

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

In the matter of an application for a
mandate in the nature of Writs of Certiorari
and Mandamus under and in terms of
Article 140 of the Constitution.

Cheka Kovida Chatudasi Mendis,
3A, Prof. Sarachchandra Mawatha,
Pitakotte.

PETITIONER

CA WRIT/131/2026

Vs.

1. University Grants Commission,
No.20, Ward Place,
Colombo 7.

2. Senior Professor Kapila Seneviratne,
Chairman,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

3. Senior Professor K. L. Wasantha
Kumara,
Vice Chairman,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

4. Senior Professor O. G. Dayaratna
Banda,
Member,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

5. Dr. Subramaniam Raviraj,
Member,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

6. Professor R. A. Attalage,
Member,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

7. Professor Hemamalie D. Gunatilaka,
Member,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

8. Mrs. C. K. W. Unamboowe, PC,
Member,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

**2nd to 8th Respondents all Members of
the University Grants Commission.**

9. Dr. Priyantha Premakumara,
Secretary of the Commission,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

10. H.D. Rasika Karunaratne
Deputy Secretary (Admissions),
University Grants Commission,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

11. Amanadee Wickramasena,
Assistant Secretary (Admissions)
University Grants Commission,
University Grants Commission,
No.20, Ward Place,
Colombo 7.
12. Hansika Fernando,
Senior Assistant Secretary,
University Grants Commission,
No.20, Ward Place,
Colombo 7.

RESPONDENTS

13. Nawuttuduwe Liyanage Senan
Lonitha Wijesinghe,
5B, Medial Road,
Ratmalana.
14. Rathnayake Mudiyansele Disakya
Senuthi Rathnayake,
No.196, Wilgoda Road,
Kurunegala.
15. Atharagalle Gamagedara Ameesha
Shakuni Gamagedara,
Sri Wardanarama Road,
Mapamadulla,
Kulugammana,
Kandy.
16. Abeykoon Mudiyansele Buddhika
Prabodini Abeykoon,
No.42/D,
Dambarawa,
Menikhinna.
17. Dissanayaka Mudiyansele
Chamathka Wimansi Dissanayake,
No.103, 3rd Lane,
Bandarawatte,
Batuhena,
Hidellana,
Rathnapura.

18. Paththinige Prabahavi Supunsara Senarathna,
No.396/6, Galle Road,
Thalpitiya South,
Wadduwa.
19. Gowrisankar Dinosan,
Urumpirai North,
Urumpirai.
20. Karunakaran Thivasavan,
Inuvil South,
Manipay Road,
Jaffna.
21. Venuga Krishnakumar,
No. 9, Puvaneswary Ampal Veethy,
Ariyalai,
Jaffna.
22. Paraniha Selvendradas,
No.91, Paruthikaladdy,
Chunnakum,
Jaffna.

ADDED RESPONDENTS

Before: **R. Gurusinghe J.**

&

Dr. Sumudu Premachandra J.

Counsel:

Manohara De Silva, PC, with Dilmini De Silva
instructed by Anusha Perusinghe for the Petitioner.

Chaya Sri Nammuni, DSG with Jemiah Sourjah, SC for
all Respondents.

Suren Gnanaraj, with Anuk Dharmasena, instructed
by Amila Kumara, for the 13th – 22nd Added
Respondent.

Written Submissions: By the Petitioner filed on 12/05/2026.

By the 1st to 12th Respondents filed on 14/05/2026.

By the 13th to 22nd, Added Respondents filed on 13/05/2026.

Argued On : 13/05/2026.

Judgement On : 19/05/2026.

Dr. Sumudu Premachandra J.

1] The Petitioner, a 20-year-old alumnus of Ananda College, Colombo, sat for the G.C.E. Advanced Level (A/L) examination in late 2024 within the Biology stream. He achieved three "A" passes and one "B" pass, resulting in a Z-score of 1.8188. While his foremost preference was to pursue a Bachelor of Medicine and Bachelor of Surgery (MBBS) degree, his Z-score fell short of the minimum requirements for medical faculties across all state universities. Consequently, he was instead granted admission to the 'Biochemistry and Molecular Biology' program at the University of Colombo, which was accepted by the Petitioner.

