

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

CA (Writ) App. No. 749/2023

1. H.M. Thilakaratne,
"Dharmasiri", Dodamgaswatta,
Aththalapitiya, Bandarawela.
2. S.N.P. Wimalaratne,
"Madhura Niwasa",
Kudagoda, Udaperuwa,
Kinigama, Bandarawela.
3. W.M. Jayathilaka,
"Tharanga Niwasa",
Heel oya, Bandarawela.
4. J.P. Dickson Silva,
Heraliya Gaskumbura,
North Kebillawela, Bandarawela.
5. K.A. Podiralahami
Kahaththewela,
Welimada Road, Bandarawela.
6. J.M. Jathisinghe
Kumara Niwasa,
Liyangahawela.
7. W.D. Namal Piyaratne,
"Senasuma", Piyarapandowa.

PETITIONERS

Vs.

1. Mr. H.P.A.G. Anuruddha,
Provincial Commissioner of Co-
operative Development and Registrar
of Co-operative Societies - Uva
Province,
2. Mr. T.M. Samarakoon,
Assistant Provincial Commissioner
of Co-operative Development - Uva
Province,
3. Mr. M.T.M. Naleem,
Assistant Commissioner of Co-
operative Development - Badulla,
4. Mr. K. Kannan,
Co-operative Development Officer,
5. Ms. D.M. Darshani Nilmini
Dissanayake,
Co-operative Development Officer,
6. Ms. P.A.U.I. Perera,
Co-operative Development Officer,
7. Mr. R.M. Saman Bandara,
Co-operative Development Officer,
8. Ms. P.M.K. Weerasinghe,
Co-operative Development Officer,
9. H.M. Sanduni Sasangika Herath,
Co-operative Development Officer,
10. Mr. J.B. Priyantha Dissanayaka,
Assistant Commissioner of Co-
operative Development,
11. Mr. P. Manjula Jayasiri,
Co-operative Development District
Officer (Cover-up duties),
12. Mr. N.A.B. Munidasa,

1st to 12th Respondents of;
Department of Co-operative
Development - Uva Province,
No. 199, Keppetipola Road,
Badulla.

13. Mr. A.Z.M. Muzzamil,
Hon. Governor of Uva Province,

14. Ms. R.H.C. Priyanthi,
Secretary to the Hon. Governor - Uva
Province,

The 13th and 14th Respondents both
of;
Governor's Office, Raja Weediya,
Badulla.

15. Bandarawela Multi-purpose Co-
operative Society Ltd.,

16. Mr. R.M. Premasiri,
General Secretary,
Bandarawela Multi-purpose Co-
operative Society Ltd.,

17. Ms. Lakshmi Dhammika,
General Manager,
Bandarawela Multi-purpose Co-
operative Society Ltd.,

The 15th to 17th Respondents of;
Bandarawela Multi-purpose Co-
operative Society Ltd.,
No. 04, Perera Mawatha,
Bandarawela.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Saliya Pieris, P.C., with Anjana Ratnasiri and Thilini Rankoth for the Petitioners.

Mihiri de Alwis, S.S.C. for the 01st to 14th Respondents.

Sapumal Bandara with Lakshith Edirisinghe instructed by Amanda De Moore for the
15th to 17th Respondents.

Argued on: 08.12.2025

Delivered on: 23.07.2026

Dr. D. F. H. Gunawardhana, J.

Judgement

Introduction

The Petitioners are members of the Bandarawela Cooperative Society, and their membership has been suspended pending inquiry. Being aggrieved by the said suspension, the Petitioners sought to invoke the writ jurisdiction of this Court. Initially, this Court issued formal notice, and after objections were filed, this matter was argued before me on 08.12.2025. The following arguments were advanced at the hearing; hence, this judgement.

Arguments

The first contention advanced by Mr. Saliya Peiris, P.C., is that the Respondents, by suspending the membership without holding an inquiry or even recording a statement from the Petitioners, have violated the rules of natural justice, and therefore, such suspension is illegal.

On the other hand, Mr. Lakshith Edirisinghe (junior counsel to Mr. Sapumal Bandara) contended that the suspension is justified in view of Section 54(3) of the by-laws of the statute published by the Provincial Council, which is marked and annexed to the Petition as **P1(b)**. Further, he argued that **P14** indicates the reason for the suspension, namely that the Petitioners may have tampered with evidence and interfered with witnesses.

The second argument of Mr. Lakshith Edirisinghe is that since the inquiry is now over, this Application is merely of academic interest.

