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 Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA WRIT APPLICATION No.1061/2025

Professor Dinesh Raveendra Paul Pandithavidana,
(Professor in the Department of Chemistry, University of Kelaniya),
57/3, Co-operative Housing Scheme,
Namal Place,
Kiribathgoda.

PETITIONER

Vs.

1. University of Kelaniya,
   Kandy Road,
   Dalugama,
   Kelaniya.

2. Professor Nillanthi de Silva,
   Vice Chancellor.

3. Professor M.M. Gunathilaka,
   Dean, Faculty of Social Science.

4. Professor (Mrs) P.A. Paranagama,
   Dean, Faculty of Graduate Studies.

5. Professor Dhammika Weerasinghe,
   Dean, Faculty of Computing and
   Technology.

6. Professor S.R.D. Kalingamudali,
   Dean, Faculty of Science.

7. Professor W.M.C. Bandara
   Wanninayake,
   Dean, Faculty of Commerce &
   Management Studies.

8. Mr. U. S. Senarath,
   Dean, Faculty of Humanities.

9. Professor M.N. Chandratilake,
   Dean, Faculty of Medicine.

10. Professor S.S. Weligamage

11. Professor W.M. Semasinghe

12. Mr. G.M.R.D. Aponsu

13. Mr. Udaya H. Kasthurirathne

14. Dr. R. Chinthaka L. De Silva

15. Mr. D.D. Yashaswin Samarasinghe

16. Ms. Chathini Uduwana

17. Dr. (Mrs) M. Janaki Gooneratne

18. Mr. T.R. Waruna Sri Dhanapala

19. Mr. A. H. Ranjith Udayasiri

20. Mr. Rakhitha S. D.
    Abeygoonawardhana

21. Mr. Kolitha Sanath Gunarathne

22. Mr. Kandaudahewa Gemunu
    Gunasumana

23. Mr. K. K. K. Dharmathilaka

    The Registrar

    All of

    University of Kelaniya,
    Kelaniya.

24. J. S. A. Sewmini Pabasara,
    RP 421, Bandarawatta,
    Seeduwa.

25. Sudath N. Gopallawa,
    No.6/9, First Lane,
    Gnanendra Road,
    Rathmalana.

26. Dr. Russel C. L. de Silva,
    55A3, Isuru Uyana,
    Polgasovita.

RESPONDENTS

Before: **R. Gurusinghe J.**

&

Dr. Sumudu Premachandra J.

Counsel: A. S. M. Perera, P.C. with Chathunika Vitharana for the Petitioner.

Asela Wijesinghe, S.C., for the 10th – 23rd and 26th Respondents.

Written Submissions: By the Respondents – Not filed.

By the Petitioners – Not filed

Supported on **:**10.11.2025.

Interim On **:**11.11.2025.

Order on Interim Relief and Formal Notices

Dr. Sumudu Premachandra J.

1] Professor Sarath Wijesooriya, in his work, "***Mage Naduwa Iwarayi*-මගේ නඩුව ඉවරයි"** related to dirt inside of the academia, says;

> *"අපි දේශපාලනඥයන්ගේ නොමනා කටයුතු ගැන නිතර කතා කරන්නෙමු. විවේචනය කරන්නෙමු. එහෙත් සිය උගත්කම හා සිවිල් බලය ඉවහල් කරගෙන ප්‍රතිරූප ගොඩ නගාගෙන කටයුතු කරන උදවිය ගැන කතා නොකරන්නෙමු. මේ පිරිසගේ කටයුතු මේ දේශපාලනඥයන්ගේ කටයුතුවලට වඩා සාහසිකය. මන්ද ඔවුන් සතු බලය එක්තරා කාලයකට පමණක් අදාළ නොවන හෙයිනි.*

මේ ගද්‍යමය ආඛ්‍යානය වාග් ප්‍රහාරයකි. එය ආවේගාත්මකය. කකර්ෂය. තමන් සතු සිවිල් බලය දඩමීමා කරගෙන නොපනත් කටයුතු කරන්නන් හෙළිදරව් කිරීම සඳහා තනා ගන්නා රීතියකට වඩා ස්වාභාවික වූ ආවේගාත්මක රීතියක් පාඨකයාට ප්‍රබල බලපෑමක් ඇති කිරීමට ඉවහල් වේ.”[1]

2] The above notion cannot be generalised; however, it applies to some extent in academia. The majority of highly esteemed members of academia, and few can be found in the above calibre. This case is entangled with and reflects some of these unseen, hidden, unsavoury events that occurred in the Sri Lankan Universities. Since the above consideration has come from a senior professor in academia, it cannot be lightly ignored.

