

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

CA/WRT/0019/2026

B. M. K. Madushanka
No. 218/B, Horape,
Ragama.

PETITIONER

Vs.

1. Sri Lanka Tea Board
No. 574, Galle Road,
Colombo 03.
2. Mahesh Jayawardena
Tea Commissioner,
Sri Lanka Tea Board,
No. 574, Galle Road,
Colombo 03.
3. R. K. Obeyesekere
Chairman,
Sri Lanka Tea Board,
No. 574, Galle Road,
Colombo 03.
4. Leelanath Wickrama Arachchi
Director General,
Sri Lanka Tea Board,
No. 574, Galle Road,
Colombo 03.
5. Dr. N. P. S. N. Bandara
Deputy Director (Research),
Tea Research Institute of Sri Lanka
Talawakella.

6. W. W. K. Vithanage
Director (Tea Development),
Ministry of Plantation & Community
Infrastructure,
11th Floor,
Sethsiripaya,
Battaramulla.
7. S. A. M. B. C. Samarasekara
Deputy Tea Commissioner,
Sri Lanka Tea Board,
No. 574, Galle Road,
Colombo 03.

RESPONDENTS

Before: Mayadunne Corea, J.
Mahen Gopallawa, J.

Counsel: Farman Cassim, PC with Vinura Kularatne and Ms. Faadhila Thassim instructed
by Ms. Shaymali Athukorala for the Petitioner.

Ms. Avanti Weerakoon, State Counsel for the 1st to 6th Respondents.

Shane Foster with Ms. Nimali Piyumika instructed by Ms. Subashini J.
Pathirana for the 7th Respondent

Argued on: 20.05.2026

Written Submissions: Petitioner on 10.06.2026.
1st to 6th Respondents on 09.06.2026.
7th Respondent on 11.06.2026

Decided on: 24.07.2026

Mahen Gopallawa, J.

Introduction

The Petitioner, who is employed as an Assistant Tea Commissioner at the 1st Respondent Sri Lanka Tea Board (SLTB) has impugned the appointment of the 7th Respondent to the post of

Deputy Tea Commissioner in the instant application. The substantive reliefs sought by the Petitioner may be summarized as follows;

- (a) a writ of *Certiorari* quashing the decision of the Board of Directors of the SLTB to grant approval for the appointment of the 7th Respondent to the post of Deputy Tea Commissioner reflected in the Board decision (P5);
- (b) a writ of *Certiorari* quashing the letter of appointment issued to the 7th Respondent (P5A);
- (c) as an alternative to (b) above, a writ of *Certiorari* quashing the Mark Sheet and/or results of the interview held on 24.09.2025 for the post of Deputy Tea Commissioner (P7(c));
- (d) a writ of *Mandamus* appointing the Petitioner to the post of Deputy Tea Commissioner under the scheme of allocation of marks contained in the documents marked P7(a) and/or P7(b);
- (e) a writ of *Prohibition* restraining the Respondents and their servants or agents or subordinates acting under the decision to grant approval by the Board of Directors of the SLTB appointing the 7th Respondent; and
- (f) a writ of *Prohibition* restraining the Respondents and their servants or agents or subordinates acting under the letter of appointment appointing the 7th Respondent (P5A).

The 1st to 6th Respondents as well as the 7th Respondent have filed statements of objections objecting to the grant of such reliefs and seeking the dismissal of the instant application. Accordingly, the application was taken up for argument and the parties were also afforded an opportunity to file post-hearing written submissions.

Factual Background

The following narrative of the factual background may be presented based on the pleadings and documents filed by the parties.

The Petitioner had been appointed to the post of Assistant Tea Commissioner at the SLTB with effect from 01.03.2017 (1R1). According to the statement of objections filed by the 1st to 6th Respondents, there are 03 cadre positions approved for the post of Deputy Tea Commissioner, (Salary Code: MM1-1 (GI)).

Prior to the impugned selection process, applications had been called for the post of Deputy Tea Commissioner on 16.08.2023 (1R2) and the selection interview had been conducted on 10.10.2023. Eight applicants, including the Petitioner had participated, and the applicant who

had scored the highest marks (Y. G. Indrajith) had been appointed to the said post.¹ Thereafter, the applicants who were placed second and third in the order of merit at such interview (H. M. J. C. K. Wijerathna and M. K. Samaraweera) had been appointed to two vacancies that had subsequently arisen in the post of Deputy Tea Commissioner.²

A further vacancy in the post of Deputy Tea Commissioner-Exports Division had arisen on 02.07.2024 due to a promotion of an officer (K. A. M. K. Jayawardene) and C. S. Madarasinghe, who was another officer in the same rank as the Petitioner had been appointed to act in such post with effect from 07.01.2025. The Petitioner contends that such acting appointment was made in violation of his legitimate expectation as such officer was placed lower in the order of merit than the Petitioner at the aforementioned interview,³ and, the SLTB contends that the officer appointed was senior than the Petitioner and that such appointment was made in accordance with the provisions of the Establishments Code.⁴ It transpires that the Petitioner had challenged such acting appointment invoking the fundamental rights jurisdiction of the Supreme Court in SC (FR) Application No. 143/2025.⁵

Thereafter, applications had been called to fill the aforementioned vacancy in the post of Deputy Tea Commissioner by internal promotion by an internal memorandum on 25.06.2025 (1R19). Six applications had been received in response to such advertisement, and, 05 applicants, including the Petitioner and the 7th Respondent attended the selection interview that was held on 24.09.2025.