2] Seeking admission into a medical faculty, the Petitioner applied under the "Special Intake Scheme" detailed in Section 6 of the University Grants Commission (UGC) handbook. This scheme is designed for students who have excelled in extracurricular activities at national or international levels, provided they meet a minimum Z-score within 0.2000 of the district cut-off point. The Petitioner met the revised Z-score threshold of 1.6839 for Medicine under this provision and submitted an application highlighting his extensive achievements.

3] The Petitioner's application was supported by a distinguished record of extracurricular accomplishments between 2021 and 2024. These included winning a State Literary Award in 2020 for his book 'Smoke and Mirrors',

becoming the National Champion at the 18th Sri Lanka Schools Debating Championship, and representing Sri Lanka in international debating competitions in Hong Kong. Furthermore, he received a Bronze Award in the Queen's Commonwealth Essay Competition and a Merit Award from the Trust for Sustainable Living, both of which involved participants from over 50 countries.

4] The crux of the Petition involves the "arbitrary and irrational" failure of the Respondents, including officials from the UGC, to shortlist the Petitioner for an interview. The Petitioner discovered in October 2025 that he had not been scheduled for an interview despite his qualifications. During a subsequent meeting, the Deputy Secretary (Admissions) appeared "perplexed" as to how these achievements had gone unnoticed. The Petitioner alleges that his file was not properly considered by the officer responsible for shortlisting, leading to an unfair exclusion that he argues breaches the Principles of Natural Justice.

5] The Petitioner alleges that his disqualification from the "special intake scheme" for extracurricular excellence was based on an arbitrary and procedurally unfair requirement that his achievements be certified by the Ministry of Education. He argues that the University Grants Commission (UGC) handbook does not mandate such certification and that the requirement was applied without prior notice, after his application had already been submitted. Despite the Respondents' initial refusal to verify his credentials, the Petitioner personally sought verification, discovering that the relevant authorities had not received any Formal Inquiry from the Respondents regarding his debating and literary achievements.

6] Following extensive efforts by the Petitioner to facilitate communication between Government Ministries, he was finally granted an interview on 11/11/2025. However, he maintains that the interview process was marred by further "arbitrary" and "irrational" conduct. Specifically, he was initially told his documentation, including a letter of recommendation (P16A) from the Deputy Principal of Ananda College, was valid, only to have the board suddenly reverse this position mid-interview. He was then forced to obtain a fresh letter from the

Principal by noon the following day under an "ultimatum," despite the school being restricted due to ongoing examinations.

7] Ultimately, the Petitioner asserts that the selection process violated Article 12(1) of the Constitution, claiming he has received unofficial information that less qualified candidates with lower z-scores were selected over him. He contends that the interview panel failed to follow a proper marking scheme and that his debating achievements were not given due weight because the Respondents failed to verify them as promised. Furthermore, he alleges the interview was unfairly curtailed by a member of the board who spent several minutes questioning his interest in Molecular Biology rather than assessing his extracurricular merits.

8] The Petitioner alleges a breach of the Principles of Natural Justice, claiming he was denied a fair opportunity for university admission under the special provisions for students with excellence in extracurricular activities due to unauthorized and inconsistent administrative decisions. To address this, the Petitioner filed a Right to Information (RTI) application on 27/01/2026, requesting various details such as applicable by-laws, z-score cut-off points, the number of selected students across major faculties, and specific merit-based certificates used for selection. Key evidence annexed to support this includes the RTI application marked as P18, an acknowledgement letter from the 1st Respondent dated 09/02/2026, marked as P19, and a letter of demand dated 23/02/2026, marked as P20 (i) and P20 (ii).

9] In view of the above circumstances, the Petitioner prays that this Court be pleased to;

(a) Issue Notice of this Application on the Respondents above named, in the first instance;

(b) Grant and issue a mandate in the nature of a Writ of Certiorari to quash if any decision has been taken not to select the Petitioner under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities';

(c) Grant and issue a mandate in the nature of a Writ of Certiorari quashing all selections if made under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', if the Petitioner's name is not included in the list;

(d) Grant and issue a mandate in the nature of a Writ of Mandamus to select the Petitioner under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities';

(e) Grant and issue a mandate in the nature of a Writ of Mandamus directing the Respondents to consider and/or reconsider all applications including the Petitioner's application for admission under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', for the academic year 2024/2025 according to law and in accordance with the provisions of the UGC Handbook, the applicable law, and the Principles of Natural Justice;