3] In this writ application, the Petitioner, a Professor of Chemistry with an unblemished 14-year service record specializing in anti-cancer research, is challenging his dismissal by the 1st Respondent University following a disciplinary inquiry. The inquiry stemmed from a complaint of sexual harassment made by the 24th Respondent (Sewmini Pabasara), a 1st-year student. The specific allegations, occurring on 28.12.2023, include verbal assault and sexual harassment by touching her body (elbow, hand, and stomach), as detailed in the Charge Sheet ("P2"). The Petitioner submitted a full denial ("P3") of the allegations, arguing that the claims were false and that the punishment sought was excessively harsh, particularly because his termination would end his valuable research work and outreach services to rural schools.

4] A disciplinary inquiry was conducted by the 25th Respondent, Mr. Sudath Gopollawa, Former High Court Judge which found the Petitioner guilty of five of the six counts (I, II, IV, V, and VI) but acquitted him of Count III. This finding was contained in the Order/Report ("P4"), dated 02.09.2025. Subsequently, the University Council decided on 14.10.2025, to terminate the Petitioner's services, a decision scheduled for final confirmation on 11.11.2025, today at 4pm. The Petitioner contends that the 25th Respondent failed to properly assess the evidence, leading to a flawed conclusion, and that the termination decision is unfair and unlawful.

[1] ISBN, VGCSH0003. Author, Sarath Wijesooriya. Publisher, WIJESOORIYA. Year, 2010. First Edition

5] Crucially, the Petitioner claims the complaint was "engineered" due to professional jealousy by the 26th Respondent (Dr. Russel De Silva), who was the course coordinator for the student and an academic colleague with whom the Petitioner alleges he had academic conflicts. In fact, the Petitioner said that Dr. Russel De Silva was one of his academic gurus, since he was placed above him in the University staff, Dr. Russel De Silva engineered and plotted this event. The petition details the 26th Respondent's involvement in submitting the complaint ("P5"). Given the imminent termination, the Petitioner is seeking interim relief from the court to prevent irreparable loss and damage that would be caused by the termination, pending the final hearing and determination of his application.

6] The Petitioner prays;

a. Issue notices on the Respondents,

b. Call for and examine the entire record pertaining to this application,

c. Grant and issue an order in the nature of a Writ of Prohibition prohibiting the 1st respondent University from proceeding to terminate the services of the Petitioner,

d. Issue an order in the nature of a Writ of Certiorari quashing the decision made by the Council of the 1st Respondent University on 14-10-2025 to terminate the services of the Petitioner,

e. Issue an order in the nature of a Writ of Certiorari quashing the decision made by the 25th Respondent finding the petitioner guilty of counts (I), (II), (IV), (V), and (VI) of his order/ report marked as P4 annexed in the petition,

f. Grant and issue an Interim Order preventing the 1st Respondent University from proceeding to terminate the services of the Petitioner until the final determination of this application by Your Lordships' Court,

g. Grant costs, and

h. Grant such other and further reliefs that Your Lordships' Court shall seem fit.

7] As the issuance of interim relief is a matter of urgency, this case was heard and this order was considered overnight.

8] As prayer "b" where relief is sought, the Learned State Counsel submitted the entire record pertaining to this application, including proceedings of the domestic inquiry.