The statement of objections of the 1st to 6th Respondents also disclose that the 05-member interview panel consisting of the 2nd to 6th Respondents had been approved Ministry of Plantation and Community Infrastructure being the Line Ministry and that the interview was a structured interview conducted in accordance with the scheme of recruitment (P2) and the marking scheme (P7(a)).⁶

At the interview, the 7th Respondent received the highest aggregate of marks (55.2 marks) and had been recommended by the interview panel for appointment to the post of Deputy Tea Commissioner. The Petitioner had received an aggregate of 55.1 marks and was placed second in the order of merit.

The approval of the Board of Directors of the SLTB had been sought and obtained for the appointment of the 7th Respondent, as reflected in the Board Paper (P7(e)) and Decision (P7(d)). Thereafter, the letter of appointment dated 29.10.2025 (7R1) had been issued to the 7th Respondent appointing him to the post of Deputy Tea Commissioner -Grade I with effect from 30.10.2025.

¹ The results of the interview have been set out in paragraph 7 of the petition and the Interview Results Sheet has been annexed to the petition as part of the document X5 (pp 195-196).

² The correspondence and decisions pertaining such appointments have been annexed to the statement of objections of the 1st to 6th Respondents marked 1R9-1R18.

³ vide paragraphs 8(d) and (e) of the petition.

⁴ vide paragraph 6(xi) of the statement of objections of the 1st and 6th Respondents.

⁵ A copy of the petition in the said SC (FR) Application No. 143/2025 dated 11.07.2025 has been annexed to the petition marked X.

⁶ vide paragraphs 6(xii)-(xiv) (pp 5-6).

The marks obtained by the respective applicants and the recommendation of the interview panel are reflected in the consolidated Mark Sheet tendered with the petition marked P7(c). An image of the consolidated Mark Sheet (P7(c)) is reproduced below.

Sri Lanka Tea Board
Post of Deputy Tea Commissioner Grade I - 24th September 2025
Mark Sheet

No	Name	Additional Qualification (30 Marks)	Additional Experience (30 Marks)	Other Achievements (15 Marks)	Performance at the Interview (25 Marks)						Total (100)	position
					Chair	DG	TC	DD-TRI	D(Dev) MPCI	Average		
01	Mrs. W.M.N.D. Abeyratne	12.5	10.5	07.5	15	08	12	10	15	12	42.5	4
02	Mr. B.M.K. Madushanka	15.0	12.0	10.5	18	14	18	20	18	17.6	55.1	2
03	Mr. C.S. Madarasinghe				Absent							
04	Mr. S.A.M.B.C. Samarasekara	12.5	06.0	10.5	22	24	22	15	23	21.2	55.2	1
05	Mr. L.K. Ajith	00.0	16.5	06.0	17	05	12	12	16	12.4	34.9	5
06	Mrs. P.W.K. Rasanjalie	12.5	18.0	08.0	15	12	19	15	18	15.8	54.3	3

Recommendation
We recommend the applicant who ranked first to be recruited for the position of Deputy Tea Commissioner. (Mr. S.A.M.B.C. Samarasekara).

Signatures:
 R.K. Obeyesekere, Chairman, Sri Lanka Tea Board
 Leelanath Wickrama Arachchi, Director General, Sri Lanka Tea Board
 K.A.M.K. Jayawardena, Tea Commissioner, Sri Lanka Tea Board
 Dr. N.P.S.N. Bandara, Deputy Director (Research), Tea Research Institute
 W.W.K. Withanage, Director (Tea Development), Ministry of Plantation & Community Infrastructure

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RTI 12, 13 & 15

For purposes of clarity and convenience, the marks obtained by each applicant, as per the aforementioned Mark Sheet, are presented in tabulated form below;

No	Name	Addl. Qualification (30 Marks)	Addl. Experience (30 Marks)	Other Achievements (15 Marks)	Performance at the Interview (25 Marks)						Total (100)	Position
					Chair	DG	TC	DD-TRI	D(Dev) MPCI	Ave		
1	Mrs. WMND Abeyratne	12.5	10.5	07.5	15	08	12	10	15	12	42.5	4
2	Mr. BMK Madushanka	15.0	12.0	10.5	18	14	18	20	18	17.6	55.1	2
3	Mr. CS Madarasinghe	Absent										
4	Mr. SAMBC Samarasekara	17.5	06.0	10.5	22	24	22	15	23	21.2	55.2	1
5	Mr. LK Ajith	00.0	16.5	06.0	17	05	12	12	16	12.4	34.9	5
6	Mrs. PWK Rasanjalie	12.5	18.0	08.0	15	12	19	15	18	15.8	54.3	3

The 1st to 6th Respondents have also submitted the marks sheets of individual applicants marked 1R24-1R28.