(f) Call for and examine the entire record, under Article 140 of the Constitution, pertaining to the applications made under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', for Medicine including the marking scheme approved by the 1st Respondent, evaluation sheets, individual marking sheets and minutes of any committee deliberations etc.;

(g) In the event that Your Lordship's Court finds that the evaluation and/or interview process was conducted unlawfully, irrationally and/or with procedural impropriety, grant and issue a mandate in the nature of a Writ of Mandamus directing the Respondents to conduct a fresh interview and/or re-evaluate the applicants who applied under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', before a duly constituted panel under a marking scheme approved by the 1st Respondent;

(h) Grant an Interim Order restraining the Respondents from giving effect to any final selection list for under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', for university admission for the academic year 2024/2025 until the final determination of this application;

(i) Grant and issue Interim Relief directing 1st Respondent and/or his servants, agents or assignees to submit documents and/or information including but not limited to;

- i. the by-laws that were followed by the 1st Respondent in selecting students for the special intake,
- ii. the list of applicants evaluated for admission through the special intake interview and the number of students that were selected and their respective z-scores and the qualifications they claim for admission under section 6, subsection 6.2 of the UGC handbook, 'admission of students under special provisions – students who have excelled in extracurricular activities', for university admission for the academic year 2024/2025,
- iii. the z-scores cut-off points to be eligible for consideration under the special intake scheme,

- iv. the mark schedule of all the applicants under section 6, subsection 6.2 of the UGC handbook, ‘admission of students under special provisions – students who have excelled in extracurricular activities’, for university admission for the academic year 2024/2025,
- v. if any marking scheme was followed, the said marking scheme,
- vi. the national or international level 1st, 2nd or 3rd place certificates that were taken into account and their relative merits considered in selecting students for special intake for university admission for 2024/2025 under section 6, subsection 6.2 of the UGC handbook, ‘Admission of Students under Special Provisions – Students who have excelled in extracurricular activities’,
- vii. the marking scheme used to evaluate and compare between the relative merits of the national or international level 1st, 2nd or 3rd certificates as well as any supplementary achievements of each of the selected students for admission through the special intake scheme (section 6, subsection 6.2 of the UGC handbook, ‘admission of students under special provisions – students who have excelled in extracurricular activities’), for the academic year 2024/2025.

(j) Grant costs,

(k) Grant such other relief as this Court shall meet.

10] On 31/03/2026, the matter was supported for Formal Notices and Interim Reliefs. The Court issued Formal Notice and Interim Relief only limited to prayer “h”.

11] On 28/04/2026, the Intervenient Petitioners supported for intervention. They are the successful candidates from the above “special intake scheme”

under sections 6 and 6.2 of the UGC Handbook. The learned President's Counsel for the Petitioner and learned Deputy Solicitor General for the 1st to 12th Respondents had consented to the intervention as the 13th to 22nd Respondents are directly affected by the decision, especially from the Interim Relief. The Court allowed the intervention, and they were added as Added Respondents 13th to 22nd. As the parties in this matter have decided expeditiously, since the mid-year exams and lectures are on, this was argued, and the judgement was fixed for 19/05/2026. This is the brief history of the case.

12] By Objection dated 12/05/2026, the University Grants Commission (UGC), in response to a Petition concerning university admissions, the State raised several preliminary objections, asserting that the Petitioner's claims are legally misconceived and vague. They specifically argue that the Petitioner failed to include the necessary university as a party to the case, which they claim should lead to the Petition's dismissal "*in limine*".

13] When concerning the objection that the necessary parties have been named, the necessary party was indicated by the Petitioner, Uva Wellassa University, where the 13th to 22nd Respondents are currently being followed in the MBBS special intake selection. However, the learned President Counsel for the Petitioner said that they did not know the university (Uva Wellassa University) at the institution of this action and therefore; were unable to add Uva Wellassa University as a party to this application. In fact, selection and referral to the University is vested in the 1st to 12th Respondents, and the Petitioner cannot be overburdened with this. The rule, "The law does not compel a man to do a thing which cannot possibly be performed", is a foundational legal principle known as the Latin maxim "**Lex non cogit ad impossibilia**".

14] In answering the allegation that prayers are vague, the Learned President Counsel said they are not vague for the abundance of caution; they were prayed for. We do see this as a valid reason, as the Petitioner cannot seek redress halfway through.

15] I now advert into the core of the dispute. It centers on the "Special Intake" for students with exceptional extracurricular achievements for the 2024/2025 academic year. The Respondents detail that while the Petitioner was eligible to apply based on their Z-Score of 1.8188, the Petitioner was ranked 24th out of 38 candidates following a rigorous interview and evaluation process. They emphasize that for this specific category, only 10 slots were available for Medicine, and the selection was based on a marking scheme for extracurricular achievements rather than Z-Scores alone.

16] Furthermore, the Respondents defend the integrity of their selection process, stating it was conducted in a transparent and objective manner in compliance with UGC Handbook guidelines. They specifically refute the Petitioner's attempts to reclassify certain achievements, such as a "Bronze Award" from a Non-Governmental Organization, which did not qualify under the established national-level criteria. Finally, they note that the Petitioner is already enrolled in a Biochemistry program at the University of Colombo, making the request for a Writ of Mandamus to enroll in a different course contrary to existing UGC provisions.

17] The 13th to 22nd Respondents argue that the Petitioner failed to include necessary parties and misrepresented material facts, rendering the application futile and misconceived. They emphasize that they are medical students at the University of Uva Wellassa who gained admission through a "Special Intake Scheme" based on their excellence in extra-curricular activities.

18] Further, the objections outline a timeline where the students were selected and enrolled in early 2026, successfully completing 11 weeks of pre-clinical coursework in subjects like Anatomy and Physiology. According to them, their studies were abruptly halted on 08/04/2026, when they were ordered to vacate university premises due to an Interim Court Order. The respondents claim they were never given an opportunity to be heard before this suspension and that the Petitioner concealed the fact that they were already active students when seeking the court's intervention.

19] Finally, they assert that their admission was independent of the Petitioner's non-selection and that they have a legitimate expectation to complete their medical degrees. They challenge the Petitioner's scrutiny of their school-level achievement marks, maintaining that their selection by the University Grants Commission (UGC) was lawful and consistent with official handbooks.

20] I now consider the merits of this application. The 1 to 12 Respondents admits that the Petitioner meets the Z-score threshold for eligibility, but he was ranked 24th out of 38 candidates following an interview evaluation, where only 10 slots were available at Uva Wellassa University, and he was not offered.

21] The Respondents say that the Petitioner failed to meet the selection criteria as defined by the UGC handbook, specifically noting that the Petitioner only obtained 8 marks during the interview process, which was the sole determining factor for final ranking.

22] With regard to the objection of not adding necessary parties, in **Wijeratne v. Ven. Dr. Paragoda Wimalawansa Thero and 4 others** (2011) 2 SLR 258, His Lordship Gamini Amaratunga, J. held as follows;

*“A necessary party to an application for a Writ of Mandamus is the officer or the authority who has the power vested by law **to perform the act or the duty sought to be enforced** by the Writ of Mandamus. All persons who would be affected by the issue of Mandamus also shall be made Respondents to the application.”* [Emphasis is added]

23] In the case in hand, UGC has the power for the selection process and for selecting special entrants for the MBBS degree, not by the UVA Wellassa University. Uva Wellassa University cannot select entrants for MBBS or any other degree. They give the training, and ultimately, on successful completion of the degree, they give the graduation certificate and the graduates are to be enrolled by the Ministry of Health. Thus, the Said Uva Wellassa University cannot be categorised as a necessary party to the action, and, as noted above,

the Petitioner was unaware of where the said special intake students were placed until they came forward due to the Interim Sanction. If no Interim Relief was given, no facts would be revealed in this regard. Thus, as noted in paragraph 13 in this judgement, the Petitioner cannot ask to do what is impossible. It is a duty of the 1st Respondent, as a public authority, to publish all these details as the public spends money for training all undergraduate students from taxpayers' money. Thus, the Petitioner cannot fault the failure to join the necessary parties. Thus, not adding a necessary party cannot be taken as a valid objection. Thus, we suppress this objection.

24] Learned Deputy Solicitor General says that since the facts are in dispute, it precludes the granting of a Writ. The Respondents assert that the evaluation of extracurricular achievements such as distinguishing between organizations are recognized by the Ministry of Education and those do not fall within the specialized expertise of the interview panel. They rely on the decision of **Public Interest Law Foundation v. Central Environment Authority** (2001) 3 SLR 330. In that, U. DE Z. GUNAWARDENA. J. held;

“It is worth observing that the review procedure is not well suited to the determination of disputed facts. . .

