

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 and in the nature of Writs of Mandamus in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No:
CA/WRIT/350/2025

Welimada Ilukwatte Gedara Neel Rawindra
232/1/2,
Mawalawatta,
Udaperadeniya.

On behalf of
Nethanya Shalomi Rawindra
(Minor)

PETITIONERS

Vs.

1. K.K. Renuka. P. Edirisinghe,
Principal,
Girl's High School,
Kandy.
2. President of the Appeal Board,
Girl's High School,
Kandy.
3. Mr. Prabath Nalaka
Director of National Schools,
Ministry of Education,
"Isurupaya"
Battaramulla.

4. Mr. K.M.G.S.N. Kaluwewa
Secretary to the Ministry of Education,
Ministry of Education,
Battramulla.

5. Dr Harini Amarasooriya
Minister of Education,
Ministry of Education,
“Isurupaya”
Battaramulla.

6. Hon. Attorney General
Attorney General’s Department,
Hultsdorp,
Colombo 12.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Lakshan Dias with Yashodhara Illangasinghe for the Petitioner.
K.D. Sampath, S.C. for the Respondents.

Argued on: 04.05.2026.

Written Submissions: For the Petitioner on 09.06.2026.
For the Respondents on 11.06.2026.

Decided on: 31.08.2026

Mayadunne Corea J

The facts in brief are as follows. The Petitioner has made an application to the school in which the 1st Respondent is the principal to admit his daughter. It is alleged that the Petitioner has attached all the information needed as requested under circular no. 25/2024. It is his contention that the child being a non-Roman Catholic student and staying in close proximity to the school applied under the category of “close proximity to school” and on the basis of being Christian but non-Roman Catholic. However, the Petitioner had not been called for an interview but has received a reply to state that the application is rejected on the basis of not establishing the residence. The Petitioner has appealed to the 1st Respondent and had been called for an interview in which he had tendered new material to establish the child’s residence but it is alleged that the 1st Respondent had disregarded the said fresh material and rejected the appeal. Hence this Writ application.

The Petitioner, *inter alia*, has prayed for the following reliefs;

- “b) *Grant/issue an order in the nature of Writ of Certiorari to the 1st Respondent to quash the rejection letter issued by the Principal of the Girl’s High School Kandy marked as “P19” in this Petition.*
- c) *Grant/issue an order in the nature of Writ of mandamus to the 1st Respondent to enroll the Petitioner’s child to the respective Grade of Girl’s High School, Kandy”*

The Petitioner’s contention

The Petitioner contends that, he had complied with the circular no.25/2024 and submitted an application with all material required to establish the residence but the 1st Respondent has rejected the said application and also the appeal that was preferred against the said rejection.

The grounds for not giving the marks pursuant to circular no. 25/2024 are deemed to be negligent, arbitrary and unreasonable and in violation of the Petitioner’s legitimate expectation.

The Respondents' contention

- The Petitioner has failed to establish the residence and the decision is in compliance with the circular no. 25/2024 and hence, there is no illegality in the decision.
- The Petitioner has no right to obtain a Writ of Mandamus.
- The Petitioner is guilty of misrepresentation, suppression of material facts and the Petitioner lacks *uberrima fides* and has failed to come to Court with clean hands.

Analysis

I will now consider the Petitioner's contention along with the Respondents objections.

It is common ground that the Petitioner has made an application to get his child admitted to the school where the 1st Respondent is the principal.

The parties are not at variance that the applicable circular is circular no.25/2024. It is not disputed that the Petitioner's said application was rejected and the appeal preferred too was rejected. It is also not disputed that the Petitioner did not and does not possess a valid title deed to the house residing.

The Petitioner's application

The Petitioner's application tendered was marked and as P6 by the Petitioner and R1 by the Respondents. Both these documents are the same. The said application under the heading category states as follows;

“ඉල්ලුම් කරන ගණය: පාසලට ඇති ආසන්නතාවය ක්‍රිස්තියානි පදනම (රෝමානු කතෝලික නොවන)”.

In this instance, the learned Counsel for the Respondent drew the attention of this Court to the category applied and submitted that the category should be either non-Roman Catholic or on close proximity while the application has combined both which is not permitted. Under the explanation given below, the word category requires that a

different application should be submitted if a student falls within two different categories. Hence the State Counsel contends the Petitioner's application anyway has to be rejected.

As per the application, the Petitioner has only applied to the 1st Respondent's school and the Petitioner has not filled the box under clause 5 where it is required for the Petitioner to disclose whether there are any other schools in close proximity between the school applied and the Petitioner's residence. This seems a vital requirement as the circular that both parties rely on, specifically takes into account the answer to this question. It is not disputed that, if there are schools contemplated as in the circular, then marks are deducted for each school between the Petitioner's residence and the 1st Respondent's school. It is observed that, the Petitioner has not explained the reason for his non-compliance with this requirement even in the Petition.

Requirements to establish the residence

The parties are not at variance that compliance with the clause on residence is the most relevant to this application. The Petitioner's primary contention is that the child resides in close proximity and hence, he is entitled under this category. The Respondent contends that to fall within this category the Petitioner has to establish his residence according to the requirements stipulated in the circular and contends that the Petitioner has failed to discharge this onus.

Clause 6.1 deals with the question of proving close proximity. The documents needed to establish this and the marking scheme is enumerated in ***guidelines/ instructions and regulations regarding admission of children to grade 1*** at page 70 of the brief which reads as follows;

children of residents in close proximity to the school. – 50%

- (a) Under this category all persons residing within the feeder area (as per sub section 3.6 of this no are eligible to apply. Here, residing within the feeder area and confirming the same physically and documents is compulsory.
- (b) Selections for this category shall be made according to the marking scheme given below

Marking Scheme

I. The main and additional documents in proof of residence.

If the documents mentioned below had been vested in the name of the applicant/spouse/their pa from 30th June of the year submitting application, for five years or more than that to the closing of application the applicant receives full marks. If less than five years and up to 4 years 80% of marks shall be awarded. In case of less than 4 years and up to 3 years 60% of full marks shall be given. If less than 3 years and up to 2 years 40% of full marks and if less than 2 years and up to year 20% of marks shall be awarded. In case of less than one year and up to 6 months 10% of marks and in case of less than 6 months 5% of total marks shall be awarded.

a. Main document to be forwarded in proof of residency

- ✓ Title deeds
- ✓ "Bimsaviya" deeds
- ✓ Deeds of gift
- ✓ Government awards (in case of the owner is deceased the applicant/spouse should be named as the successor and need to be endorsed the same by the relevant authority)
- ✓ Documents issued under Temples & Devala Act by the Commissioner General of Buddhist affairs or the certificates issued by the chief incumbent of a temple certified by the Commissioner General of Buddhist affairs.
- ✓ Declaration deeds more than 10 years confirmed by extracts
- ✓ Houses purchased / leased on housing loans / hire purchased schemes from government or semi government organization with full payments made and still not vested to the owner (a written confirmation should be submitted as to full payment was made)

(In case of a title deed or a deed of gift is written on a declaration deed the said declaration deed should have been registered for ten (10) years or more. Otherwise, documents should be submitted in proof of living for ten (10) years prior to the date of registration of deed)

- **If the ownership of the place of residence is in the name of the applicant / spouse - 20 marks**
- **When the ownership is in the name of mother / father of the applicant / spouse – 16 marks**

When the ownership of the property has been vested upon the child seeking admission or to an unmarried brother/ sister of the child, marks shall be awarded as if the property is in the name of the applicant.

When the property owned by the father / mother has been transferred to the applicant or spouse during last five years, ownership of both parties shall be considered when awarding marks and marks shall be awarded proportionately considering the total period of residency.

(When the ownership is in others name these marks shall not be awarded) If required the ownership could be verified by examining the extracts and duplicate copies.

- ✓ Continuously registered lease bond only in the name of the applicant / spouse. (If required the ownership of the permanent owner need to be proved by the extracts) To obtain marks under this the deed should be registered before 30th June of the year submitting application. The lease bond should be valid for at least one year beyond 30th June of the year submitting application. A separate assessment tax number/house number should be available for the relevant property.

10 marks

(In case of a registered lease bond was drawn upon a declaration deed, said declaration deed should have been registered for 10 years or more.) When the applicant has obtained the ownership of the leased property during last five years marks shall be awarded having considered relevant percentages for both periods of ownership. However, applicant must have been resided continuously in the premises.

Government Quarters List only in the name of the applicant / spouse (The letter of certification by the department head). Residents in bachelor's quarters are not applicable)

- ✓ Documents to confirm as lease residents under the housing rental act. for properties only in the name of the applicant / spouse. **– 10 marks**
- ✓ Documents related to houses purchased / leased on housing loans, from government / semi government organizations, but the payments are not completed. (sales agreements made with government / non-government organizations and the payment receipts should be provided). **10 marks**
- ✓ Certificates issued by the commissioner of town council / divisional secretary of the area, certifying the applicant / spouse resides continuously 10 years or more in a government property (in relevant address) **(If the address is in the name of other persons these marks shall not be awarded).** **– 05 Marks**

- ✓ If the applicant is a resident of an estate house, certificates issued by the relevant Estate Superintendent and the Divisional Secretary. - 05 marks

✓ **Other documents accepted to confirm the place of residence – 04 Marks**

Although the applicant cannot provide aforesaid documents in proof of his place of living, when applicant / spouse is a permanent resident in the given address, one mark shall be awarded for any four (4) of following documents certifying the address, if the said documents are valid for continuous six (06) preceding years more up to 30th June of the application is submitted. If documents are in the name of mother / father of the applicant / spouse 0.5 marks shall be awarded.

- ✓ Electricity bills, water bills, property tax payment receipts, Birth certificates of applicant / spouse

It is mandatory that above documents be valid for continuously six (06) preceding years or more; applicant must possess at least three of the said documents to receive marks for this.

If the bills paid in the name of mother / father of the applicant has been paid in the name of the applicant marks will be given considering both periods.

- ✓ When living in a property belongs to government/semi government institution since birth. When fails to produce any of the major documents to confirm the place of residence and not getting reduced any marks for nearby schools and has been registered for 5 recent preceding years in the electoral register, and cannot prove their residence in present place of living (through birth certificate, school leaving certificate, etc.) and prove their living in the same address after the marriage (Applicant must produce proof to the interview board that the applicant lives in the said property since birth and the property belongs to a government / semi government institution) - 15 Marks

- ✓ If the qualifications have not been met under any of the above circumstances confirming the residence when the employees; who are necessary to maintain the activities of estates administered under an Estate Superintendent, are settled, such residents; only if the marks are not deducted for any other school, at the circumstance where the letter issued by the Estate Superintendent to confirm the residence of the houses related to the estate has been certified by the Gram Niladhari and the approved by the Divisional Secretary - 15 Marks

(Maximum 20 marks)

Only if an applicant earns marks relevant to above details to prove the place of residence under this category, he/she shall receive marks beyond this.

b. Additional documents in proof of place of living

One mark for each below mentioned document in the name of applicant / spouse shall be awarded – 05 Marks (any five out of following documents)

National identity card or driving license / Fixed telephone line bills / school leaving certificate / Marriage certificate / Life insurance deed / child's birth certificate / Bank passbook / Registration certificate or revenue license or insurance certificate of the vehicle.

If Electricity bills of the residence, water bills, property tax payment receipts are not taken as other accepted documents they may be considered as additional documents in proof of place of living.

(Maximum 5 Marks)

II. Registration in the electoral register in proof of residency

The section provided in the application to prove the applicant and / or spouse are registered in electoral register (No 06) should be duly completed to confirm registration in the electoral register.

(a) When awarding marks for the registration in the electoral register five recent preceding years from applying year shall be considered (2023 – 2019).

Table 01. Marks for registering in the Electoral Register

Electoral Registration of Mother / Father / Legal Parent	Marks
When both Mother and Father or Legal Parent is registered for five (05) years OR when mother / father is registered for 5 years and if a request has been made to include the name of the applicant's spouse into the electoral register within one year of the marriage and registered for four years thereafter.	25
When either mother's or father's name is registered for five (05) years and spouse's name is registered for any four (04) years	22.5
When either mother's or father's name is registered for five (05) years and spouse's name is registered for any three (03) years	20
When either mother's or father's name is registered for five (05) years and spouse's name is registered for any two (02) years	17.5
When either mother's or father's name is registered for five (05) years and spouse's name is registered for any one (01) year	15
When either mother's or father's name is registered for five (05) years	12.5

N.B.: Above marks are awarded on the basis of 2.5 marks per person per year. Therefore, when making scheme specified herein does not cover a particular situation 2.5 shall be awarded to each person for the number of years the person is registered in the electoral register.

Legal guardian shall be considered as father and mother both and he / she shall be awarded marks for both mother and father (5 marks per year).

(Maximum 25 marks)

b. If the spouse of the applicant, who was registered in previous years, has gone and legally divorced or died, having considered the relevant documents, marks shall be awarded considering both parents were together.

c. Marks are awarded considering the documents relevant to the present place of residence. However, when submitting evidence of electoral registration, if an applicant has resided in a different place in the same feeder area other than the present place of living within recent (05) years and schools concerned for both place of living shall remain unchanged, evidence of electoral registration for both places shall be considered as one place. (previous place of residence should be get confirmed by the documents mentioned in 6.1.1(a) above)

d. If residents of a particular area have been evacuated due to government development projects and be settled in a separate area or obtained compensations and now being permanently resided in a different location, in five preceding years since 30th June of the year submitted appeals; when their children are admitting into grade one, the documents provided relevant to both previous and present places needs to be considered as one place. Therefore, marks shall be awarded as per criterion therein.

III Proximity to the school from the place of residence

Maximum marks shall be awarded only if the applicant's place of residence is confirmed and proved and if there are no other Government Schools with primary sections located closer to the place of residence than the school applied for. In the absence of having other Government schools with primary sections, where the child could be enrolled, and are closer to the place of residence than the school applied for marks shall be deducted at the rate of 05 marks from the maximum marks for each such school.

(Other government primary schools that the child could be admitted into, whether the school concerned has learning medium the child has applied for, whether it is a girls or boys school or a mixed school appropriate for the child and whether the school admits 10% or more children of the religion to which the child belongs. However, when a religious percentage is not applicable to the child of any religion could be enrolled into such schools.)

(Maximum 50 marks)

In case of the applicant's place of residence is not confirmed, marks awarded under this category shall be cancelled.

It is not disputed that the Petitioner does not have the main documents contemplated. Especially, the title deed for the premises. However, still the Petitioner can prove his residence by submitting additional documents.

The Petitioner under clause 6.1, can prove his residence through the contemplated main documents as well as the additional documents to obtain the necessary marks. While clause 6.1.I.a. contemplates the main documents, clause 6.1.I.b. contemplates the additional documents needed, subject to the conditions stipulated therein.

The Respondents contended that though reliance was placed on the documents to establish residence, the documents contemplated in the circular to establish residence have not been tendered by the Petitioner with the application to establish the residence.

The Petitioner placed heavy reliance on the document marked as P8 to establish the residence. The said document is a letter issued by the University of Peradeniya addressed to the 1st Respondent whereby it states that one Mrs. M.G.M.D. Marasingha lives in lot 79 of the plan stated therein which is owned by the University. This letter bears the date 13.09.2024. The Counsel for the Petitioner submitted that the name given in P8 is of the mother of the Petitioner's wife namely, the grandmother of child, and that the Petitioner and the family too reside with the wife's mother. However, the said document does not disclose that the Petitioner or the child who is sought to be admitted resides in the said premises. Hence in the absence of such this document cannot establish the Petitioner's residence. In any event, the Petitioner has failed to tender this document with the original application.

The Petitioner also relied on documents stipulated in page 4 of the circular and also reflected at page 9 of the circular and contend that by producing these documents he still would have been able to obtain 4 marks. However, these documents to earn marks are also subject to conditions namely, the said documents should be for a period of a minimum of six years or more earlier than the date of the application. The said documents are stated as electricity bills, water bills, taxes (assessment rates), acreage rentals and birth certificate. Further, to earn marks, the Petitioner should be in possession of at least three kinds of documents enumerated above.

The documents tendered by the Petitioner to obtain the above marks were tendered by the Respondents. The birth certificate of the Petitioner was tendered and is marked as R3(4). However, the said birth certificate does not contemplate the address that the Petitioner has to establish. The electricity bills submitted by the Petitioner were marked

as R3(11) by the Respondent. the bills are for February 2015, January 2021 and April 2023. On a close examination it appears that the name in the said bills read as B.K.A.P.S Perera. The Petitioner did not explain the relationship of the payer whose name is reflected in the bill to the child. Even if this Court is to assume that it has been paid by the father or the mother of the Petitioner's spouse, still the said bills do not fall within the category of six years prior to the required date as contemplated in the circular.

The Petitioner has not tendered any water bills and the tax payment receipt tendered by the Petitioner which is marked as R3(12) also bear the years 2005, 2014, 2022, 2024 and the payee of the said bill is stated as University of Peradeniya. Hence, the said documents are not eligible to obtain the marks under sub heading 6.1.I.a. Hence, the Petitioner's contention during the arguments of earning four marks by producing these receipts cannot be sustained. The documents that were tendered by the Petitioner with the application are reflected in the affidavit that has been tendered with the application. The said affidavit was marked as R2 by the Respondents. The learned Counsel for the Petitioner did not dispute that all the documents that have been tendered to this Court have not been submitted to the school with the school application.