In the instant application, the Petitioner has contested the marks awarded to him at the selection interview and impugned the appointment of the 7th Respondent based on the results of the said interview.

The 7th Respondent, in his statement of objections, has *inter alia*, pleaded that he has had a long, unblemished and illustrious career at the SLTB, possesses an extensive knowledge of the

workings and the objectives of the institution, and, that he was qualified to obtain more marks than the Petitioner.⁷

Grounds of Review and Analysis

The Petitioner contends that the interview panel has exercised their discretion in an arbitrary and/or irrational and/or unreasonable manner in allocating marks to the Petitioner.

Applicable Scheme of Recruitment and Marking Scheme

Prior to delving into the grounds of review urged by the Petitioner, it would be useful to examine the scheme of recruitment applicable to the post of Deputy Tea Commissioner. In the scheme of recruitment (P2), the post of Deputy Tea Commissioner is categorized as a post within the “Manager” category, and, it is also provided that there shall be no direct recruitments for the said post (and the posts of Deputy Tea Commissioner (Exports) and Deputy Director) and that the selection will be made based on seniority and merit.⁸ Section 5.4.2 provides for the allocation of marks for the interview in the following manner;

- Relevant Additional Experience - 30 marks
- Relevant Additional Qualifications - 30 marks
- Other Achievements - 15 marks
- Performance at the interview - 25 marks
- Total - 100 marks

The parties are not at variance that the marking scheme contained in the document marked P7(a) was used at the interview. The 1st to 6th Respondents have stated that such marking scheme had been approved by the interview panel. An image of the marking scheme (P7(a)), which contains the authentication by the interview panel, is reproduced below;

Sri Lanka Tea Board
Allocation of Marks Interview for the Post of Deputy Tea Commissioner Grade I - 24th September 2025

Criteria & Maximum Marks allocated	Marking Scheme
Relevant Additional Qualification (30 Marks)	Masters Degree - 12.5 Marks Postgraduate Diploma - 06 Marks Degree - 05 Marks Diploma - 2.5 marks
Relevant Additional Experience (30 Marks)	1.5 Marks per Year for Middle Manager (MM) Assistant Tea Commissioner Experience in Sri Lanka Tea Board
Other Achievement (15 Marks)	Sports/Performing Arts - 02 Marks Computer Skills (over and above 6 months courses) - 03 Marks/ Over and above 3 months - 1.5 Marks Agri - Based Quality/Regulatory/Development Research - 03 Marks Workshop Local - 01 mark Workshop International - 02 Marks ISO/HACCP Trainings/Certificates - 03 Marks Agri- Based Academic/Institutional Publications - 01 mark None Agri- Based Academic/Institutional Publications - 01 marks
Performance at the interview (25 Marks)	Analytical Skills Special Achievements/ Contributions to the Tea Industry Leadership Qualities Ability to work in English Knowledge about Tea Industry

R.K. Obeyesekere
Chairman
Sri Lanka Tea Board
 Leelanath Wickrama Arachchi
Director General
Sri Lanka Tea Board
 K.A.M.K. Jayawardena
Tea Commissioner
Sri Lanka Tea Board
 Dr. N.P.S.N. Bandara
Deputy Director (Research)
Tea Research Institute
 W.W.K. Withanage
Director (Tea Development)
Ministry of Plantation & Community Infrastructure

⁷ vide paragraphs 6 and 8

⁸ vide p 15

However, the Petitioner has contested the authenticity of the “individual mark sheets” of individual applicants (1R24-1R28), alleging that they are only the mark sheets personally maintained by the 4th Respondent and that it does not reflect the collective decision of the interview panel. The Petitioner has sought to establish such fact by pointing out that the marks entered for performance at the interview in such individual marks sheet in respect of all applicants are the marks awarded by such 4th Respondent and not the average of the marks awarded by all panelists that has been taken into account in the cumulative and authenticated mark sheet (P7(c)). The Petitioner further alleges that such individual mark sheets are undated and unsigned, and submitted that they should be disregarded. Upon consideration of such matters and a careful examination of the said documents, I am inclined to agree with the position taken up by the Petitioner that the “individual mark sheets” (1R24-1R28) do not reflect the collective decision of the interview panel. However, they would still be relevant and useful in identifying the qualifications/achievements for which marks have been allocated and the breakdown of marks.

Award of Marks at the Interview

The learned President’s Counsel for the Petitioner challenged the award of marks to the Petitioner under 02 categories, namely,

- (a) Relevant Additional Qualifications; and
- (b) Other Achievements.

This submission was that, if marks had been correctly awarded to the Petitioner under such categories, the aggregate marks of the Petitioner would be more than that of the 7th Respondent who was selected.

I will now proceed to examine the positions of the respective parties regarding the award of marks under the aforementioned categories.

(a) Relevant Additional Qualifications

The Petitioner states that he possesses a Bachelor’s Degree in the Science of Agriculture from the University of Peradeniya, as evidenced by the degree certificate (P9), and, in terms of the marking scheme under the said category, he is entitled to 05 marks. However, he submits that such 05 marks have not been awarded to him. Thus, he contends that, although he has only been awarded 15 marks under the said category in respect of his Master’s Degree in Business Administration (P8), he is lawfully entitled to be awarded 20 marks.

The 1st to 6th Respondents do not contest the fact that the Petitioner possesses such bachelor’s degree but have set out the following reason for not awarding marks in respect of the same in paragraph 6(xviii) of their statement of objections;

xviii) The Respondents wish to state that as the DTC is an internal recruitment and only ATC’s are eligible to apply for the post of DTC. Furthermore, as all ATC have a basic degree the interview panel that conducted the interviews on 24th September 2025

decided not to award the 5 marks for the Degree for all 5 applicants who faced the interview. Furthermore, the 7th Respondent was also not given marks for the degree. Thus, the Respondents wish to state that all 5 applicants who faced the interview were treated in a fair and equal manner.

On this issue, I wish to make the following observations. In the first instance, it is observed that the aforementioned decision not to award marks for the bachelor's degree is not reflected in the marking scheme which has been endorsed and signed by the members of the interview panel (P7(a)). Secondly, there is no other documents tendered to this Court indicating that such change in the marking scheme was intimated to the applicants prior to the interview. Thirdly, whilst the rationale indicated by the 1st to 6th Respondents above for not awarding marks for the bachelor's degree may well be justified, the approved marking scheme should have been suitably amended, if the SLTB wished to give effect to such decision at the selection interview in the interests of procedural fairness. The failure to do so constitutes a deviation from the approved marking scheme (P7(a)). Consequently, I am of the view that the Petitioner as well as other applicants who possessed bachelor's degrees have been deprived of 05 marks assigned for such qualification in the approved marking scheme, although it may not have had an impact eventually upon the order of merit.

(b) Other Achievements

The principal grievance of the Petitioner in respect of this category is that he had not been awarded 02 marks for participating in an international training course on "Introduction to origin based quality products; Geographical Indications in Asia" in Thailand reflected in the certificate marked (P16). The Petitioner's contention such training course qualifies as a "workshop-international," which carries 02 marks, in terms of the approved marking scheme.

In this instance too, the 1st to 6th Respondents do not deny the participation of the Petitioner in such training course but have set out the following reason for not awarding marks in respect of the same in paragraph 6(xxi) of their statement of objections;

xxi) The Respondents further wish to state that the Petitioner was not awarded marks for the training course AsiaGI document marked P16 under the Workshop International Category as the nomination for this particular training was only given to selected Assistant Tea Commissioners who served in the Regional sector for developing their knowledge in the required Tea Sector Mapping knowledge. For purposes of full disclosure, the Respondents state one the other applicants who faced the interview on 24th September named Mr. L. K. Ajith who had attended the same training was also not awarded any marks for this training course.

In their written submissions, the said Respondents have further clarified that such training course was not one to which all Assistant Tea Commissioners had access and did not represent a personal, academic or professional achievement obtained by the Petitioner through his own initiative.

As in the case of “Relevant Additional Qualifications,” it is observed that the aforementioned qualification in awarding marks in respect of “workshop-international” under the “Other Achievements” category is not reflected in the approved marking scheme (P7(a)). Neither is there any other document tendered to this Court indicating that such change in the marking scheme was intimated to the applicants prior to the interview. I am also compelled to reiterate that the marking scheme should have been suitably amended, if the SLTB wished to give effect to such decision at the selection interview in the interests of procedural fairness. Hence, the failure to do so constitutes a deviation from the approved marking scheme (P7(a)) and the Petitioner has been deprived of 02 marks due to him on account of such deviation. In addition to the Petitioner, other applicants who may not have been awarded marks in respect of the training course in issue or any other workshop for the same reason would be similarly prejudiced by the conduct of the interview panel.

The Petitioner further claims that he should have been awarded 02 marks for participating in the “Training Course on becoming an e-Agriculture Master Trainer” (P13) and the “Professional Programme on Tea Manufacture & Factory Practices (P14) under “workshop-local” sub-category, although he had only been awarded 01 mark “jointly” for such workshops, as per the Petitioner’s individual mark sheet (1R25). The Respondents have not offered any explanation for such a course of action. In such context, I observe that the approved marking scheme (P7(a)) does not contemplate combining several qualifications or achievements and awarding marks “jointly” in respect of same.

Based also on the Petitioner’s individual mark sheet (1R25), the Petitioner argues that he could have only obtained 10.5 marks, if he had obtained 1.5 marks allocated for “computer skills (over and above 3 months)” as a mark with a fraction is only available under such head. However, such position has been denied by the 1st to 6th Respondents, who have tendered the following explanation in paragraph 6(xx) of their statement of objections;

xx) The Respondents state that the Petitioner was awarded no marks for the Computer Skills category as the certification he provided P12(a) and P12(b) are evident that the computer course was part and parcel of his Bachelor’s Degree at the Faculty of Agriculture, University of Peradeniya. Furthermore, the Respondents state that the Petitioner had studied computer applications as part of a Semester of his Bachelor’s Degree. The Respondents further wish to state that studying computer skills in the Bachelor’s Degree cannot be treated as a computer skills course which should be either or over and above 3 months or over and above 6 months. Furthermore, the other 05 applicants were also not given marks for the computer courses which they had studied as part of a Semester of his/her Bachelor’s degree. Thus, the Respondents wish to state that all 5 applicants who faced the interview were treated in a fair and equal manner.

Since the approved marking scheme (P7(a)) merely states “computer skills” and specifies the period of “courses” for the purpose of allocating marks, it is arguable whether the above rationale provided by the 1st to 6th Respondents can be accommodated within such marking scheme.

On the computation of 10.5 marks awarded to the Petitioner under the “Other Achievements” category, based on the Petitioner’s individual mark sheet (1R25), the learned State Counsel for the 1st to 6th Respondents submitted that the Petitioner appeared to have been awarded marks for his Diploma in Quality Management twice over under the “Relevant Additional Qualifications” and “Other Achievements” categories and the 2.5 marks awarded for same would explain the fractional mark of 10.5. Whilst such an explanation is plausible, it would also indicate that the interview panel had erred in awarding marks to the Petitioner.

I am of the view that the aforementioned conduct amply demonstrates that the interview panel has exercised their discretion in an irrational and unreasonable manner in interpreting the approved marking scheme (P7(a)), making *ad hoc* and unpublished changes thereto and awarding marks to the Petitioner as well as to other applicants at the selection interview.

In ***Perera and others v. Monetary Board of the Central Bank and others***,⁹ wherein the Supreme Court made a detailed examination of the selection process relating to a promotion in the Central Bank, the Court underscored the importance of ensuring transparency in recruitment proceedings, which equally applies to promotions as well, in the following manner;

*Transparency in recruitment proceedings would go a long way in achieving public expectations of equal treatment. The selection of a person must be viewed as a serious matter requiring a thoroughgoing consideration of the need for the services of an officer, and a clear formulation of both the basic qualities and qualifications necessary to perform the services, and the way in which such qualities and qualifications are to be established. In order to ensure that justice is done and seen to be done, it is at least desirable that cadres, the criteria for selection, the method of selection and the eventual basis for selection - for instance by the publication of marks obtained - be made known to those concerned. Ideally, the whole process from the determination of the cadre to selection must be easily recognized and seen through, if not obvious. A selection process veiled in secrecy and not openly avowed and expressed is at least open to the suspicion of the existence of something evil or wrong. It is of a questionable character.*¹⁰

And

*A scheme of promotion must be justifiable in its formulation and just in its application. The law insists on justice and this, among other things, means that in the exercise of authority or power there must be just conduct. In the exercise of the power of recruitment, just conduct entails the even handed treatment of those who might be affected by the exercise of a power.*¹¹

The Court further opined on the obligations on the appointing authority to justify decisions made in the selection process, particularly when they are challenged in judicial proceedings, as follows;

⁹ [1994] 1 Sri L.R 152.

¹⁰ Ibid, p 166.

¹¹ Ibid, p 167.

And so, while the burden of proving that Article 12 of the Constitution was violated lies upon a petitioner, the burden of adducing evidence to show that the discrimination made was rational and justifiable lies on those who had the authority to do so, and made the distinctions; for if distinctions were drawn, it is they who can best explain why they were made in the discharge of their duties and in the exercise of their powers. If challenged in proceedings of this nature, they should account for their decisions and unfold the reasons for their decisions which must be plain and intelligible and understandable. Decisions must be supported by evidence. For example, if it is said that persons were appointed in terms of a scheme of recruitment, the scheme should be produced and explained in terms of the need for the post and the nexus between the work to be performed and the criteria for selection. If it is said that selections were made on the basis of an examination, the marks earned by each candidate should be produced. If persons were selected on the basis of an interview, there should be evidence of how many marks were earned by each candidate under each criterion of selection, if the marking was on a group basis; or if marking was on an individual basis, the marks given by each member of the panel to each candidate under each of the selection criteria should be made available.¹²

It is my view that the obligations set out above are equally applicable to instances where appointments are challenged invoking the writ jurisdiction of this Court. The learned President's Counsel adverted to ***Kandambige Wimal Kandambi v. Road Development Authority and others***,¹³ wherein this Court, whilst granting relief to the petitioner, observed as follows (per Mohammed Laffar, P/CA (Actg):

In this context, this court notes that the SOR was not followed, and no compelling reason was provided for deviation from the express merit-based appointment requirement, undermining the legality of the final appointment. Furthermore, the post attempt to amend the SOR, and the failure to disclose the marking sheet until ordered by Court, suggest lack of transparency and failure to act in good faith.

As submitted by the learned President's Counsel for the Petitioner and in his written submissions, having satisfied the eligibility criteria to be called for the selection interview, a legitimate expectation was created in the Petitioner that he will be duly interviewed and assessed in accordance with the approved marking scheme. In support of such contention, the learned President's Counsel cited the decision of this Court in ***Rev. Saliya Ashokapura Nanda v. University of Kelaniya and others***,¹⁴ wherein the Court observed as follows (per Mohammed Laffar, J.):

The concept of legitimate expectation is crucial in this context. The Petitioner was shortlisted and summoned for the interview, creating a legitimate expectation of being duly interviewed and assessed according to the prescribed marking scheme. The selection committee's deviation from the marking criteria by disqualifying the Petitioner based on overqualification violated this legitimate expectation.

¹² Ibid, p 165.

¹³ CA (Writ) Application No. 690/2024, decided on 08.05.2025.

¹⁴ CA (Writ) Application No. 593/2021, decided 07.08.2024.

The issue of deviation from the established procedure and consequences thereof in matters of selection, was also considered in ***Prof. (Dr.) Chelliah Elankumaran v. The University of Jaffna and others***,¹⁵ and this Court observed as follows (per Obeyesekere J);

*Taking into consideration the totality of the above circumstances, this Court is in agreement with the learned President's Counsel for the Petitioner that the 1st Respondent has acted completely outside the procedure laid down in Circular No. 723 when considering the marks given by the two External Experts for Sections 2 and 3.1. The procedure adopted by the 1st Respondent does not comply in full with Circular No. 869 either, thereby demonstrating that the 1st Respondent has adopted a procedure of its own. Such arbitrary action is not only illegal but is procedurally improper, and cannot be condoned by this Court.*¹⁶

I wish to be guided by the reasoning in the aforementioned decisions, in concluding that the aforementioned shortcomings on the part of the interview panel in conducting the selection interview has not only violated the legitimate expectation of the Petitioner of being duly interviewed and assessed in accordance with the approved marking scheme (P(7(a))), but has also undermined the legality of the appointment of the 7th Respondent based on the results thereof.

Entitlement of the Petitioner for Appointment as Deputy Tea Commissioner

In paragraph (d) to the prayer to the petition, the Petitioner has sought a writ of *Mandamus* appointing the Petitioner to the post of Deputy Tea Commissioner. As pleaded in the petition and submitted by the learned President's Counsel for the Petitioner, such relief has been sought on the basis that, if the additional marks that he was lawfully entitled in respect "Relevant Additional Qualifications" and "Other Achievements" under the approved marking scheme (P7(a)) are credited to him, he would overcome the deficit of 0.1 marks with the aggregate marks of the 7th Respondent and would be placed first in the order of merit.

Whilst it is evident that the interview process and the appointment made consequent thereto were flawed, I am of the view that such flaws do not necessarily establish or give rise to an entitlement on the part of the Petitioner to be appointed to the post of Deputy Tea Commissioner due to several reasons; firstly, as discussed above, the conduct of the interview panel has affected all or most applicants and not only the Petitioner. Secondly, since the qualifications and achievements of other applicants are not before Court and as they too would be entitled to have their marks revised, it would unfair and unsafe to make any definite findings regarding what marks they would be eventually entitled to, if the marking scheme was properly implemented. Thirdly, since there is an element of ambiguity regarding the marks that the Petitioner would be entitled to due to the possibility of double marking for the Diploma he had obtained, there is a distinct possibility that the Petitioner would not be entitled to the entirety of the marks that he has claimed. Finally, for this Court to revise and re-calculate the marks of applicants at the interview would be to step into the shoes of the interview panel and perform their function, which in my view is not the role of a Court sitting

¹⁵ CA (Writ) Application No. 147/2013, decided on 17.05.2019

¹⁶ Ibid, pp 26-27

in judicial review. Thus, I am not convinced that the Petitioner is entitled to be appointed to the post of Deputy Tea Commissioner based on the interview held (P7(c)).