25] Further, they rely on **Wimalasena v. Piyaratne Wickramage and Others CA/WRIT/173/2015** minutes dated 03/07/2018, where His Lordship Mahinda Samayawardhena, J., held that the Court should not substitute its own opinion for that of an expert body, as judicial review is concerned with the decision-making process rather than the merits of the decision itself.

26] Moreover, the State cited the decision of the Supreme Court, **Francis Kulasooriya v. OIC Police Station-Kirindiwela** (SC Appeal No. 52/2021, SC Minute of 14/07/2023) judgement by Vijith K. Malalgoda PC J, which considered that the revisionary powers of the court, rather than writ jurisdiction, have no application to this case.

27] Further, the Respondent cited **Dr. Puvanendran v. Premasiri** (2009) 2 SLR 107¹, that the Supreme Court emphasized that writs will not be issued when major facts are contested.

28] I now consider whether major facts are disputed in this matter. R1 is the Admission Book issued by the UGC, the 1st Respondent, for the Academic Year 2024/2025, based on the G.C.E. (A/L) Examination 2024. Under this Handbook, the students who have excelled in extracurricular activities are taken under clause 6.2. It says;

*“ Up to 0.5% of the places from the proposed intake in each course of study other than courses offered by the University of the Visual and Performing Arts **have been reserved for candidates who have obtained 1st, 2nd or 3rd places at national level and / or achievements at international levels in such fields as sports, cultural activities**(E.g. dancing, painting, music and literature),scouting and cadetting, social work and other extra-curricular activities between 01.12.2021 to 30.11.2024 but have failed to gain admission under the normal intake because of the shortfall of a few Z - scores.*

In the case of the University of the Visual and Performing Arts up to 4% of the places from the proposed intake in each course of study have been reserved for the admission of students under this category. In order to be eligible for admission under this provision, candidates should have satisfied the minimum requirements specified in Section 1.2 and subject pre-requisites for admission to a particular course of study specified in Section 2.2 of this handbook.

¹ Her Ladyship Shiranee Tilakawardane, J, held; *“The writ of mandamus is principally a discretionary remedy - a legal tool for the dispensation of justice when no other remedy is available. Given the power of such a remedy, the Common Law surrounding this remedy requires multiple conditions that must be met prior to the issuance of a writ by Court. The Court will issue a writ only if (1) the major facts are not in dispute and the legal result of the facts are not subject to controversy and (2) the function that is to be compelled is a public duty with the power to perform such duty.”*

Candidates who are within a Z – score of 0.2000 of the cut-off-point applicable to the admission district of the candidate in the relevant course of study will only be considered for admission and should be summoned for an interview.

*Candidates who are eligible under this scheme are required to produce documentary evidence with regard to their achievements at national/ international level when they are summoned for an interview at the UGC Secretariat. **Marks will be awarded for their achievements at the interview in accordance with a marking scheme approved by the UGC. Final selection will be made in order of the marks that applicants obtain at this evaluation,** depending on the places available under this special provision.*

For selection of candidates, marks scored at this evaluation will not be added to the Z-score marks obtained by applicants at the G.C.E. (Advanced Level) Examination.” [Emphasis is added]

29] When the criterion is clearly set out, facts cannot be disputed. If the marks awarded are as mentioned in the marking scheme approved by the UGC, then the 1st to 12th Respondents cannot say that facts are in dispute or the court cannot replace the experts’ views, as marking is precise and leaves nothing to think. R8 is the approved marking scheme. If they allocated marks according to the marking scheme, there would be no confusion. R8 is the points scheme for selecting students under the admissions process for students who have excelled in extracurricular activities, with effect from academic year 2024/2025. At the very outset, it was divided into levels; those are;

External (National & International levels)	80pts.
Internal (School level)	20pts.

30] Para. 1.0 elaborates external level performance in sports, cultural activities, scouting and cadetting, social work and other extra-curricular activities. Para.

1.1 explained the scheme of points to be awarded on the international level. Para 1.2 explained the national level, and Para 2.0 explained the school level.

31] The Petitioner says that he should be given points as below;

R1(d): The Queen's Commonwealth Essay Competition 2022- (bronze Medal 16pts. (international level, bronze medal)

R1(b): State Literary Awards 2020- winner(first place) 10pts.(National level 1st Place)

1st Place School Debate Championship 8pts.

Total: 34pts

32] The Petitioner contends that he ought to be given 34pts; if so, he should be first in the list and should be selected as an eligible candidate under this category to do Medicine. However, he claimed that his qualification was undermined. The given points at the interview are as follows;

R1(d) : 1pts. The State mentioned that this was organized by a Non-Governmental Organization, thus only 1 point was given.

R1(b): 4pts. This achievement was considered a non-standard achievement, and only 4 points were given out of 10 points. However, R5(b) and R12(b) show that this state literary award is the highest award in the state sector. (රාජ්‍ය අංශයේ ඉහලම සම්මානයයි). Thus, it is seen that after verifying the status of the achievement, the 1st to 12th Respondents have failed to appreciate the achievement at the interview and award points as allocated by R8.

33] At the oral argument, the Learned President Counsel showed that the Petitioner was treated unequally on R1(d). He showed that Annexure IV of R9: one Engineering student, given points at the international level, who has participated in the Senior Men's Artistic Gymnastics Championship held in Uzbekistan. Further, the Petitioner showed AR1(d), full points were given to the candidate Interschool Basketball Tournament which was organized by the School Basket Ball Association, though the Respondents mentioned that the said points were awarded only for the competition organized by the Ministry of

Education. Thus, it is evident that the R8 criterion was not applied equally during the interview. If the said participation was considered under international level, this court is puzzled why R1(d) had not been considered in the same manner.

34] The Respondents tried to justify this stance by producing R7, a letter dated 21/07/2011 issued by the Ministry of Education on the topic of resolving problems with certificates (සහතික පිලිබඳ ගැටළු නිරාකරණය කර ගැනීම). This is ancillary to R8 and contrary to R1 clause 6.2. R7 has never been published to the candidates, and it is dubious; this was applicable to intake 2024/2025, as it was written in 2011. If R7 was published in advance, the Petitioner knows the criterion to be applied, and thereby he cannot have a legitimate expectation of his achievements. Thus, it is evident that the R8 criterion was not applied equally during the interview. If the said participation was considered under international level, this court is puzzled why R1(d) had not been considered in the same manner. Thus, the matters in R7 should not have been applied to the selection as it was unknown to the candidates, and it could be interpreted favourably to bias the candidates.

35] In this scenario, we hold that the marking of Petitioner's achievements is arbitrary, irrational and illegal. It should be noted that the Petitioner is entitled to the right to consideration by the Public Authority, in this matter, the 1st Respondent, UGC.

36] This aspect has been considered in **E. Sandumini Navanjana Edirisinghe Vs University Grants Commission** Case No: CA/WRIT/765/2023, Decided on: 10/05/2024, by His Lordship D. N. Samarakoon J. His Lordship cited with the approval in "The book "Due Process and Fair Procedures" "A Study of Administrative Procedures" by D. J. Galligan, Clarendon Press Oxford, 1996, Chapter 03 titled "Rights, Procedures and Costs" and at page 108, under "3.2.4 The Right to Consideration", his lordship notes that;

"3.2.4 The Right to Consideration

Against that background, let us now consider how to give content to the general principle, to identify the values which should be inserted into it. **One idea is often expressed in terms of non-arbitrariness, the claim being that each person has a right to be treated in a way that is non-arbitrary** (For a discussion on these lines, see T. M. Scanlon, 'Due Process' in Pennock and Chapman, *Due Process*, n. 19 above). Now arbitrariness is an elusive concept, **but it does convey an idea of what is important in the relationship between citizen and state: the individual with (Pg 109) his interests and concerns in some sense counts in the deliberations of the discretionary decision-maker (One of the difficulties in trying to use arbitrariness as a critical concept is that what amounts to arbitrariness depends on what it means, in different contexts, to take a person into account; arbitrariness is of no help in answering that question).** Individual persons are very much affected by discretionary decisions where the wider public interest is the main concern, and the fact that some of the most fundamental interests in liberty, property, livelihood, and status are vulnerable to administrative action is a sound basis for restraint in pursuit of the public interest. It is then a short step to a normative principle which takes account of that vulnerability and justifies minimum standards of protection.

The principle may be called the principle of consideration, suggesting that the interests of those affected must be taken into account, while allowing that ultimately they may be overridden by wider notions of public interest. But while a sense of public interest may prevail, it does so only after proper account is taken of the interests affected. The principle insists on the official responding to those interests while retaining the decision as to the course of action finally to be followed. **The principle of consideration guarantees no result, but it shows that the interests of persons are an element of the public interest and should be taken seriously.** The principle of consideration in turn generates a right to consideration (The argument here is presented in more detail in D. J. Galligan, 'Rights, Discretion and Procedure' in Sampford and Galligan, *Law, Rights and the Welfare State*, n. 13 above). We now have a clear thread running between basic, moral, and legal rights:

the basic right to be treated with respect as a person justifies a moral right to consideration in the affairs of government, while that moral right provides the case for a legal right to certain standards of fair treatment governing the exercise of discretion. The standards in turn generate rights to appropriate procedures.” [Emphasis is added]

37] In the case in hand, it is very much evident that the consideration has not been applied. In the context of administrative law and writs (particularly **Mandamus**), the "Right to Consideration" means that an applicant has a legal right to have their application, appeal, or case properly, fairly, and reasonably considered by a public authority, even if they do not have a guaranteed right to a specific outcome. In this case, the Petitioner was not called for an interview despite he had relevant qualifications, to be considered.

38] The principle of “Right to Consideration” ensures that authorities do not act arbitrarily, unfairly, or ignore their duty to act in accordance with the law. In the case in hand, the Petitioner’s application was initially overlooked and ignored. The key aspect of the Right to Consideration is the right performance of duty by the Public Authority; if not, Writ of Mandamus compels a public body to exercise its discretion and perform its legal duty to consider a matter, rather than forcing it to decide in a specific way with a pre-arranged mindset. This creates procedural fairness, which ensures the authority acts within its jurisdiction, follows proper procedures, and considers all relevant materials, while ignoring irrelevant ones. The Authority is bound to provide reasons, which is the key requirement for a "reasoned or speaking order," where the authority must formally explain the reasons for its decision. When the authority refuses it without reviewing relevant documents or acting under improper influence, a writ lies against the said decision.

39] In **Rienzie Perera and Another v University Grants Commission and Another** [1980] 1 Sri L.R. 128, SHARVANANDA J., (as he then was), held;

“the Court is not concerned with the motivation for the impugned action, but with its effects. Selection by application of the ratio basis resulted in discrimination between equals, and accordingly should be struck down”

40] In this case, we noted that the evaluation criteria applied by the authorities (UGC) directly violated Paragraph 6.2 of the University Admission Handbook. The evaluation process lacked essential transparency.

41] The plight of the added Respondents is to be considered if the selection process is invalidated. Because these students are already fully enrolled and participating in the MBBS program, rightly or wrongly, they possess a strong "**legitimate expectation**" to complete their degrees. This court does not wish to shatter their ambitions. By Interim Relief, the court has barred their participation for clinical training. The time period of this bar should not be hindered or counted adversely to their exams.

42] The 1st Respondent has taken a technical bar that the Petitioner is already actively enrolled in a Biochemistry and Molecular Biology program at the University of Colombo. Under explicit UGC Admission Guidelines, active registration in a state university course technically precludes a candidate from seeking a Writ of Mandamus to force a transfer or late admission into an alternative program. We see this as a technical objection, as all students selected under the special intake scheme as respondents are deemed to have a fatal procedural flaw. Thus, the Petitioner cannot be prejudiced by this rule.

43] The prayer “g” of the Petition moves to quash all selection and reevaluate. However, if this were allowed, it would cause a disastrous situation. In ***Inasitamby v. Government Agent, Northern Province*** 34 NLR 33, the Court held that;

"A Court before issuing a writ of mandamus, is entitled to take into consideration the consequences which the issue of the writ will entail."

44] Further, in the case of **P.S. Bus Company Limited vs. Members and Secretary of Ceylon Transport Board** 61 NLR 491, the court held, *inter alia*,

“The Court should also take into consideration the disastrous consequences of granting the Writ.”

45] Thus, we are not inclined to issue prayers “c”, “e”, “f” and “g” as it will cause a disastrous situation in the selection process. Instead we issue only prayers “b” and “d”, issuing in the nature of a Writ of Certiorari for quashing the non-selection and Writ of Mandamus to select the Petitioner under 6.2 of the UGC Handbook on extra-curricular activities for the degree of MBBS (Medicine) at Uva Wellassa University. 1st Respondent is ordered to switch the program from the Biochemistry and Molecular Biology program at the University of Colombo to Medicine at Uva Wellassa University.

46] In the above circumstances, the application is partly allowed, granting relief of prayers “b” and “d”. There will be no costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL