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

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

Gigiriwala Gamage Dinosh Jelon,
292/D, Koshinna,
Ganemulla.

PETITIONER

C.A. Case No. WRT/905/25

Vs.

1. Rev. Brother Janaka Fonseka,
   Principal,
   De Mazenod College,
   Kandana.

2. Hon. Dr. Harini Amarasuriya,
   Minister of Education,
   Ministry of Education,
   Isurupaya, Battaramulla.

3. K. M. G. S. N. Kaluwewa,
   Secretary to the Ministry of Education,
   Isurupaya, Battaramulla.

4. Anura Abeywickrama,
   Director of Education,
   Physical Education and Sports,
   Ministry of Education.
   Isurupaya, Battaramulla.

5. P. A. Leelananda Kumarasiri,
   Secretary - Sri Lanka Schools Cricket Association,
   Therapuththa National School,
   Ambalanthota.

6. Kanishka Perera,
   Under 19 Tournament Secretary - Sri Lanka Schools Cricket Association,
   St. Sebastian's College, Moratuwa.

7. Suranga Ranathunga,
   Under 15 Tournament Secretary – Sri Lanka Schools Cricket Association,
   Ibbagamuwa Maha Vidyalaya,
   Ibbagamuwa.

RESPONDENTS

BEFORE : K. M. G. H. KULATUNGA, J.

COUNSEL : Sumedha Mahawanniarachchi with Amila Vithana and Nishan Balasooriya for the Petitioner.

Pasan Weerasinghe, instructed by M.K.M. Farzan for the 1st Respondent.

Rajika Aluwihare, SC, for the 2nd to 4th Respondents.

Hiran de Alwis with Prathap Perera instructed by Darsha Lekamwasam for the 5th, 6th, and 7th Respondents.

ARGUED ON : 15.10.2025

WRITTEN SUBMISSIONS ON : 17.10.2025

DECIDED ON : 21.10.2025

JUDGEMENT

K. M. G. H. KULATUNGA, J.

1. The petitioner is presently a Grade 12 student at Lyceum International School, Wattala. The petitioner, having initially studied at President's College, Mahara, enrolled at De Mazenod College, Kandana in 2023, up until the G.C.E. Ordinary Level Examinations. The petitioner claims to have left De Mazenod College on or about 31.05.2024 and then joined Grade 12 of at Lyceum International School, Wattala. Whilst at De Mazenod College, the petitioner was a member of the First XI Cricket Team. The fact that the petitioner was a talented cricketer and a member of the school Cricket Team is common ground. Upon shifting to Lyceum International School, Wattala, as the petitioner was desirous of joining and playing cricket for Lyceum International School, he had requested the letter of 'No Objection' as required by Rule 1.1.9 of Circular No. 03 of 2022 of the Ministry of Education, dated 11.03.2022, as amended by Circular No. 03 of 2022 (ii), dated 25.08.2024 (P-5 and P-6 respectively).

2. The 1st respondent principal had not issued the said letter of 'No Objection' notwithstanding several requests being made. The written request made by the petitioner, dated 18.07.2025, is annexed and marked P-7, according to which the petitioner informed the 1st respondent, Principal, that he intends to play cricket for Lyceum International School, Wattala, under the Division II Tier A Category. As such, he has requested the said 'No Objection' letter. It is the petitioner's position that he was not issued with a letter and his request was not considered favourably. Mr. Mahawanniarachchi for the petitioner submitted that he is entitled, in the first instance, to be registered under Lyceum International School, Wattala to participate in the upcoming schools cricket tournament 2025/26 on the basis that a period of one year has lapsed since leaving the first-mentioned school, De Mazenod College. The petitioner relies on the date of leaving De Mazenod College as reflected in the leaving certificate issued by the 1st

respondent, marked P-4. Secondly, the petitioner claims that he is entitled to a letter of 'No Objection' as there is no valid ground or basis assigned for the refusal, and the said refusal is illegal and invalid. It is also the position of the petitioner that in the circumstances made available, the petitioner is lawfully entitled to obtain the said letter.

3. During the course of the arguments, the learned Counsel for the 1st respondent did submit that the school leaving certificate issued to the petitioner contained a typographical error as to the date of leaving the school. According to the Objections, the 1st respondent thus avers that the date mentioned as the date of leaving school, though stated as 2024, in fact, it was issued in April, 2025, and the petitioner is also alleged to have participated in the cricket matches played in March 2025, representing De Mazenod College. I observe that the said leaving certificate is referred to as P-4 at paragraph 7 of the petition. However document P-4 is a different leaving certificate not relevant to the 1st respondent.

4. It is the position of the 1st respondent that the request for the said letter was refused by him verbally. The petitioner has also complained to the Human Rights Commission (hereinafter referred to as "HRC") (*vide* P-17). It is specifically alleged therein that the said letter of 'No Objection' was requested, and the Principal of De Mazenod College had refused to issue the same. The initial complaint had been made by letter P-15, dated 23.07.2025, according to which he alleges that his request for the said letter was refused. Then, it is averred by the petitioner that the 1st and the 2nd respondents had not participated at the HRC Inquiry initially, but on 02.09.2025, the 1st respondent Principal had participated. According to P-21, the HRC Inquiry had proceeded on that day; however, there is no intimation as to the decision, determination, or the finding arrived at by the HRC upon inquiry.

5. The Principal of Lyceum International School, Wattala had tendered the names of the players for registration at the Under 19 Tournament Secretary of the Sri Lanka Schools' Cricket Association (*vide* P-22). The petitioner's name, which appears at No. 22, has been struck off. According to the Written Submissions tendered to the HRC (*vide* P-16), it is evident that several requests have been made by the Cricket Coach of Lyceum International School, Wattala and the petitioner's mother to the 1st respondent seeking the said letter of 'No Objection', however, the 1st respondent has refused to issue the same. In view of the refusal to issue the said letter of 'No Objection' by the 1st respondent and the refusal to register by the 5th – 7th respondents, the petitioner has filed this application and sought relief by way of writs of *mandamus* directing the 1st respondent to issue a letter of 'No Objection' and for the 5th – 7th respondents to include the names in the list of players registered for Lyceum International School, Wattala.

6. The main issue of contention is the refusal or the non-issuance of the letter of 'No Objection.' Prior to considering this, it is necessary to advert to the relevant provisions of the Circular bearing No. 03 of 2022 of the Ministry of Education, as amended. The relevant provisions (as amended) are as follows:

> "1.1.9
>
> ශිෂ්‍යයකු / ශිෂ්‍යාවක වෙනත් පාසලකට ඇතුළත් වීමෙන් පසු එම ඇතුළත් වූ දිනයේ සිට වසරක කාලයක් ඇතුළත නව පාසල යටතේ ක්‍රීඩා තරගවලට ලියාපදිංචි වන්නේ නම් ඔහු / ඇය දැනට ඉගෙනුම ලබන පාසල යටතේ ක්‍රීඩා වලට ඉදිරිපත්වීමට විරුද්ධත්වයක් නොමැති බවට පසුගිය වසර තුළ ඉගෙන ගත් සියලුම පාසල් වල විදුහල්පතිවරුන්ගෙන් ලිඛිත අවසරයක් ලබා ගෙන අධ්‍යාපන අමාත්‍යාංශයේ අධ්‍යාපන අධ්‍යක්ෂ, ශාරීරික අධ්‍යාපන හා ක්‍රීඩා වෙත ඉදිරිපත් කර අනුමැතිය ලබා ගත යුතුය. 6 ශ්‍රේණිය හා 12 ශ්‍රේණිය සඳහා පළමුවරට ඇතුළත් වූ සිසුන්ට පාසල නියෝජනය කිරීමට ද ක්‍රීඩා පාසල් සඳහා ඇතුළත් වන ක්‍රීඩා ශිෂ්‍යත්වලාභීන්ටද තම ක්‍රීඩා පාසල නියෝජනය කිරීමට ද ඉහත 1.1.8 ට යටත්ව මෙම නිතිය බලනොපැවැත්වේ."
>
> (*vide* Circular No. 03 of 2022, dated 11.03.2022)

"1.1.9.1

ඉහත 1.1.9 අනුව යම් ක්‍රීඩකයකු/ ක්‍රීඩිකාවක පෙර සිටි පාසලේ විදුහල්පතිවරයාගේ ලිඛිත අනුමැතියක් නොමැති නම් වසරක කාලයක් සඳහා නව පාසලෙන් ක්‍රීඩා කිරීමට අවසර නොලැබේ. ඒ අනුව 1.1.8 හා 1.1.10 වගන්තීන්ට යටත්ව එම ක්‍රීඩකයාට / ක්‍රීඩිකාවට වසරක කාලයක් තුළ තමා පෙර සිටි පාසලෙන් ක්‍රීඩා කිරීමට අවස්ථාව හිමි විය යුතු අතර, එම වසරක කාලය තුළ එම පාසලේ කණ්ඩායමට ද හානියක් නොවන සේ, එම ඉවත්වන ක්‍රීඩකයකු/ ක්‍රීඩිකාවක වෙනුවෙන් නව ක්‍රීඩකයකු/ ක්‍රීඩිකාවක පුහුණු කර ගැනීමට ද අවස්ථාව හිමි වේ.

(*vide* Circular No. 03 of 2022 (ii), dated 25.08.2024)

7. According to the abovementioned provisions, if a student engaging in sports is representing the relevant school, such student, upon shifting and being admitted to a new school, is required to obtain a letter of 'No Objection' from all the Principals of the schools where such student studied within the previous year. Upon obtaining such written permission, the student who intends to engage in sport is then required to tender the same to the Director of Education, Physical Education & Sports, and obtain the approval. However, this letter would not be required if such student was admitted to the second named school for the first time to Grade 6 or Grade 12. Similarly, if the application for registration to engage in school sports is made after the lapse of one year of entering the new school, then too, no such letter is required. By way of an amendment to the said Circular, provision was introduced, by Rule 1.1.9.1, enabling such student to engage in such sport in the previous school for a period of one year. The sum total of these provisions is that in the said circumstances the written permission, by way of a letter of 'No Objection,' is required to be obtained from such previous Principal/s. To that extent, a Principal of a previous school is conferred with the power to issue such a letter.

8. The grounds on which or the considerations to be taken into account in determining the issuance or non-issuance of such letter is not specifically and expressly spelt out by or under the said Rules. Broadly, the rationale and object of Rule 1.1.9 is to prevent poaching of

sportsmen and sportswomen. Further it appears that it is also to prevent an exodus of talented players or such players being suddenly drawn to another school that would give an unfair advantage to one school and correspondingly place the first-mentioned school in a disadvantage. Similarly, it appears to also provide some form of cooling-off period, to prevent a player with the inside information of the first-mentioned team from making use of such knowledge and information against the said first-mentioned school. As I see, these are some probable objects and purposes. There may be more. However, the decision to grant or refuse such letter of 'No Objection' should necessarily be on a rational basis which should have a bearing on the object sought to be achieved by this Rule. I will not at this juncture attempt to exhaustively or otherwise try to determine what such grounds may be.

9. On an overall consideration of the provisions of Rule 1.1.9, it is apparent that there is no blanket prohibition or prevention of talented sportsmen and sportswomen from changing their school, and then immediately participating in such sport, which they are so talented. What is required is the permission by the Principal of the previous school/s in the form of a letter of 'No Objection'. If such letter is obtained, then a student who shifts and is admitted to another school is perfectly free and entitled to engage such in schools' sports activities. Accordingly, a principal is vested with the authority to decide on the issuance or non-issuance of such letter. Thus, the Principal of the 1st school is required to consider a request of each student as and when it is submitted and to determine upon considering the relevant matters. If there be a refusal, it should be conveyed and rules of natural justice require reasons to be assigned. It is best that the basis of the refusal, if it be so, be made known immediately to the relevant party.

10. In the present application, as afore-narrated, though a request has been made, the 1st respondent has not, at any stage, formally responded and

conveyed his refusal or informed of the reasons for the said refusal. However, it is common ground that the 1st respondent has in fact refused to grant this letter of 'No Objection.' However, no reasons have been assigned or informed at the initial stage. I have carefully perused the Statement of Objections of the 1st respondent. I did not observe any reasons expressly stated therein either. In the course of the arguments, the learned Counsel for the respondent himself was unable to draw the attention of this Court to any such averment containing such reasons. I have ventured into considering the various documents tendered and annexed, according to which it appears that the 1st respondent refers to a WhatsApp message which has been circulated marked R-3, by which it has been generally informed to the players and parents of the 1st respondent school, inter alia, that:

> "*According to the new circular issued for 2025,* ***no player will be allowed to participate in any form of cricket without the official approval of the school****. Any player who does so, will face a* ***one-year ban*** *from all cricketing activities.*
>
> *Under the 2024 circular, this restriction did not exist, which is why a player who left the school last year was still able to play under a special license. However, with the new regulations,* ***this is no longer possible****. If a player chooses to leave the school now, they will* ***lose the opportunity to play cricket at competitive levels*** *unless they have completed their O-Level Examinations."*

Accordingly, the players and parents appear to have been informed that such player will not be allowed to participate in cricket without the official approval of the school. This is a reference to the letter of 'No Objection' and an assertion that without such a letter, the players are not permitted to participate in cricket in their new schools.

11. Apart from this, the petitioner had complained to the HRC, and the 1st respondent had participated at the HRC Inquiry on 02.09.2025. The said

proceedings are marked P-21, according to which, the following relevant matters are evident:

a. that De Mazenod College, Kandana, is a private school and not a government school;
b. that in accordance with the Circular No. 03 of 2022, the Principal of the school is vested with a discretion, but the said decision was taken by a committee;
c. that if such students shift to new schools, such authorisation *qua* letter of 'No Objection' will not be issued;
d. that if the letter of 'No Objection' is issued to the petitioner, this will recur in the following year, and the school will be compelled to grant them also the same concession;
e. that school cricket is of significant importance and the school spends a large sum of money for cricket, and as such, that the 1st respondent had informed the student that if any student was to leave the school, the letter of 'No Objection' will not be issued;
f. it is also reiterated that as a substantial amount of funds had been incurred for the development of cricket, if such cricketers leave, it is a matter of serious concern to the school; and
g. that the HRC has been informed by and on behalf of the 1st respondent that De Mazenod College has taken a policy decision not to issue such letters of 'No Objection' as required by Rule 1.1.9 of the said Circular to those cricket players who leave the school.
h. It is also the 1st respondent's position that in view of the clear intimation made by the WhatsApp message the students were made aware and they knew that the letters of 'No Objection' will not be issued as a matter of policy.

The relevant extracts of the statements made at the HRC are as follows (*vide* P-21):

> "**වගඋත්තරකරුගේ නීතීඥ**: නමුත් පාසලේ ස්ථාවරය මේක පෞද්ගලික පාසලක්. රජයේ පාසලක් නොවෙයි." (at page 74 of the brief)

"**වගඋත්තරකරුගේ නීතීඥ:** මේ වගේ අභිමතය දෙනවද නැද්ද කියලා තීරණය කිරීමේ බලය විදුහල්පතිතුමා සතු වූවත් මේක කමිටුවක් ගන්න තීරණයක්. මෙයා මේ පාසලෙන් යන්නේ අලුත් පාසලකට. මේ අයට වට්ස්ඇප් ගෲප් එකක් තියෙනවා. ඒකෙන් පැහැදිලිවම දැනුම්දීල තියෙනවා ඔයගොල්ලො මේ විදියට ගියොත් මෙම පාසලෙන් නම් අවස්ථාව දෙන්නේ නෑ කියලා." (at pages 74-75 of the brief)

"**වගඋත්තරකරු**: පාසල් ක්‍රිකට් කියන්නේ විශාල දෙයක්. මේ කියන පාසලෙන් විශාල වියදමක් දරනවා ක්‍රිකට් ක්‍රීඩාව වෙනුවෙන්." (at page 75 of the brief)

"**වගඋත්තරකරුගේ නීතීඥ**: එම කාරණය සම්බන්ධයෙන් මම යමක් කියන්න ඕනෑ. ද මැසිනෝද් විද්‍යාලය ක්‍රිකට් ක්‍රීඩාව සංවර්ධනය කරන්න සෑහෙන මුදලක් දරලා තියෙනවා. එවන් ආයෝජනයක් කරල තියෙන අවස්ථාවකදී මේ දරුවන් ද මැසිනෝද් විද්‍යාලය හැර යාම සෑහෙන තත්ත්වයක්." (at page 75 of the brief)

"**වගඋත්තරකරුගේ නීතීඥ**: වගඋත්තරකාර පාර්ශවය වන ද මැසිනෝද් විද්‍යාලයේ විදුහල්පති වෙනුවෙන් මා වෙත ලැබී ඇති උපදෙස් අනුව සහ මගේ හැඟීම අනුව මා මිත්‍ර නීතීඥ මහතාගේ කරුණු දැක්වීමට ප්‍රතිචාරයක් ලෙස මුලින්ම සඳහන් කර සිටින්නේ ද මැසිනෝද් විද්‍යාලය විසින් ප්‍රතිපත්තිමය තීරණයක් ගෙන තියෙනවා මේ පැමිණිල්ලේ පැමිණිලිකරුවන් දෙදෙනා කඳාන ද මැසිනෝද් විද්‍යාලයේ කණ්ඩායමට බැඳී ක්‍රීඩා කිරීමෙන් අනතුරුව මේ වනවිට වෙනත් පාසල් කණ්ඩායමකට ක්‍රිකට් ක්‍රීඩා කිරීමට අවසර ඉල්ලා ඇති අවස්ථාවක එකී අවසරය ලබා නොදීමයි." (at page 76 of the brief).

The sum total of the aforesaid, is,

i) that the decision to refuse and not issue a letter of 'No Objection' has been taken by a Committee and not the Principal himself;

ii) that a blanket policy decision has been taken to not issue such letters, for any reason; and

iii) that the reason for the said decision is primarily is the fact of the school having incurred and expended a large amount of money for school cricket.

12. According to Rule 1.1.9, the decision and discretion to issue the letter is conferred and vested with the Principal of the 1st school. When the power to decide and discretion is so vested with a person or authority, such person or authority is required to make such decision. The said rules do not provide the principal to delegate this function to any other person or body. it is clearly admitted that the decision not to issue the letter of 'No Objection' and not to give consent was not made by the Principal. It is said to be a committee of which the Principal claims to have been a member. The 1st respondent concedes that he as the principal does not act unilaterally in such matters. The decision is with a duly constituted sports committee, he says. He submits that the committee so unanimously decided this above matter.

13. It is not unlawful or illegal for a person vested with a discretionary power to obtain the views, opinions, advice, and even reports from 3rd parties to aid and assist in making a decision. However, he cannot totally abdicate the function of determining and making such decision by himself. The 1st respondent has abdicated and surrendered his decision to a committee of which he himself may have been a member. The fact that he himself was a member makes no difference, as the decision, though unanimous, is not the decision of the person who is empowered to so decide. I find the following paragraph from Wade & Forsyth's Administrative Law (11th Ed., at page 269, 'Power in the Wrong Hands') directly relevant to the above:

> *"Closely akin to delegation, and scarcely distinguishable from it in some cases, is any arrangement by which a power conferred upon one authority is in substance exercised by another. The proper authority may share its power with someone else, or may allow someone else to dictate to it by declining to act without their consent or by submitting to their wishes or instructions. The effect then is that the discretion conferred by Parliament is exercised, at least in part, by the wrong authority, and the resulting decision is ultra vires and void. So strict are the courts in applying this principle that they condemn some administrative arrangements*

which must seem quite natural and proper to those who make them."

Further, 'Principles of Administrative Law in Sri Lanka' by Dr. Sunil F. A. Cooray (4th Ed. Vol. I, at page 385) states as follows:

"The person or authority vested by statute with power, if he purports to exercise it himself, must in reality exercise it himself and not abdicate or surrender his functions to another, or act at the mere dictation of another; nor must he prevent himself from exercising it by arbitrary rules of policy which he has made for himself. The repository of power is taken to have failed to act at all "if it fails to decide the question before it and instead decides a different question; or if it decides under the dictation of another body; or if it decides by reference to a predetermined rule of policy without giving any genuine consideration to the individual merits of the case before it; or if it improperly delegates its power of decision to another person or body" [per Tambiah J., in ***Samarasinghe vs. de Mel*** (1982) 1 SLR 123, quoting 'de Smith's Judicial Review'].

14. The next relevant aspect is that the 1st respondent has clearly and consistently taken up the position that as matter of policy, letters of 'No Objection' were not issued. When the enabling circular clearly provides that a student who moves to a new school is entitled to participate in sports, with the permission obtained by way of a letter of 'No Objection', the said rule clearly contemplates the consideration of each application for such permission individually and separately. When the 1st respondent has clearly decided on an absolute basis to refuse and not issue such letters it to my mind is in conflict and contrary to the content and spirit of Rule 1.1.9. In the context that such decision affects an individual student's interests, welfare, and future, each application should necessarily be considered separately. Therefore, the apparent reason of the policy of a blanket non-issuance is not lawful, or rational, and to that extent makes the refusal illegal. Le Sueur, Sunkin, and Murkens ('Public Law: Text, Cases and Materials,' 4th Ed., at page 639, '*Illegality: There Must Be An Actual Exercise of Discretion*') encapsulates this principle as follows:

> *"**Those given discretion cannot prevent themselves from using their discretion by, for example, adopting blanket policies that tie their hands in future situations and prevent them from making decisions in individual cases**. This is often referred to as the 'obligation not to fetter discretion"* [emphasis added].

Lord Reid set out the key principles of the abovementioned obligation not to fetter discretion, in ***British Oxygen Co. Ltd. vs. Minister of Technology*** [1970] UKHL 4, as follows:

> *"The general rule is that anyone who has to exercise a statutory discretion must not 'shut his ears to an application'. There may be cases where an officer or authority ought to listen to a substantial argument reasonably presented urging a change of policy. What the authority must not do is to refuse to listen at all. But a ministry or large authority may have had to deal already with a multitude of similar applications and then they will almost certainly have evolved a policy so precise that it could well be called a rule. There can be no objection to that, provided the authority is always willing to listen to anyone with something new to say."*

15. Finally, it is apparent that the reason for the policy of blanket refusal is directly tagged on to the money spent for the development of cricket. Spending or allocating a large amount of funds for the development and advancement of sports activities, to my mind, cannot and should not be a reason for the refusal to consider granting permission to Rule 1.1.9. Expenditure of money be it by the school, old boys, well-wisher or any other, cannot and should not create a bondage of the students engaging in sports activities, or be a reason to prevent them from participating in sports upon shifting to a new school. I have, in a similar matter, in ***Kalubandanage Rushith Thamodya Sarath Kumara vs. Lt. Col. M.R.P. Mayadunne, Principal, Vidyartha Vidyalaya, Kandy*** (C.A. Writ Application No. 616/25) opined thus:

> *"…financial commitments made by the school and others cannot be a fetter or a valid reason to prevent a talented player in engaging in sports activities after moving to another school, even mid-stream. This will relegate talented students to the position of*

> *bonded labourers, so to say. This cannot be and is not the object of Rule 1.1.9 of the Circular."*

It is unfortunate that in the current context, as apparent from the pleadings and documents before this court, I find that all authorities have completely forgotten and misconceived that sports activities are extracurricular activities of the school curriculum. The primary activity, object, and purposes of school is education. The primary object of school is education. Sports and other activities are thus rightfully referred to as extra-curricular activities. Due to various interest and reasons, there has been a disproportionate shift of attention and importance given to sports activities. That being so, this Court is of the view that financial engagements and costs incurred for sports is not a basis to justify bonding students, so to say, in this manner.

16. Therefore, the only apparent consideration is an extraneous consideration taken into account by the 1st respondent in the refusal to grant the letter of 'No Objection'. The following passage from Wade & Forsyth's 'Administrative Law' (11th Ed., at pg. 323) is pertinent in this regard:

> *"There are many cases in which a public authority has been held to have acted from improper motives or upon irrelevant considerations, or to have failed to take account of relevant considerations, so that its action is ultra vires and void.… Regarded collectively, these cases show the great importance of strictly correct motives and purposes. They show also how fallacious it is to suppose that powers conferred in unrestricted language confer unrestricted power."*

Further, A.H.M.D. Nawaz, J. (P/CA, as his Lordship then was), with Shiran Gooneratne, J. and Arjuna Obeyesekere, J. agreeing, in ***Tennakoon Mudiyanselage Janaka Bandara Tennakoon vs. Hon. Attorney General and Others*** (CA/WRT/335/2016, decided on 15th November 2020), held as follows:

> *"In administrative justice, failure to take into account relevant considerations and taking into account irrelevant considerations*

> *would taint and nullify the decision as illegality which is an aspect of Wednesbury unreasonableness."*

In judicial review, this Court is not concerned with the merits of the case, but as to whether the decision made is lawful or unlawful in the sense of legality. The decision-maker should manifest that he had adverted to and considered the merits and demerits of the relevant facts and there should be no consideration of any irrelevant facts. In the above circumstances, I am of the view that the 1st respondent's refusal is illegal and unlawful.

17. Now it is for this Court to consider the relief prayed for a writ of *mandamus* by the petitioner. The application in request has been made for a letter of 'No Objection' by the 1st respondent. It has been refused. The 1st respondent has not directly communicated any reason to the petitioner, nor averred in their statement of objections if there be any other reason/s other than that which is evident from in the representations made by and on behalf of the 1st respondent at the HRC. The 1st respondent ought to have placed it before this Court by way of objections. The only conclusion that this court can arrive at is that there is no other reason. The only reasons uttered at the HRC are totally irrelevant and extraneous as hereinabove found. In this regard, although it may be argued that a 'duty' to give reasons did not exist originally in the common law, this status quo has now changed. As S. A. de Smith in **'de Smith's Judicial Review'** (6th Ed., page 413) observes:

> *". . . . it is certainly now the case that a decision-maker subject to the requirements of fairness should consider carefully whether, in the particular circumstances of the case, reasons should be given. Indeed, so fast is the case law on the duty to give reasons developing, that it can now be added that fairness or procedural fairness usually will require a decision-maker to give reasons for its decision. Overall the trend of the law has been towards an increased recognition of the duty to give reasons . . . ."*

Further, Lord Pearce, in the landmark decision of ***R vs. Minister of Agriculture and Fisheries ex p. Padfield*** [1968] UKHL 1, in agreement with Lord Reid, Lord Morris of Borth-y-Gest, Lord Hodson, and Lord Upjohn, noted as follows:

> *"If all the prima facie reasons seem to point in favour of his taking a certain course to carry out the intentions of Parliament in respect of a power which it has given him in that regard,* ***and he gives no reason whatever for taking a contrary course, the Court may infer that he has no good reason*** *and that he is not using the power given by Parliament to carry out its intentions."* (emphasis added).

18. In considering this position on the duty to give reasons in the Sri Lankan context, Dr. Shirani Bandaranayake, J. (as her Ladyship then was), in ***Sirimasiri Hapuarachchi vs. Commissioner of Elections*** (2009) 1 SLR 1, cited with approval the decision of ***Wijepala vs. Jayawardene*** (S.C. Application No. 89/1995, SCM 30.06.1995) as follows:

> *"In* ***Wijepala v. Jayawardene*** *(supra), considering the necessity to give reasons, at least to this Court, Fernando, J., was of the view that, 'The petitioner insisted, throughout, that established practice unquestionably entitled him at least to his first extension and that there was no relevant reason for the refusal of an extension...*
>
> *Although openness in administration makes it desirable that reasons be given for decisions of this kind, in the case I do not have to decide whether the failure to do so vitiated the decision. However, when this Court is requested to review such a decision, if the petitioner succeeds in making out a prima facie case, then the failure to give reasons becomes crucial.* ***If reasons are not disclosed, the inference may have to be drawn that this is because in fact there were no reasons*** *- and so also,* ***if reasons are suggested, they were in fact not the reasons, which actually influenced the decision in the first place***" (emphasis added).

More recently, Samayawardhena, J., in ***Sierra Construction Ltd vs. Road Development Authority and Others*** (SC/FR/135/2023, SC Minutes of 10.02.2025 at page 20) held as follows:

> *"A decision devoid of reasons is fundamentally flawed and amounts to no decision. The requirement to provide reasons serves as a safeguard against arbitrariness and upholds the principles of justice, fairness and transparency in decision-making."*

In these circumstances, it is apparent that the 1st respondent does not have any relevant or lawful reason to refuse the granting of the letter of 'No Objection'. If there be any, he ought to have specifically averred so.

19. In considering a request for such permission or letter of 'No Objection' the Principal should necessarily advert his mind and determine the application. In making such determination he should always be mindful that the applicant is, most of the time, a child or necessarily a student of school-going age. If the applicant is a child, such decision maker should advert to and be conscious Section 5(2) of the International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007, which provides that *"[I]n all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies,* ***the best interest of the child*** *shall be of paramount importance."* Similarly, the Directive Principles of State Policy and Fundamental Duties under Chapter VI of the Constitution, though not justiciable, are relevant. Article 27(13) provides that, *"The State shall promote with special care the interests of children and youth, so as to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination."* The State will encompass all organs of the executive, legislative, as well as the judiciary. The 1st respondent *qua* Principal will be a part of the executive branch of the State. In that context, in embarking upon a decision under Rule 1.1.9, the 1st respondent should promote, with special care, the interests of children and youth, so as to ensure their full development. The sum total of the aforesaid provisions of law is that when decisions are made in relation to children or youth, their best interests and the promotion of their full development are relevant considerations.

20. Such child or student, as the case may be, has a right to seek and attend a school of his choice. If such new school can afford a better quality of education, facilities, and opportunities, including sports, moving into such a school will always be in the best interests of the child. In the current context too, the petitioner claims that shifting to a new school would afford him a greater opportunity in advancing his sports career. This is a matter any Principal ought to take into consideration. In the absence of any valid reason placed before this Court, and in the absence of any material that there would be a serious effect that overrides the interest of the student or the child, the circumstances demand and require that the 1st respondent grant the letter of No Objection and permission under Rule 1.1.9. In these circumstances, there is a clear right in the petitioner to obtain the said letter and a corresponding duty upon the 1st respondent to issue the same.

21. Accordingly, I hold that the petitioner is entitled and has a right, in these circumstances, to receive and obtain the letter of 'No Objection' as per Rule 1.1.9.

22. In the above circumstances, I find that the petitioner is entitled to the writs of *mandamus* as prayed for by prayers *(d)* and *(e)*. Accordingly, I hereby issue the said mandamus as prayed for, and direct the 1st respondent to issue the letter of 'No Objection' to the petitioner playing cricket for Lyceum International School, Wattala. The said letter should be issued and handed over to the petitioner by 12 noon on or before 22.10.2025.

23. I also issue a writ of *mandamus* directing the 4nd to 7th respondents to include the petitioner's name in the list of players registered from Lyceum International School, Wattala for the upcoming cricket tournaments during the season 2025/26. As a consequential remedy, the 4th respondent is hereby further directed to grant approval as required by Rule 1.1.9 of the Circular No. 03 of 2022 dated 11.03.2022,

to the petitioner. The 4nd to 7th respondents are hereby directed and required to comply with these orders by 12 noon, on or before 24.10.2025.

24. This application is allowed to that extent. However, I make no order as to costs.

Application allowed.

JUDGE OF THE COURT OF APPEAL