Legal Objections

Although several legal objections have been raised in the statements of objections of the Respondents, the following have been pursued in the oral and written submissions filed on their behalf.

(a) Necessary Parties

Two distinct objections were raised by learned State Counsel for the 1st to 6th Respondents and the learned Counsel for the 7th Respondent relating to the failure to cite necessary parties.

The learned State Counsel submitted that in terms of section 11 of the scheme of recruitment (P2), the “Board of Directors of Sri Lanka Tea Board” has been identified as the appointing authority in respect of the post of Deputy Tea Commissioner, which position is also buttressed by the documents (P7(d)) and (P7(e)). However, she contended that, despite being necessary parties, the Petitioner has failed to cite the said Board of Directors of the SLTB as parties in the instant application. The learned State Counsel submitted that the failure to cite such necessary parties was fatal to the Petitioner’s application and moved that it should be dismissed in *limine*. In support of such position, the learned State Counsel cited the decision of the Supreme Court in ***Wijeratne (Commissioner of Motor Traffic) v. Ven. Dr. Paragoda Wimalawansa Thero and 4 others***¹⁷ and several decisions of this Court including ***Rawaya Publishers and other v. Wljedasa Rajapaksha, Chairman, Sri Lanka Press Council and others***,¹⁸ ***Sundra Marakkala Imasha Lahiruni Upeksha and others v. Hasitha Kesara Wththimuni, Principal Dhamasoka College, Ambalangoda***,¹⁹ ***Kumara Sirimal Punchihewa v. The Minister of Justice, Prison Affairs and Constitutional Reforms and others***,²⁰ ***The Ark Universal (Private) Limited v. M. Umamagal, The Divisional Secretary, The Divisional Secretariat of Maritimpattu and others***,²¹ ***Arachchikattuwa Multi-Purpose Cooperative Society Ltd v. Wasantha Gunasekara, Co-operative Development and others***,²² ***Ginimella Hewage Priyanga Nishantha Kumar v. M.A.P. Jayakody, Commissioner, Western Province Cooperative Development Society***.²³

In order to determine the legal status of the SLTB, it would be necessary to examine the provisions of the Sri Lanka Tea Board Law, No. 14 of 1975 (as amended). Sections 2 and 3 of the said Law provide as follows;

¹⁷ [2011] 2 Sri L.R 258.

¹⁸ [2001] 3 Sri L.R 213.

¹⁹ CA (Writ) Application No. 166/2017, decided on 04.04.2019.

²⁰ CA (Writ) Application No. 535/2023, decided on 30.01.2025.

²¹ CA (Writ) Application No. 56/2024, decided on 30.01.2025.

²² CA (Writ) Application No. 803/2024, decided on 04.04.2025.

²³ CA (Writ) Application No. 500/2023, decided on 19.09.2025.

2. There shall be established, in accordance with the provisions of this Law, a Board which shall be called and known as the Sri Lanka Tea Board, hereinafter referred to as 'the Board'.

3. (1) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) The Board shall have the power to acquire and hold or to manage property, both movable and immovable, and to sell and dispose of the same, to enter into contracts, and otherwise to do and perform all such acts or things as may be necessary for carrying out the provisions of this Law.

It is evident from the aforementioned statutory provisions that the “Sri Lanka Tea Board” or “the Board” has been established as a body corporate. The composition of the Board and the manner of their appointment is set out in section 6(1) of the Act.

Under special powers of the Board, section 8(2) of the SLTB Law provides as follows;

8.(2) The Board may appoint such officers and servants as it considers necessary for the efficient exercise, discharge and performance of its powers, functions and duties, and may pay them such salaries and allowances and prescribe such conditions of service for them as it may determine from time to time.

Although the objection raised by the learned State Counsel is premised on the fact that the “Sri Lanka Tea Board” or “the Board” is distinct and separate from its Board of Directors (“Board of Directors of the Sri Lanka Tea Board” as stated in the scheme of recruitment), such a distinction has not been made by the SLTB Law. The Law only recognizes the “Sri Lanka Tea Board” or “the Board,” and, in terms of section 8(2) thereof, the power to appoint staff is vested in such entity. Thus, the “appointing authority” in respect of the post of Deputy Tea Commissioner is the “Sri Lanka Tea Board” or “the Board.” The “Sri Lanka Tea Board” has been cited as the 1st Respondent in the instant application.

In this context, I also wish to observe that the factual backgrounds in which the objection relating to necessary parties had been raised and the character and the legal status of the parties themselves in the aforementioned decisions cited by the learned State Counsel are not comparable to the instant case. I further observe that my findings above are consistent and do not deviate from the principles laid down in the said decisions. In such circumstances, I proceed to dismiss the objection raised by the learned State Counsel on this issue.

The second objection relating to necessary parties was raised by the learned Counsel for the 7th Respondent, in which the learned State Counsel also concurred. His objection was that applicants for the post are affected by the reliefs sought by the Petitioner and are necessary parties and should have been joined in this application. The learned Counsel also relied on the jurisprudence developed by our Superior Courts including ***Abayadeera and others v. Dr. Stanley Wijesundera, Vice Chancellor, University of Colombo and another***,²⁴ ***Porakara***

²⁴ [1983] 2 Sri L.R 267.

***Mudiyanselage Aruna Samantha Kumara v. T. A. C. N. Thalangama and others,*²⁵
*Agarapatana Plantations Limited v. Hon. Nimal Siripala de Silva.*²⁶**

The Petitioner has responded to such objection by pointing out that what he has sought to impugn in the instant application is the appointment of the 7th Respondent, and, he has cited the said Respondent as well as the interview panel which made the selection and the SLTB which made the appointment, who are the parties directly responsible, as parties in the instant application. I am inclined to accept the position taken up by the Petitioner that the parties who are directly responsible for the action impugned by the Petitioner in these proceedings, who will also be the parties who would be affected by the grant of the reliefs sought, have been cited as parties. As such, I am not inclined to uphold the objection raised by the 7th Respondent.

(b) Misconceived Reliefs

The learned State Counsel submitted that the Petitioner is misconceived in seeking a writ of *Mandamus* for the reasons that he has not specified against which respondent such writ is sought, that the appointment has been made in the prescribed manner and with due approval, and, that the Court will exercise judicial deference in matters involving evaluation of technical special skills.

Upon consideration of the prayer to the petition, I am of the view that the reliefs sought therein have been formulated with sufficient clarity covering steps taken from the awarding of marks at the interview, the selection of the 7th Respondent for appointment, the approval of the appointment, and the issuance of the letter of appointment. Viewed from such perspective, the writ of *Mandamus* appears to have been sought by the Petitioner to obtain the benefit of the invalidation of the 7th Respondent and upon the premise that he is the most eligible candidate for such appointment according to the order of merit. Thus, I am of the view that the relief sought by way of a writ of *Mandamus* is not misconceived. However, I wish to clarify that, based on the circumstances discussed above, I have expressed the view that the Petitioner is not entitled to a writ of *Mandamus* sought to appoint him to the post of Deputy Tea Commissioner.

(c) Suppression of Material Facts

The learned Counsel for the 7th Respondent has also alleged that the Petitioner has not fully disclosed to Court the scheme of recruitment (P2) and the pending disciplinary proceedings against him (X21). However, in their written submissions, the 1st to 6th Respondents have clarified that P2 is the applicable scheme of recruitment with section 5.4 setting out the recruitment procedure.²⁷ In so far as the impact of pending disciplinary proceedings are concerned, it is observed that the letter (X21) itself states that the preliminary investigation referred to therein is not a barrier for the Petitioner to apply for any promotion. In such

²⁵ CA (Writ) Application No. 238/2020, decided on 21.05.2021.

²⁶ CA (Writ) Application No. 143/2021, decided on 09.08.2022.

²⁷ vide page 14.

circumstances, the objection raised by the 7th Respondent relating to suppression of material facts is untenable.

Conclusions and Orders of Court

For the reasons set out above, I hold that the interview panel which conducted the selection interview for the post of Deputy Tea Commissioner on 24.09.2025 has exercised their discretion in an irrational and unreasonable manner in interpreting the approved marking scheme (P7(a)), making *ad hoc* and unpublished changes thereto and awarding marks to the Petitioner as well as other applicants. Consequently, the appointment of the 7th Respondent based on the results of such interview is bad in law and is set aside. Accordingly, I proceed to issue writs of *Certiorari* as prayed for in paragraphs (b) and (c)(I) and (II) of the prayer to the petition. Since the appointment of the 7th Respondent has been set aside, the issuance of the writs of *Prohibition* sought in paragraphs (e) and (f) do not arise.

Whilst the interview process and the appointment made consequent thereto were flawed, the facts and circumstances in the instant case do not thereby conclusively establish an entitlement on the part of the Petitioner to be appointed to the post of Deputy Tea Commissioner. Therefore, the writ of *Mandamus*, as prayed for in paragraph (d) is refused. However, I proceed to issue a writ of *Mandamus* in modified form directing the 1st Respondent to conduct a fresh interview strictly in accordance with the approved marking scheme (P7(a)) for the applicants who attended the impugned interview held on 24.09.2025, taking cognizance of the matters stated herein, and, to make an appointment to the post of Deputy Tea Commissioner based on the results thereof in accordance with the provisions of scheme of recruitment (P2).

As determined by me above, the legal objections raised by the Respondents are rejected. The parties shall bear their own costs.

Application partially allowed.

Judge of the Court of Appeal

Mayadunne Corea, J.

I agree.

Judge of the Court of Appeal