9] The Main reliefs are sought succinctly as to grant nature of a Writ of Prohibition prohibiting the 1st respondent University from proceedings to terminate the services of the Petitioner and issue an order in the nature of a Writ of Certiorari quashing the decision made by the Council of the 1st Respondent University on 14-10-2025 to terminate the services of the Petitioner, and issue an order in the nature of a Writ of Certiorari quashing the decision made by the 25th Respondent finding the petitioner guilty of counts (I), (II), (IV), (V), and (VI) of his order/ report marked as P4 annexed in the petition. It is seen that the Petitioner alleges dismissal based on P4, the Disciplinary Inquiry Report.

10] The dismissal is based on sexual harassment, and it leads to gender base violence as the 24th Respondent is a woman. Article 12 of the 1978 Constitution of Sri Lanka states that all persons are equal before the law and prohibits discrimination on the basis of sex and lays the normative framework for a human rights approach to addressing SGBV. Our Supreme Court has drawn on the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) when deciding on violations of Article 12 of the Constitution. In ***Manohari Pelaketiya v Secretary, Ministry of Education*** (SC/FR 76/2012, SC Minutes 28 Sept 2016) the court highlighted the obligation placed on the state by CEDAW to give effect to women's rights, and thereby declared that sexual harassment amounted to an infringement of the right to equality enjoyed by women. His Lordship Anil Gooneratne J.

> *"I observe that continuous abuse and sexual harassment over a period of time would cause physical and mental damage to any human being. It is*

not possible for a female to resist such abuses unless she is a strong personality who could react and retort to such abuses and harassment and make the abuser to shamelessly withdraw, being exposed to the public at large of his indecency. Continuous threats and abuses could also make a person unwell both physically and mentally. My views expressed on the aspect of abuses would be endorsed by any law-abiding citizen, and it should be so…

In the circumstances this Court holds that the regime of affirmative rights referred to above cannot be restricted or limited by the provisions of Establishment Code and we are also mindful of comparative jurisprudence such 17 as the House of Lords decision of R v. Ireland and Barstow 1998 AC 147 where it was held that silent phone calls to a women amounted to an assault"

11] More recently, in ***Sri Lankan Airlines Limited v. P. R. S. E. Corea*** (S.C. Appeal No. 91/2017, SC Minutes 02 Feb 2024) the Supreme Court highlighted that Sri Lanka has signed and ratified CEDAW without any reservation, and as such has an obligation to take all appropriate measures to eliminate discrimination against women in the field of employment. The Court further stated that state-owned enterprises must adopt a zero-tolerance policy towards any form of sexual harassment. I must tell this proposition should not be constrained only to employment; it should be applied liberally even in universities.

12] At the very out set it should be noted that the Petitioner has never asserted that the disciplinary process was held unfair and has deprived him of a fair hearing and rendered the entire process invalid. He was represented by a counsel, and all witnesses were cross-examined. Therefore, we see that the disciplinary proceedings were conducted in accordance with due process, and that the Petitioner was afforded ample opportunity to respond to the allegations. There are no claims of bias, and nothing mentioned on evaluation and assessment of evidence. The Petitioner was found guilty by an independent and experienced inquirer, and thus, quashing P4 on unfairness or unreasonableness cannot be done. If the P4 is sustained, that entire case fails.

13] It is seen that on 29.05.2025, the Petitioner had given evidence on oath before the inquirer. In the evidence in chief, the Petitioner has adduced that there may be physical contact, it proves by saying;

> *"ඇය පළමු වසර මෙම කාබනික රසායනයට ආධුනික සිසුවියක් නිසා මා පැන් පැන්සල් භාවිතයෙන් සාදා පෙන්වූ ආකෘති නිසි ආකාරයෙන් සාදා ගැනීමට ඇය තුල දක්ෂතාවයක් නොතිබුණු බැවින් මෙම ආකෘති නිවැරදි සාදා ගැනීමට උදව් කිරීමට මට සිදුවුනා. එය සද්භාවයෙන් සිදු කල අතර* ***මෙම ආකෘති සැදීමේදී සමහර විට මට ඇයගේ ඇඟිලි ස්පශර් වෙන්න ඇති."*** [Emphasis is added]

14] There was a preliminary inquiry on 21.03.2024. In that, the Petitioner has totally denied that he touched any part of the body of the 24th Respondent. It shows;

> *"ඔබ කිසිදු ආකාරයකින් ඒ සිසුවිය වෙනත් ආකාරයට ශරීරයේ කොටසක් ස්පශර් කරාද?*
>
> *මම එහෙම කරේ නැහැ. සම්පුණර්යෙන්ම ප්‍රතික්ෂේප කරනවා.*
>
> *...*
>
> *ඔබට එම සිසුවියගේ හදිස්සියකින් හෝ වැරදීමකින් හෝ අත හැර කිසිදු අවයවයක අත හෝ වැදුනද නැතිනම් ඇල්ලුවද...?*
>
> *නැ එම කාරණාවත් මම ප්‍රතික්ෂේප කරනවා."*

15] Thus, it is clearly seen that the Petitioner has taken two stances. On the other hand, it is ironic that a fresher has complained against the Professor without any personal grudge to gain personal benefit of the 26th Respondent. This incident clearly fails the test of probability and improbability since the incident happened to the victim, and the victim complained of jeopardising her university career prospects. Further, it is seen that the 24th Respondent has gone to the Petitioner's room for the first time and he took a photograph of her within a short period of time. The explanation given by the Petitioner cannot be accepted.

16] Based on the 24th Respondent and other evidence, the Petitioner was found guilty of the charges. The impugned decision dated 14.10.2025 was based on above conviction. Minutes were confirmed for the decision dated 14.10.2025 at the Council Meeting on 06.11.2025. On that day, a secret ballot was taken from Council Members for three possible punishment options. Those are;

1. Termination of services from the University of Kelaniya

2. Reduction in rank from Professor to Associate Professor

3. Reduction of rank from Professor to Senior Lecturer Grade I

17] On counting ballots, 12 members voted that the Petitioner be dismissed from the services and 8 members voted for reduction of rank. Thus, it was held democratically, and the majority decision is to be implemented. (Vide Annexture B) Thus, we do not see any irregularity in the decision making.

18] Though it was not agitated by the parties, in ***Dr. Chandana Kasturi Arachchi vs University of Colombo and others*****,** CA (Writ) Application No. 359/2020, Decided on: 27.03.2025, MOHAMMED LAFFAR, J., noted that there was an alternative remedy for the University Council Decision. His Lordship noted;

> *"The Respondents assert that the* ***Petitioner has an alternative remedy available under the Universities Act No. 16 of 1978, specifically through an appeal to the University Services Appeals Board****.* ***The Respondents emphasize that judicial review is an extraordinary remedy and should not be invoked when an adequate statutory remedy exists.*** *They cite previous cases that reinforce the importance of exhausting all available administrative remedies before resorting to judicial review (marked "R16" and "R17"). They further argue that this alternative remedy is both effective and comprehensive, as it provides a dedicated platform for addressing disputes related to employment within the university system.*
>
> *The Petitioner counters this argument by asserting that the appeal process would be limited to reviewing the decision's accuracy rather than addressing the procedural unfairness and bias in the disciplinary process. He claims that the appeal mechanism would not provide him with a remedy for the alleged breaches of natural justice, such as bias and conflict of interest, and thus is not adequate in this case (marked "P10" and "P11").*

The Respondents' argument regarding the availability of an alternative remedy is robust. The University Services Appeals Board is a statutory body specifically created to resolve disputes related to university employment*. The Petitioner's assertion that the appeal process does not address the procedural issues, such as bias and conflict of interest, does not undermine the adequacy of the remedy itself. In the case at hand, the Petitioner has failed to demonstrate that the alternative remedy provided by the Appeals Board would be ineffective in addressing his grievances. The Petitioner has also not adequately explained why he did not pursue this remedy, which remains the most appropriate and effective route for resolving disputes of this nature."*[Emphasis is added]

19] In the same judgement, the court considers the harshness of punishment and proportionality of the punishment as mentioned below;

"The Respondents' justification for the termination is legally sound, given the serious nature of the alleged misconduct. The Petitioner's claim of disproportionate punishment is not persuasive, ***as the University has a duty to maintain a respectful and safe academic environment, and the nature of the allegations (sexual harassment and misconduct) justifies strict action****"* [Emphasis is added]

20] One can argue that the Petitioner was denied mitigation before his dismissal, so it should not be done. In Brighton Corporation vs. Parry (1972) 70 L.G.R. 576; *Willis J. considered the denial of audi alterm partem rule as:*

*"In my view, the audi alteram partem rule was complied with on the facts of this case by the defendant being allowed to make written representations for the board's consideration: ... it seems to me, on the facts, first that the defendant knew precisely the nature of the complaints which were made about him; secondly, that he was given an opportunity to state his case; and thirdly****, that the tribunal acted in good faith****. In those circumstances, it seems to me - on those three findings - that it is conclusive that there was no breach of the rules of natural justice in the defendant's*

exclusion from an oral hearing by the board. On the contrary he was, I think, treated with complete fairness throughout" [Emphasis is added]

21] It is noted in writ jurisdiction that courts are slow in issuing writs on academic decisions. In ***Dr. Karunanada vs. Open University of Sri Lanka and Others***, [2006] 3 SLR 225, Her Ladyship Shirani Bandaranayake, J., had this to say;

"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..."

22] Further, in ***Abeysundara Mudiyanselage Sarath Weera Bandara vs University of Colombo and others,*** C.A. Writ Application No. 844/2010, decided on 08.06.2018, His Lordship A.H.M.D. Nawaz, J., cited Wade and Forsyth their authoritative work "Administrative Law" (Oxford, Eleventh Edition, page 537) and applied;

"'"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. Dealing with the scope of interference in matters relating to orders passed by the authorities of educational institutions, the Courts should normally be very slow to pass orders in regard thereto and such matters should normally be left to the decision of the educational authorities... Clark v. University of Lincolnshire and Humberside(2000) 1 WLR 1988 (Sedley LJ)."

23] ***Dr (Ms) Fathima Shemoon Marleen vs University of Colombo and others***, CA (Writ) Application No. 54/2017, Decided on: 3rd June 2021, His Lordship

Arjuna Obeyesekere, J., P/CA held in interfering decisions of public authorities as;

> *"In exercising judicial review, Courts play a limited role and* ***must be mindful not to substitute its own decision for that of the public authority who has been conferred with the power of making that decision, unless the authority has disregarded material facts or where the decision is unsupported by substantial evidence.*** *In the words of Lord Bingham, 'they (judges) are auditors of legality; no more, but no less.7 (Tom Bingham, The Rule of Law [2011] Penguin Books at page 61.)"* [Emphasis is added]

24] In ***Council of Civil Service Unions v. Minister for the Civil Service***, [1985] 1 AC 374, Lord Diplock classified three major grounds upon which administrative action is subject to judicial review. Those are; 'illegality', 'irrationality' and 'procedural impropriety'.

25] In the case in hand, the Petitioner is not complaining of any procedural irregularity in the evaluation or decision process. The grievance of the Petitioner is that the Petitioner was fixed on professional jealousy by the 26th Respondent, which has not been proved. As sexual harassment is zero tolerance in any field the decision to expel the Petitioner from Kelaniya University is not irrational and unreasonable, or illegal. Thus, we see no reason to interfere with the impugned decision.

26] The Petitioner has committed an offence that falls into section 345 of the Penal Code. I do not see why the Registrar of Kelaniya University has not made the law enforcement authority in this regard.

27] In the aforesaid circumstances, it is clear that the Petitioner's application for judicial review lacks the necessary legal and factual foundation. The Petitioner has not demonstrated sufficiently any grounds that would warrant the intervention of this Court.

28] The decision to dismiss the Petitioner by the Respondent University is justified as every educational institution should be a safe harbour for any student, and should be able to study their degrees with utmost mental and physical satisfaction. In that case, University authorities should maintain the integrity and reputation of the University.

29] Thus, we decline to issue formal notices and the interim relief prayed for. This application is dismissed, however no costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL