

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

C.A. (Writ) Application

No: 0139/2020

Don Piyatissa Kumarage,
No. 47/35, Louis Pieris Mawatha,
Kandy.

PETITIONER

Vs.

Sunanda Kariyapperuma,
Commissioner General of Buddhist Affairs,
“Dahampaya”, No. 135,
Srimath Anagarika Dharmapala Mawatha,
Colombo 07.

RESPONDENT

Before : Dhammika Ganepola, J.
K.P. Fernando, J.
Adithya Patabendige, J.

Counsel : Sandamal Rajapaksa with Kalpanee Dissanayake for the Petitioner.
SASG Sumathi Dharmawardena PC with S.C Dilantha Sampath for the Respondents.

Argued on : 19.01.2026
11.02.2026

Decided on : 28.04.2026

Adithya Patabendige, J.

The Petitioner has invoked the jurisdiction of this Court, under Article 140 of the Constitution, seeking, *inter alia*, a mandate in the nature of a *writ of certiorari* quashing.

- a) the suspension of Basnayake Nilame of Ruhunu Maha Kataragama Devalaya by the 1st Respondent on 09th April 2018, marked **P6**,
- b) the entire disciplinary proceedings, arising from the suspension dated 09th April 2018,
- c) inquiry report of Mr. Bandula Atapattu, marked **P7a**,
- d) the charge sheet dated 06th September 2019, marked **P12a**,
- e) report of the 1st Respondent dated 23rd October 2019, marked **P17b**.

The Petitioner further seeks a mandate in the nature of a *writ of mandamus* directing the Respondent,

- f) to give effect to the three-member committee report, marked **P17a**,
- g) to reinstate the Petitioner as the Basnayake Nilame of the Ruhunu Maha Kataragama Devalaya.

This application arises out of disciplinary action initiated by the Respondent, the Commissioner General of Buddhist Affairs, in terms of the provisions of the Buddhist Temporalities Ordinance.

Factual Background

The Petitioner was elected as the Basnayake Nilame of the Ruhunu Maha Kataragama Devalaya for a period of five years commencing on or about 29th April 2015. According to the Petitioner, he is the custodian of the keys of the Devalaya and is also responsible for

allocating Thewa months among Kapuralas of the said Devalaya. There had been a dispute regarding the handover of the keys between the Petitioner and certain Kapuralas, led by the Chief Kapurala, in August 2017. Meanwhile, the Petitioner was assaulted by a group of Kapuralas led by the Chief Kapurala. Following the Petitioner's complaint about the assault, the Katharagama Police Station initiated proceedings before the Magistrate's Court of Tissamaharamaya.

In the meantime, the Petitioner received a letter dated 29th November 2017, marked **P4**, from the 1st Respondent, directing the Petitioner to attend a disciplinary inquiry regarding alleged irregularities at Ruhunu Maha Katharagama Devalaya. As per the said letter, the Petitioner was informed by the 1st Respondent that a retired Judge of the High Court, Mr. Bandula Atapattu, was appointed as the inquirer, in terms of Section 15(1) of the Buddhist Temporalities Ordinance, to look into the said irregularities. After the inquiry, the report marked **P7a** was submitted, in which the inquirer recommended suspending the Petitioner pending disciplinary proceedings. The Petitioner was suspended from his position with immediate effect from the letter dated 9th April 2018, marked **P6**. The Petitioner, by his letter dated 11th April 2018, marked **P8**, challenged the validity of the suspension from his position.

It is also material that the Petitioner had previously challenged the said suspension by filing *CA Writ Application No. 171/2018*, marked **P20**. However, this Court, by its order dated 18th May 2018, refused to issue notices in the said writ application.

Subsequently, the Petitioner invoked the fundamental rights jurisdiction of the Supreme Court in *SC FR 243/2019*. The Supreme Court declined to grant leave to proceed and permitted the continuation of disciplinary proceedings, including the issuance of a charge sheet as reflected in documents marked **P10** and **P11**. Although the Petitioner stated that the order in respect of the above application was not available to him at the time of institution of this application, the Respondents marked the said order dated 08th August 2019, as **R2**.

Thereafter, further steps were taken, including the continuation of disciplinary proceedings and the issuance of a charge sheet dated 06th September 2019 marked **P12a**. The Petitioner denied the contents of the charge sheet in his letter marked **P13a**.

During the pendency of the present application, the Petitioner's tenure expired in or about April 2020. A fresh election has been held, and another person presently holds the said office.

The Petitioner contends that the suspension and the subsequent proceedings are unlawful and contrary to the provisions of the Buddhist Temporalities Ordinance. It is further contended that the Respondent failed to comply with procedural requirements, in particular the requirement of consulting the Advisory Board prior to the suspension.

The Petitioner also alleges that the actions of the Respondent are tainted with *mala fides* and that the disciplinary process is vitiated by illegality and procedural impropriety. The Petitioner seeks reinstatement and relies on the recommendations of a three-member committee marked **P17a**, asserting that the Respondent is bound to give effect to them.

The Petitioner further relies on certain subsequent developments, including the issuance of the charge sheet dated 06th September 2019 marked **P12(a)**, the report of the three-member committee marked **P17(a)**, and the analytical report marked **P17(b)**, and contends that these matters, which arose after the determination of *CA Writ Application No. 171/2018*, constitute new material justifying the present application.

Position of the Respondent

The Respondent raises several objections, both on maintainability and on the merits. It is contended that the present application is not maintainable in view of the earlier determination in *CA Writ Application No. 171/2018* marked **P20**, where this Court refused to issue notice in respect of the same suspension.

The Respondent further contends that the reliefs sought have become redundant and futile due to the lapse of the Petitioner's tenure and the subsequent election. It is also submitted that the present application involves disputed questions of fact which are not amenable to writ jurisdiction and that the Petitioner has an alternative remedy under Section 15(2) of the Buddhist Temporalities Ordinance.

Issues for Determination

In light of the foregoing, I am of the view that the following issues arise for determination.

- i) Whether the Petitioner has established grounds for the grant of *writs of certiorari* and *mandamus*.

- ii) Whether the present application is maintainable in view of the prior determination in **CA Writ Application No. 171/2018** marked as **P20**,
- iii) Whether the reliefs sought by the Petitioner have become redundant or futile,

Analysis

Upon considering the pleadings, documents tendered, and submissions of the parties, it is evident that the suspension of the Petitioner was preceded by a preliminary inquiry conducted by Mr. Bandula Atapattu. Prior to the issuance of the charge sheet, the 1st Respondent caused an audit inquiry to be conducted by the Auditor General of Sri Lanka, who submitted his report dated 04th July 2019, marked **P12(b)**, containing certain adverse observations against the Petitioner. The Petitioner was thereafter served with the charge sheet dated 06th September 2019.

The powers of the Commissioner of Buddhist Affairs with respect to the suspension of a trustee or controlling Viharadhipathi are expressly provided for in Section 15(1) of the Buddhist Temporalities Ordinance, which authorises the Commissioner, upon inquiry into alleged misfeasance, breach of trust, or neglect of duty, to suspend such trustee as a preliminary step to disciplinary proceedings.

For ease of reference, Section 15(1) of the Buddhist Temporalities Ordinance is set out below:

On the complaint of any person interested or on his own motion the Commissioner of Buddhist Affairs shall have power to hold an inquiry into any alleged misfeasance, breach of trust or neglect of duty committed by any trustee or controlling viharadhipati in respect of property belonging to his temple and if at the conclusion of any such inquiry into the conduct of a trustee the Commissioner of Buddhist Affairs is of opinion that proceedings should be taken for his dismissal it shall be competent for the Commissioner of Buddhist Affairs as a preliminary to suspend such trustee, to frame charges in writing against him and to call upon him to answer thereto.

The material placed before this Court, including the report marked **P17(b)**, demonstrates that the Petitioner was afforded an opportunity to respond to the allegations and that the disciplinary process was carried out within the framework of the said statutory provision.

In these circumstances, I am unable to conclude that the Petitioner has established any illegality, irrationality, or procedural impropriety in the decision to suspend him, the conduct of the disciplinary inquiry, or the subsequent steps taken by the Respondent.

The next matter to consider is the effect of the prior determination in *CA Writ Application No. 171/2018*, marked as **P20**.

A perusal of the said judgment reveals that this Court, having considered the material placed before it, refused to issue notice. The reasoning of the Court was not confined to a mere technical rejection but was based on substantive findings relating to the conduct of the Petitioner. The Court observed that the Petitioner had made false averments and had failed to place accurate material before the Court. It was further held that such conduct disentitled the Petitioner from invoking the discretionary jurisdiction of this Court.

The Petitioner seeks to distinguish the present application from *CA Writ Application No. 171/2018* on the basis of the subsequent developments including the issuance of the charge sheet dated 06th September 2019 marked **P12(a)**, the report of the three-member committee marked **P17(a)**, and the analytical report marked **P17(b)**, and contends that these matters, which arose after the determination of *CA Writ Application No. 171/2018*, constitute new material justifying the present application. While it is correct that the charge sheet and the reports relied upon by the Petitioner arose after the earlier application, they do not, in my view, constitute a fresh or independent cause of action. These matters are part and parcel of the same disciplinary process that was already in motion when the earlier application was filed. Accordingly, they do not displace the effect of the determination in **P20**, nor do they warrant reopening issues that have already been considered by this Court.

The effect of a prior application in writ jurisdiction must be considered with care. As observed in *Sri Lanka Ports Authority v Lanka Marine Services Ltd (2004) 3 SLLR 332*, there is no absolute rule precluding the filing of a fresh application relating to the same subject matter. However, the existence of an earlier application is a matter that the Court is entitled to take into account in the exercise of its discretion, particularly in assessing **whether any new material relied upon justifies the invocation of jurisdiction or whether the relief sought should be refused**.

In the present case, unlike the situation considered in the above authority, there has been a prior judicial determination in *CA Writ Application No. 171/2018* marked **P20**. The Petitioner

seeks to rely on subsequent developments as constituting new material. However, as already observed, these matters form part of the same disciplinary process and do not constitute a fresh or independent basis for invoking the writ jurisdiction. In these circumstances, the existence of the prior application and its determination weigh heavily against the exercise of the discretionary jurisdiction of this Court.

The Petitioner, having previously invoked the jurisdiction of this Court and failed, and having participated in subsequent proceedings, cannot now be permitted to challenge the same process in a piecemeal manner.

Having regard to all these circumstances, including the findings in **P20**, and the absence of any established illegality, irrationality, or procedural impropriety warranting intervention, I am of the view that this is not a fit case for the exercise of the writ jurisdiction of this Court.

The Petitioner seeks to implement the recommendations marked **P17a** prepared by the three-member committee appointed by the 1st Respondent to review the answers of the Petitioner in respect of the charges levelled against him. The purpose of appointing the said committee is clearly apparent in **P17a**. The purpose of the committee is to consider the relevant laws and traditions and to review the Petitioners' answers. It is neither a statutory requirement nor a legally binding determination. Therefore, there is no public duty to follow it.

Petitioner, further, seeks reinstatement to the office of Basnayake Nilame. However, it is evident that the term of office in question has already lapsed. In such circumstances, even assuming that the Petitioner establishes any alleged illegality, this Court is not in a position to grant the said relief, as no subsisting legal right remains capable of enforcement. A *writ of mandamus* cannot be issued in respect of a right that has ceased to exist.

It is to be noted that, according to the Petitioner's own case, he was elected to the office of Basnayake Nilame on 29th April 2015 for a term of five years. It is not in dispute that the said term has lapsed and that a fresh election has been held. In such circumstances, even if this Court were to quash the suspension marked **P6** and the consequential proceedings, no effective or enforceable relief would follow. The relief sought in the nature of *certiorari* would thus serve no practical purpose and would be purely academic. In the exercise of its discretionary jurisdiction under Article 140, this Court will not grant relief in vain.

In view of the finding that the term of office of the Petitioner has lapsed and that no effective order of reinstatement can now be made, the reliefs sought in respect of the suspension

marked **P6** and the consequential steps, including the inquiry report marked **P7a**, the charge sheet marked **P12a**, and the report marked **P17b**, would serve no useful purpose. These steps form part of the same disciplinary process. Even if such decisions are quashed, no practical or enforceable consequence would follow. In the exercise of its discretionary jurisdiction under Article 140, this Court declines to grant relief in respect of items (b), (c), (d), and (e), as the same would be purely academic.

Conclusion and Order

For the reasons set out above, I hold that the Petitioner is not entitled to the reliefs sought.

Accordingly, this application is dismissed.

In the circumstances of this case, particularly having regard to the prior application marked **P20**, the attempt to re-agitate substantially the same matter, and the absence of any sustainable legal basis for the present application, this Court is of the view that this is a fit case in which costs should be awarded against the Petitioner.

Hence, the Petitioner is ordered to pay Rs. 10,000 to the State as costs of litigation.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL

K.P.Fernando, J

I agree.

JUDGE OF THE COURT OF APPEAL