Additionally, Ms. Mihiri de Alwis, S.S.C., argued that the main inquiry has concluded. As such, the Petitioners cannot maintain this Application now, since their membership has already been suspended for five years.

The Petitioners' position

The 15th Respondent is the Bandarawela Multi-purpose Co-operative Society Limited (hereinafter referred to as “the Co-operative Society”) of which the 1st Petitioner is the Chairman whilst the 2nd Petitioner is the Vice Chairman of the said Co-operative Society.

According to the Petition, the 15th Respondent had been established since 1991, and the administrative decisions of the Co-operative Society is taken by the Board of Directors, elected in terms of the by-laws of the Co-operative Society; the said by-laws are marked and annexed to the Petition as **P2**. The Petitioners state that the 1st Petitioner has served in the Board of Directors of the Co-operative Society for 29 years, and for the last 20 years, he has functioned as the elected chairman of the Co-operative Society. The said 15th Respondent Society has more than Forty-Three Thousand members and One Hundred and Sixty (160) employees under it; to establish this, the management report is marked and annexed to the Petition as **P3**.

The Petitioners state that they have been elected to the Board of Directors of the Co-operative Society for a period of three (03) years by majority vote at the Annual General Meeting held on 18.09.2022 by eighty-seven delegates who participated at the said meeting, of which, the 1st Petitioner was elected to the Board of Director by majority vote of eighty votes; to establish this, they have annexed the document marked as **P4** to the Petition.

In addition to that, the Petitioners claim that during their management from 01st January 2023 up until 30th September 2023, the Co-operative Society had secured a profit of Rs. 38,782,180/- (Thirty-Eight Million Seven Hundred and Eighty-Two Thousand One Hundred and Eighty Rupees), and to establish that, the financial report on the profit is marked as **P5** annexed to the Petition.

Further, the Petitioners claim that the Co-operative Society's affairs have regularly been audited as well. The Petitioners assert that during their tenure, they have taken actions according to the audit reports so obtained.

The Petitioners allege that certain political party had also pooled their own six members for the election that was held in September 2023, who were defeated; Nevertheless, they have instigated a fictitious Society called "Purawasi Sabhawa" to send petitions against the management of the Co-operative Society to the Governor of the Uva Province. Accordingly, the Governor has caused an audit, and the report of it is marked as **P7**; according to the Petitioners' claim, nothing has been found against the Petitioners in the said report.

Nevertheless, the Department of the Co-operative Development of Uva Province has appointed a committee to inspect the affairs of the Co-operative Society. Accordingly, the 3rd to 9th Respondents were appointed as members of the said committee, and the Petitioners assert that they have assisted the proceedings of the said committee and whenever they had asked for information, the Petitioners have furnished and submitted information and documents to them accordingly, or they caused to submit them accordingly; to establish that, the Petitioners have marked the documents annexed to the Petition as **P8** to **P30**.

The Petitioners allege that, without recording any statement from the Petitioners or any other member of the Board of Directors, by letter dated 23.10.2023 marked as **P14**, the said committee has suspended the Board of Directors and recommended to the 1st Respondent to appoint a management committee.

Thereafter, the Petitioners have been charge-sheeted and pending the inquiry by the documents marked as **P20** and **P21**, an Interim Management Committee has been appointed.

Accordingly, the Petitioners challenge the suspension of the Board of Directors by **P14**, and the appointment of the Interim Management Committee by **P20** and **P21** by this Application.

The Respondents' Objections

The 1st to 14th Respondents have filed their Statement of Objections separately, while the 15th to 17th Respondents have filed a separate Statement of Objections.

It is the position of the 1st to 14th Respondents that the Petitioners and other members of the Board of Directors were called to give explanations by the letters marked as **R1** dated 02.04.2024 and by **R2** dated 08.04.2024; however, the Petitioners avoided giving any statement to the inspection panel by stating that this instant Application is pending before this Court.

Further, it is stated that the suspension of the Petitioners were effected by **P14** for the simple reason that they would destroy evidence against them or fabricate evidence in their favour. Additionally, there are serious allegations of mismanagement and financial misconduct, the said suspension was necessary.

It is the position of the 15th to 17th Respondents that the Petitioners and other members of the Board of Directors were informed by letters marked as **R1a** to **R1b** dated 28.02.2024, **R1c** to **R1g** dated 04.03.2024 to make statements; however, it is their position that they had avoided making statements and informed by letters marked as **R2a** to **R2g** dated 09.03.2024, that this instant Application is pending before this Court. Even thereafter when no stay order was issued after Supporting this Application, they were asked to make a statement, which they also avoided on the same basis. To establish this, they have annexed the documents marked as **R3a** to **R3g** dated 19.03.2024.

Further, it is their position that unless they were suspended from functioning as members of the Board of Directors, there would have been a continuation of financial misconduct and mismanagement of the Co-operative Society, and the 15th to 17th Respondents have further denied any financial gain or profit gained during their management.

Therefore, both sets of Respondents have sought the dismissal of this Application.

However, by way of Counter Affidavits, the Petitioners have informed that when the Petitioners and the other members of the Director Board were asked to give statements, they had informed the committee members that they were unable to do so due to the pendency of the case. As such statements would prejudice their rights.

Further, they avert that they were suspended for six months, and even after the inquiry was concluded against them, still the suspension operated; therefore, the suspension should be removed.

Issues to be considered

In view of the matters asserted in the Petition, denial of allegations contained in the Statements of Objections filed by the two sets of Respondents, the matters asserted in the Counter Affidavits, and arguments advanced orally, the following matters arise for my consideration;

- (i) Whether the Petitioners have been suspended from functioning as members of the Co-operative Society by **P14**, pending the inquiry without even calling for explanations or recording statements
- (ii) If so, have the Respondents, particularly the 3rd to 9th Respondents, violated the rules of natural justice, or was there impropriety of procedure adopted in making **P14** and recommending to the 1st Respondent to make an interim management committee
- (iii) Whether the appointment of the Interim Management Committee by **P20** and **P21** after suspension of the Petitioners and pursuant to the recommendation in **P14**, affected the rights of the Petitioners and whether it was done following improper procedure

Impropriety of Procedure followed and Violation of Rules of Natural Justice

In this case, as I mentioned above, the first issue that has to be considered is whether the 3rd to 9th Respondents have followed the correct procedure in effecting the suspension of the Petitioners and the other members of the Director Board whilst recommending the appointment of the Interim Management Committee to carry on the business of the same Co-operative Society by **P14**.

It is an undisputed fact that there was an inspection directed by the 1st Respondent at the instance of the Governor, since there were allegations of financial malpractice and mismanagement of the Society; and pursuant to the said inspection by the 3rd to 9th Respondents, certain information had

been called for, from the Petitioners. The Petitioners, according to their own documents annexed along with the Petition, have submitted everything that the Committee had asked for; in fact, certain information and documents which they did not have were caused to be submitted to the inspection panel. Thus, they apparently appear to have assisted the inspection conducted by the 3rd to 9th Respondent, which the facts are not controverted by the Respondents as well. Therefore, those facts remain s proven facts.¹

Nevertheless, it appears that they have not recorded any statements from the 1st to 2nd Petitioners or any members of the Director Board. In addition to that, they have not called for any explanations from them either. Despite that, they have suddenly taken the decision to suspend them for six months by **P14** and have recommended to appoint an interim management committee. Consequently, they have not even charge-sheeted when the suspension was imposed by **P14**.

Therefore, it is very clear that there is clear case of violation of the rules of natural justice since without even calling for explanations or recording a statement from the Petitioners, they have been suspended. In addition to that, there is a clear case of adoption of improper procedure. Thus, the suspension itself has vitiated the procedure without following those first principles.

Secondly, recommending the appointment of an interim management committee to carry on its operations is pursuant to the said suspension; as such, this too is also arbitrarily done and improperly done.²

¹ *Edrick De Silva v. Chandradasa De Silva* (1968) 70 NLR 169.

² *Council of Civil Service Unions and Others v. Minister for the Civil Service* (GCHQ case) [1984] 1 A.C. 374.

As such, it is my view that only certain writs that have been sought by the Petitioners lie in this Application.

Conclusion

For the reasons adumbrated above, I wish to grant the relevant prayers prayed for in the Petition in a modified form. Accordingly, I issue *Writ of Certiorari* quashing **P14**, **P20**, and **P21**. Thus, the need for interim orders for the issuance of *Writ of Prohibition* will not arise, except only a *Writ of Certiorari*.

However, this judgement should not affect any decision taken after inspection or any other inquiry which has been conducted against the Petitioner regarding their financial malpractice, misappropriation, and mismanagement of the society, and the relevant authorities, including the Respondents, may take decisions based on such reports.

Accordingly, the Application is allowed, subject to the modification, without costs.

JUDGE OF THE COURT OF APPEAL