c), (d), and (e) of the Prayer of the Petition

A careful reading of paragraphs (c), (d), and (e) of the prayer shows that the Petitioner seeks to challenge both the proposed eviction from the premises and any possible disciplinary action, treating both as consequences of the letter dated 30th September 2019, marked **P21**.

However, **P21** is solely an eviction-related administrative communication requiring the Petitioner to vacate the premises within one month.

The said letter does not itself contain any disciplinary order against the Petitioner. Accordingly, the challenge to **P21** must be examined as an administrative decision relating to the occupation of railway land rather than as a disciplinary order.

Even though **P21** itself does not contain disciplinary action, the Petitioner is asking the Court to prevent possible disciplinary action.

But that relief fails because:

- it is premature/speculative, and
- disciplinary control of public officers falls within the constitutional framework governing the Public Service.

In the absence of any lawful authority for the Petitioner's occupation of the railway reservation land, the direction issued by the Respondents requiring the Petitioner to vacate the said premises cannot be regarded as unlawful or unreasonable so as to warrant the intervention of this Court by way of writ jurisdiction.

Writ of Mandamus

The Petitioner seeks a mandate in the nature of a *writ of mandamus* directing the Respondents to implement the alleged promises relied upon by the Petitioner in documents marked **P6, P7, P8, P9, P10, P11, P12, P13, P15, P15a, P16, and P20**.

For the completeness of the judgment, it is useful to examine the above documents briefly.

P6 – minutes of the Cabinet sub-committee dated 06th April 2009,

P7 – directions of the GMR (covering) to hand over the keys to occupants, including the Petitioner,

- P8** – The confirmation letter that the keys were handed over to the occupants,
- P9** – the Circular dated 03rd February 2010 issued by the Secretary to the President,
- P10** – the letter written by the Deputy Commercial Superintendent,
- P11** – the letter written by the Petitioner,
- P12** – report on unlawful construction in the railway reservation in Bandarawela,
- P13** – the letter written by the GMR to the line minister,
- P15** – Cabinet memorandum,
- P15a** – the letter written by Minister Nimal Siripala de Silva to the Cabinet,
- P16** – Cabinet decision dated 07th April 2016,
- P20** – Cabinet decision dated 15th February 2018.

A careful examination of the above documents reveals that they primarily consist of administrative correspondence, reports, recommendations, committee deliberations, and Cabinet-level policy considerations regarding the broader issue of the occupation of railway reservation lands by certain persons.

However, none of the aforesaid documents contain a clear and enforceable direction requiring the Respondents to grant a lease of the subject land to the Petitioner.

It is well settled that a *writ of mandamus* will issue only where the Petitioner establishes a clear legal right in his favour and a corresponding public duty on the part of the Respondents.

The documents relied upon by the Petitioner do not create any such legal right and/or public duty. At best, they demonstrate that the issue relating to the occupation of railway reservation lands had been considered at various administrative and policy levels, and that the Petitioner's request had been taken into consideration by the authorities.

Such administrative correspondence, recommendations, or Cabinet-level discussions cannot be construed as creating a binding legal obligation upon the Respondents to grant a lease of State land to the Petitioner.

Accordingly, the Petitioner has failed to establish a clear legal right and/or public duty capable of being enforced by way of a *writ of mandamus*.

Effect of Long Occupation of State Land

The Petitioner has also relied heavily on the fact that he has remained in occupation of the disputed land for a considerable period and has constructed part of the dwelling house on it. However, it is well settled that mere long occupation of State land does not create any legal right or entitlement to such land, nor can such occupation by itself compel the State or its authorities to grant a lease or regularize the possession of the occupant.

State lands are held by public authorities in trust for the public, and their disposal or alienation must be carried out strictly in accordance with the applicable legal and administrative framework. The fact that an individual has remained in occupation of such land for a lengthy period, even with the knowledge of the authorities, cannot by itself confer a legal right capable of being enforced through the writ jurisdiction of this Court.

Accordingly, the Petitioner's continued unauthorized occupation of the railway reservation, even if it has extended over many years, cannot in law be treated as creating a right or legitimate entitlement to demand that the land be granted to him on lease.

Alleged Discriminatory Treatment

Learned Counsel for the Petitioner further contended that certain other officers who were occupying lands in railway reservation had been granted leases by the Railway Department and that the Petitioner had therefore been subjected to discriminatory treatment.

It is a well-settled principle that an administrative irregularity or concession granted in another cannot be relied upon as a basis to compel the authorities to repeat the same course of action. A claim of equality cannot be founded upon an alleged illegality or administrative irregularity.

Conclusion

Before concluding, it must be acknowledged that the Petitioner has served the Railway Department for a long time and has occupied the disputed land for many years. However, judicial review focuses on the legality of administrative actions rather than the merits or sympathetic aspects of the case. In the absence of a clear legal right in favour of the Petitioner and a corresponding public duty on the part of the Respondents, this Court cannot compel the authorities to grant a lease of State land nor restrain them from exercising their lawful powers.

For the foregoing reasons, I hold that the Petitioner has failed to establish any grounds warranting the intervention of this Court in the exercise of its writ jurisdiction.

Accordingly, the application for *Writs of Certiorari, Prohibition, and Mandamus* is refused and dismissed.

In the circumstances of the case, I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL