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

Fazal Mohamed
No 168/5, Elvitigala Mawatha,
Colombo 8.

PETITIONER

CA (Writ) Application No. 618/2025

vs

1. Hon. Sunil Kumara Gamage,
   Minister of Sports and Youth Affairs
   No. 09, Philip Gunawardana Mawatha,
   Colombo 07.

2. A. H. M. U. Aruna Bandara
   Secretary
   Ministry of Sports and Youth Affairs
   No. 09, Philip Gunawardana Mawatha,
   Colombo 07.

AND 10 OTHERS

RESPONDENTS

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

Hon. Justice K. P. Fernando

Counsel: Viran Corea PC with Ashiq Hassim, Sumendra Fernando, Aneeraz Samahon, Basura Rajapaksha and Afdhal Marikar instructed by Saravanan Neelakandan Associates for the Petitioner

Sumathi Dharmawardane PC, ASG with Avindra de Silva, SSC, Pulina Jayasuriya, SC, Thusara Warapitiya, SC and Senal Senevirathne, SC for the 1st-4th 6th-8th and 12th Respondents.

Dilshan Jayasooriya with Swasha Fernando, Jithen de Silva and Anish de Silva instructed by Vidanapathirana Associates for the 5th Respondent.

Supported On: 29/09/2025

Decided On: 07/10/2025

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

The Petitioner in this writ application has sought to impugn certain provisions contained in the Gazette Notification bearing number 2437/24 dated 21st of May 2025 issued by the Minister of Sports and Youth Affairs, acting under powers vested in him by the Sports Law No. 25 of 1973, who is also the 1st Respondent in this application.

The said regulations are marked as **P5** (hereinafter sometimes referred to as "the Regulations"). These Regulations replaced the regulations in force prior to 21.05.2025 i.e., National Associations of Sports Regulations No. 01 of 2024 published on 03.05.2024. These regulations are marked as P6 (XXXVIII).

The purpose of promulgating the impugned Regulations is set out in the preamble to the said Regulations, which is self-explanatory. The said preamble reads thus,

"*Recognizing the importance of sports for the promotion of national unity, the enhancement of physical and mental well-being, and the elevation of Sri Lanka's prestige at the international level; acknowledging the necessity to uphold the highest standards of integrity, transparency, equality, and accountability in sports governance and administration; Affirming the commitment of the new Government to ensuring a system free from corruption, discrimination, and malpractice, guaranteeing that athletes, officials, administrators, and all*

stakeholders participate in a clean environment; Reinforcing the public aspiration to foster a new culture of sportsmanship characterized by excellence, fairness, and discipline; These new Regulations are enacted to implement the new National Policy on sports Governance, ensuring that all stakeholders in sports are provided with equal opportunities free from bias, and that sports governance operates with transparency, responsibility, and accountability"

In the Regulations, it is stated that these shall be cited as the "National Sports Association Regulations No. 01 of 2025".

The Petitioner has sought, *inter alia,* the following reliefs,

a) Grant and issue an Order in the nature of a Writ of *Certiorari* quashing the Gazette Extraordinary No. 2437/24 dated 21st May 2025 issued by 1s Respondent marked **P5** and the "National Sports Associations Regulations No. 01 of 2025" contained therein;
b) Grant and issue an Order in the nature of a Writ of *Certiorari* quashing any steps and/or decisions taken by the 1st to 4th Respondents and/or 4th to 8th Respondents and/or 9th to 12th and 5th Respondents and/or their successors in office and/or any person acting under the said Respondents, to apply and/or implement the 'National Sports Associations Regulations No. 01 of 2025" published in Gazette Extraordinary No.2437/24 dated 21st May 2025 marked **P5**, to the elections and/or conduct and/or management of the affairs of Sri Lanka Rugby:
c) Grant and issue an Order in the nature of a Writ of Prohibition preventing and restraining the 1st to 4th Respondents and/or 4th to 8th Respondents and/or 9th to 12th and 5th Respondents and/or their successors in office and/or any person acting under the said Respondents from taking steps to implement and/or apply the said "'National Sports Association Regulations No. 01 of 2025" published in Gazette Extraordinary No.2437/24 dated 21st May 2025 and marked **P5** to the elections and/or conduct and/or management of the affairs of Sri Lanka Rugby;

The Petitioner, in the Petition describes himself as a person closely associated with the game of Rugby in general and Sri Lanka Rugby (SLR) which is the controlling body of the game of Rugby in Sri Lanka, in particular. By doing so he has sought to establish his *locus standi.* In the Petition, reference has been made to the involvement/ participation of the Petitioner in the sport of Rugby at school, club, national and international level. He has also made particular

reference to his association with the Western Province Rugby Football Union. But however, not a single document was tendered to Court in support of these assertions.

He is impugning the Regulations on the grounds of those being *ultra vires*, illegal, arbitrary, unreasonable, irrational and capricious. The primary contention of the Petitioner is that persons similarly circumstanced as those of the Petitioner would be ineligible to hold office of responsibility in National Sports Bodies such as Sri Lanka Rugby (SLR).

It should be noted that though the Petitioner represents the sport of Rugby (as claimed by him in the Petition), the regulations impugned in the instant writ application are applicable not only to rugby but 74 other sports enumerated in Schedule II of the said regulations.

Although in the Petition, the Petitioner claims to be a person closely linked to the sport of Rugby which is one of the sports mentioned in the Schedule II of the Regulations, he has not annexed any documentary proof of such association with the game of Rugby. The Petitioner in paragraph 3 of the Petition has further elaborated the reason for seeking judicial review of the regulations in the following manner,

"The Petitioner is interested in preserving the ability of himself and others like himself to serve the sport of rugby as a national sport through Sri Lanka Rugby, of which he entertains a lawful and legitimate expectation"

However in the 1st paragraph of the Petition, he has pleaded the following;

"The Petitioner has not annexed hereto documents in support of the positions held by the Petitioner so as to not burden the record of Your Lordships' Court, but most respectfully reserves the right to tender same if deemed necessary by Your Lordships' Court"

The Respondents have strenuously argued that the Petitioner lacks *locus standi* and therefore the writ application ought to be dismissed *in limine.*

In the aforesaid circumstances, I am of the view that before proceeding to the consideration of the other aspects of this matter, this Court should consider the submissions of the parties with regard to *locus standi a*t the outset, since a Petitioner who lacks *locus standi* cannot maintain his application which may be subjected to dismissal *in limine.*

When considering this issue, this Court would be completely dependent on the documents of the respective parties. The Court cannot embark on its own voyage of discovery and try to unearth documents which were never filed in Court. In this regard, it would be pertinent to allude to Rule 3 (1) (a) of the Court of Appeal (Appellate Procedure) Rules which is reproduced below,

"Every application made to the Court of Appeal for the exercise of the powers vested in the Court of Appeal by Articles 140 or 141 of the Constitution shall be by way of petition, together with an affidavit in support of the averments therein, and shall be accompanied by the originals of documents material to such application (or duly certified copies thereof) in the form of exhibits. Where a petitioner is unable to tender any such document, he shall state the reason for such inability and seek the leave of the Court to furnish such document later. Where a petitioner fails to comply with the provisions of this rule the Court may, ex mero motu or at the instance of any party, dismiss such application."

Upon plain reading of the aforementioned rule, it is apparent that there is a duty cast on petitioners to ensure that all documents relevant to the respective cases are duly annexed.

In the instant matter, this Court has been called upon to determine as to whether the Petitioner is a person who has a genuine interest in the advancement and development of the sport of Rugby in Sri Lanka or whether he is merely a "busy body" or an interloper.

The Petitioner has cited several authorities in support of his standing which entitles him to maintain the instant writ application. He has cited the case of **Wijesiri vs. Siriwardane**[1] where the Supreme Court has considered the issue of *locus standi.* In the said judgment, Court has cited with approval certain views expressed by H. W. R. Wade. As expressed in his text, one of the merits of *Certiorari* is that it is not subject to narrow rules about *locus standi*, but is available even to strangers, as the Courts have often held, because of the element of public interest. In other words it is a genuine remedy of public law and all the more valuable for that reason. Court has also in the said case referred to Wade on Administrative Law (4th Edition) (p.608) wherein it is stated that *"the result of a restrictive doctrine of standing, therefore, would be to encourage the government to break the law; yet this is exactly what the prerogative writs should be able to prevent (p. 609)".*

[1] (1982) 1 SLR 171

Furthermore, the Petitioner has invited the attention of this Court to the views contained in **Wade and Forsyth's Administrative Law 12th Edition** and at page 565, wherein the authors referring to two decisions of the Supreme Court of UK has drawn a distinction between a 'mere busy body' who interferes in something which he has no legitimate concern (or standing) and a person affected by or having a reasonable concern in the matter to which the application relates (standing is established). The said authors have further opined that *"to fall within the category,* of persons whose standing is established*, is to be 'affected by' the matter to which an application relates, is to suffer any impact upon a 'particular' or 'personal' interest, based on some 'legal relation' to the subject matter of the claim, which is certainly enough to establish a 'sufficient interest'. A 'reasonable concern' which amounts to a sufficient interest is established if a person is 'acting in the public interest and can genuinely say that the issue directly affects the section of the public that [they] seek to represent'. This test depends on context, including the nature of the issue raised by the public body's decision. So a challenge by a claimant with no 'personal' or 'legal' interest distinct from any other member of the public may well establish standing..."*

In order to establish the absence of *locus standi* on the part of Petitioner, the Respondents submitted that the Petitioner has failed to demonstrate any direct involvement with the sport of Rugby and sufficient interest in Sri Lanka Rugby nor has he demonstrated his *bona fides.* The Respondents have further submitted that the Petitioner has failed to produce any documents in proof of his affiliation to the sport of Rugby or for that matter any other sport. In **Wanasinghe and Others (Citizens Movement for Good Governance) vs. University of Colombo and Others**[2], the Court has emphasized that *locus standi* is reserved to those with a "direct", "good faith" *(bona fide)* and "sufficient interest".

In my view, it is pertinent to consider the judgment of His Lordship Justice Padman Surasena (as he was then) in the case of **Jayantha Perera vs. D. S. P. Senaratne and Another**,[3] with regard to Rule 3(1)(a) of the Court of Appeal (Appellate Procedure) Rules. The Court held thus,

"However, one must be mindful that the writ jurisdiction of this Court is an original jurisdiction. In other words, this Court is called upon to totally depend on the material supplied by the parties of such writ application. Thus, there is an

[2] (2006) 3 Sri. L. R. 322

[3] CA (Writ) 345/2012 decided on 12.12.2018

incumbent and sacred duty on the part of the Petitioner in particular, to adduce sufficient admissible and reliable evidence to prove its case before Court."

In the aforementioned case too, the Learned State Counsel for the Respondents has raised a preliminary objection with regard to the maintainability of the case, on the basis that similar to the instant matter the Petitioner has not annexed the originals or duly certified copies of various documents relied upon which were required to obtain the relief prayed for in that writ application. The State Counsel has contended that such non-submission of documents would tantamount to non-compliance of Rule 3(1) (a) of the Court of Appeal (Appellate Procedure) Rules 1990.

Furthermore it was also held in the same case that the Courts in Sri Lanka have held that compliance of this rule is **mandatory.**

The fundamental issue in the instant matter is as to whether a person could discharge his duty to adduce admissible and reliable evidence to establish a *prima facie* case by merely disclosing certain matters in the Petition without any documentary proof of such matters being annexed. In the instant matter, from the very outset, the Respondents mounted a challenge to the Petitioner's *locus standi*. The Petitioner did not seek the indulgence of this Court to tender any documents for consideration of court with regard to this issue. In my view, he has failed to discharge the burden as expounded in the judgment in **Jayantha Perera vs. D. S. P. Senaratne and Another**[4]**.**

This Court cannot act on mere surmise and conjecture and assume that what has been disclosed in the Petition with regard to the interest the Petitioner is having in the game of Rugby is true and therefore the Petitioner has sufficiently established his *locus standi*. On this score alone, the instant writ application should be dismissed.

The aforementioned Court of Appeal rule clearly requires a Petitioner to not only state the reason for his inability to tender such documents but he must also **seek the leave of court to furnish such documents later.** In the instant case at no point of time did the Petitioner sought leave of court to tender such documents. Merely stating so in a paragraph of the petition would not suffice for the Petitioner to be in compliance with the rule. In this regard, I wish to cite the case of **Shanmugadivu vs. Kulathilake**[5] which has also been cited by His Lordship Justice Surasena (as he was then) in **Jayantha Perera vs. D. S. P.**

[4] ibid
[5] [2003] 1 Sri. L. R. 216

Senaratne and Another[6], the Supreme Court referring to the aforementioned Rule 3 held thus,

"The new Rules permit an applicant to file documents later, if he has stated his inability in filing the relevant documents along with his application, and had taken steps to seek the leave of the Court to furnish such documents. In such circumstances, the only kind of discretion that could be exercised by Court is to see whether and how much time could be permitted for the filing of papers in due course"

Furthermore, in **Jayantha Perera vs. D. S. P. Senaratne and Another**[7], the Court also held that if the Petitioner has failed to comply with the provisions of the aforesaid rule, the court may *ex mere motu* or at the instance of any party dismiss such application. It should be noted that the said judgment was delivered by a divisional bench of the Court of Appeal.

The Petitioner has also relied on the judgment in **Bandaranaike vs. De Alwis and Others**[8]. As per the Petitioner, in the above case, the Court held that,

"Every citizen has a standing to invite the Court to prevent some abuse of power and in doing so he can claim to be a public benefactor."

According to the said judgment, the above mentioned opinion has been extracted from Wade ("Administrative Law", 4th Edition Pg 544). Furthermore, this extract from Wade has been considered in the aforesaid case in relation to determining costs to be awarded to the relevant party. I wish to reproduce verbatim the said extract from Wade at page 682 which is as follows,

"On the question of costs, every citizen has a "standing" to invite the Court to prevent some abuse of power, and in doing so he may claim to be regarded not as a meddlesome busybody, but as a public benefactor"

In the aforesaid paragraph from Wade, it is clearly stated that a citizen shall have "standing" only if he is not a meddlesome busybody. In the instant matter for this Court to decide as to whether the Petitioner has a genuine legitimate interest or he is merely a "meddlesome busybody", the Petitioner ought to have tendered the required documents, particularly in view of the fact that the Respondents from the outset challenged the *locus standi* of the Petitioner.

[6] supra
[7] ibid
[8] (1982) 2 S L R. 664

In the instant writ application, the factual matrix does not involve:

- Any allegation of abuse of power,
- Manifest bias,
- Unlawful administrative action, or
- A failure of public duty affecting the public interest.

Instead, the grievance appears personal or private in nature, lacking the element of public wrong or illegality that justifies the broad standing recognized in **Wijesiri** and **Bandaranaike**.

Therefore, while those precedents support an expanded concept of *locus standi* in public law remedies, their application is distinguishable here. The instant case does not attract the public interest dimension required to relax the standing threshold. As Wade observes, liberal standing should not open the door to those acting as mere "busybodies" or seeking to litigate private disputes under the guise of public interest.

In **Wijesiri vs. Siriwardene** and **Bandaranaike vs. De Alwis**, the Supreme Court expanded the concept of *locus standi* to enable public-spirited citizens to challenge unlawful administrative action or abuse of power in the public interest. These decisions were anchored on principles of accountability and legality in public administration.

However, in the instant case, no element of abuse of power, administrative illegality, or public duty arises. The complaint is essentially private in character, devoid of any wider public law dimension. Hence, the liberal principles of standing enunciated in those cases, and elaborated by Wade and Forsythe, have no direct application here.

For the foregoing reasons, I hold that the Petitioner has not established *locus standi* in this matter.

Although on the above ground alone the instant writ application could be dismissed, I will briefly proceed to consider certain other issues raised by the Petitioner.

The Petitioner has impugned several regulations of the Gazette marked as **P5** on the grounds of being "*ultra vires* and/or illegal and/or arbitrary and/or capricious and/or unreasonable".

The provisions of the Regulation 4(2) has been subjected to criticism by the Petitioner on grounds of those being "unduly and irrationally restrictive, unduly narrow, and unreasonable requirements" are placed on persons in terms of eligibility requirements for election to certain positions in National Sports Associations/Federations.

For convenience, Regulations 4(1) and 4(2) are reproduced below.

4(1) *Every National Sports Association/Federation shall be governed by an Executive Committee consisting of a maximum of seventeen (17) members, including the following office bearers. The number of members of the Executive Committee must always be an odd number.*

I. President and Vice Presidents:
- *a) The number of Vice Presidents shall not exceed three (3).*
- *b) One (1) Vice President shall, by virtue of office, be nominated by the Sri Lanka Schools Sports Association/Federation relating to the respective sport. The qualifications specified under Section 4(2) hereof shall not apply to such Vice President nominated by the Schools Sports Association Federation.*

II. Secretary and Assistant Secretary

III. Treasurer and Assistant Treasurer

IV. Executive Committee Members:
- *a) Where the sport concerned is one in which women participate, at least two (2) Executive Committee members must be women.*

(2) *Only individuals who possess the following qualifications shall be eligible for election to the positions set out in Section 4(1) (i), (ii), and (iv):*

I. Have represented Sri Lanka in an international competition which has the approval of the Ministry of Sports; and/or

II. Have secured first (1st), second (2nd), or third (3rd) place in an individual event at National Senior and/or Junior Championships organized by the relevant National Association or at the National Sports Festival; and/or Have been a member of a team which won the championship, runners-up, or second runners-up positions in team events; and/or

III. Have secured first (1st), second (2nd), or third (3rd) place in an individual event, or have been a member of a team Winning championship, runners-up, or second runners-up positions, at any national level sports event or championship approved by the relevant National Association, including but not limited to competitions the Defence Services Sports, the Public Services Sports, the Sri Lanka University Sports, Public Schools Sports, Provincial and District competitions under the National Sports Festival,

National Schools or All- island Schools competitions, Provincial and District competitions under the National Schools or All-Island Schools Games, National Youth Games, Mahaweli Games.

IV. *Has at least fifteen years of professional experience as a Chartered Accountant and/or has at least fifteen years of professional experience as an Attorney - at - Law and/or has at least fifteen years of professional experience as a Doctor with full membership of the Sri Lanka Medical Council and/or has at least fifteen years of professional experience as a Chartered Engineer and/or has at least fifteen years of professional experience with a Bachelor's Degree in Sports and/or Sports Science from a recognized State University in Sri Lanka*

Rule 4 (2) (iv) was subsequently amended by Gazette No.2451/27 dated 28th of August 2025. A copy of the said Gazette was tendered to court marked as **R1** by the Respondents. Accordingly, "recognized State University in Sri Lanka" was amended so as to be read as "from any university approved by the University Grants Commission of Sri Lanka." By the aforesaid amendment, such degrees offered by a greater number of universities would be considered as a qualification to gain eligibility to be elected to positions in the Sports bodies.

The primary concern of the Petitioner is that persons who are circumstanced similarly as that of the Petitioner may not gain eligibility due to the restrictions/qualifications contained in the aforementioned regulations. He has contended that these regulations are unreasonable in terms of the ***Wednesbury rules*** as contained in the case of **Associated Provincial Picture Houses Ltd vs. Wednesbury Corporation.**[9] It is his contention that, specifying members of certain professions and other qualifications in sporting activities would have the undesirable effect of excluding others who may have a genuine interest in the respective sport and may have even taken part in sporting events, would be rendered ineligible or unqualified to hold positions in apex sports bodies such as Sri Lanka Rugby or Sri Lanka Cricket.

In response to the said submissions of the Petitioner, the Respondents contended that for the Wednesbury Principles to be applicable, it requires the Petitioner to show that the impugned regulation is "so unreasonable that no reasonable authority would have made it".

The Petitioner has also impugned the Regulation 4(2) as being "irrational". In the case of **Wawulanbokka Gamage Lalith Dharmakeerthi vs. Tikiri**

[9] [1948] 1 KB 223

Kobbekaduwa, Governor, Sabaragamuwa Province and Others[10], this Court having considered previous judicial authorities reaffirmed that "irrationality" arises only where the decision is so outrageous in its defiance of logic that it falls outside the range of lawful authority.

Furthermore, it would also be relevant to consider the judgment of Lord Diplock in **Council of Civil Service Unions vs. Minister for the Civil Service**[11] who held thus,

"By 'irrationality' I mean what can now be succinctly referred to as 'Wednesbury unreasonableness.'… It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

Furthermore, the Petitioner contended that the Regulations are also "unreasonable".
In the case of **Secretary of State for Education and Science vs. Tameside Metropolitan Borough Council**[12], the Court was called upon to consider the concept of unreasonableness in administrative law and held thus,

"In public law, "unreasonable" as descriptive of the way in which a public authority has purported to exercise a discretion vested in it by statute has become a term of legal art. To fall within this expression it must be conduct which no sensible authority acting with due appreciation of its responsibilities would have decided to adopt."

In the instant matter, this Court is of the view that by stipulating certain qualifications/requirements in Regulation 4(2), what has been sought to be achieved is to attract more competent, better qualified and more knowledgeable individuals to hold positions of responsibility in the governing bodies of various sports in the country. In my view, said objectives cannot be classified as being unreasonable, irrational, or capricious. In these circumstances, ***Wednesbury unreasonableness*** would not apply to the facts of the instant matter.

Although the Petitioner has also sought to impugn several other regulations in P5, in view of the fact that this Court has already determined the issue of *locus standi*, it would not be necessary to consider all such other aspects.

[10] CA Writ 39/2021 decided on 03rd June 2021
[11] [1985] AC 374
[12] [1977] AC 1014

In conclusion, I wish to allude to the observations of Samayawardhena J in the case of **Public Interest Law Foundation vs. Central Environmental Authority and Others**[13].

"Public interest litigation is a hallowed concept. Nevertheless, public interest litigation shall not be converted to public vexatious litigation. Frivolous and vexatious applications cost the judiciary and Government agencies dearly. Such applications inter alia impede the efficacy of the Courts by detracting from the limited time and resources available to devote to cases which legitimately deserve attention. Public interest litigation ball be a boon not a bane."

Similarly, in the instant matter, without the Petitioner establishing his standing, the writ application would be frivolous and vexatious.

In the aforementioned circumstances, I am of the view that the Petitioner has failed to establish a *prima facie* which warrants the issuance of notices on the Respondents.

Application is accordingly dismissed without costs.

PRESIDENT OF THE COURT OF APPEAL

K. P. Fernando, J.
I agree.

JUDGE OF THE COURT OF APPEAL

[13] CA/Writ/527/2015 decided on 24.02.2020