It is also pertinent to note that the documents that would have earned the Petitioner marks are subject to clause 7.2.4, of the circular, which specifically states that if there are any other schools in between the school applied for and the Petitioner's residence that fall within the said clause, five marks for each school should be deducted. As I have observed above, the Petitioner in his application has not filled the schools that are in between the Petitioner's purported residence and the school applied for, and the Petitioner with reasons best known to him has failed to explain the reasons why he decided to omit naming the schools.

The learned Counsel for the Respondent submitted that by omitting the said schools, the Petitioner has attempted to prevent the marks being deducted pursuant to the provisions of the circular marked as P4. As per the affidavit marked R2, it is clear that the Petitioner has not tendered even the letter issued by the University of Peradeniya (P8) which would have been of immense benefit for him. The learned State Counsel also tendered to this Court the document marked as R5 whereby he contended that there are eleven schools between the Petitioner's alleged residence and the school he has sought admission and submitted, that even if the circular was applied the marks would have had to be deducted. Hence, in my view the Petitioner's first contention that the rejection of his application due to insufficient marks due to the failure to prove residence was bad in law, cannot be sustained.

The Petitioner's second contention was that he had also made an appeal and that he was called for the said appeal and he has tendered several new materials to establish his place of residence but, he submits that the 1st Respondent has disregarded the said documents and the said decision is in violation of the circulars, arbitrary, unreasonable and contrary to the principals of natural justice and fairness. To examine this contention, I now proceed to consider the contents of the circular that govern appeals.

It was the contention of the learned State Counsel that the appeals board sits in appeal. As per clause 11.8 of circular marked as P4, he contends that no new material can be submitted at the appeal stage and the appeal board is empowered to consider only the documents that have been tendered with the application at the outset. Accordingly, it is his contention that the appeals board has rejected the Petitioner's appeal in compliance with clause 11.8 of the circular as they were precluded from considering new material other than what had been tendered with the application. This contention was not replied to by the Petitioner. Clause 11.8 of the circular reads as follows;

“11.8 අභියාචනා විභාග කිරීමේ දීද, අභියාචනා ඉදිරිපත් කළ සියලු දෙනා ම කැඳවා, සම්මුඛ පරීක්ෂණයට ඉදිරිපත් කළ ලිපි ලේඛන පමණක් නැවත වරක් විමර්ශනය කළ යුතු ය. මෙහිදී ගනු ලබන තීරණ හා අදාළ විස්තර, ප්‍රථම සම්මුඛ පරීක්ෂණයේ දී උපයෝගී කර ගත් සි. ආර්. පොතෙහි/ පරිගණක මුද්‍රිත ලේඛනයෙහි, රතු පාටින් විශේෂ සටහන් තීරුවේ ලියා දැක්විය යුතු අතර, වෙන ම වානර්ථවක් ද තබා ගත යුතුය” (emphasis added).

It is also pertinent to note the affidavit that has been tendered by the Petitioner marked as P15 during the appeal process. The said affidavit P15 clearly shows the additional documents which had been tendered at the appeal which are not reflected in the affidavit marked R2 that accompanied the original application. It is also brought to the attention of this Court the document marked as P22 whereby the Petitioner has been called for the appeal inquiry. The said letter specifically reproduces clause 11.8 of the circular whereby it specifically states that the documents to be produced are confined to the originals that had been tendered with the application. P22 reads as follows;

“ඔබ ප්‍රථම සම්මුඛ පරීක්ෂණයේ දී ඉදිරිපත් කළ ලිපි ලේඛනවල මුල් පිටපත් පමණක් රැගෙන ආයුතු අතර වක්‍රලේඛයට අනුව ඊට අමතර වශයෙන් ඉදිරිපත් කරන ලේඛන සම්බන්ධව සලකා බැලීම් සිදු කළ නොහැකි බව දන්වා සිටිමි.”

It was further contended by the State Counsel that this clause is applicable and applied to all the aggrieved parents who had been unsuccessful at the preliminary inquiry. Hence, this Court agrees that if the Petitioner's additional documents are to be considered at the appeal, it will not only be a violation of the circular but, it will also deprive the other applicants who too have been unsuccessful but, would have been able

to produce any additional material. Hence, the Petitioner's second contention too has to fail.

This Court observes that as the learned Counsel of the Petitioner submitted that, the Petitioner could have earned extra marks if he tendered all the material at the commencement of the application. However, in this instance the Petitioner had failed to do so. Let me now consider the objections that had been raised by the learned State Counsel.

Suppression of material facts and misrepresentations

The State Counsel submits that the Petitioner has suppressed material facts, misrepresented facts and has failed to invoke the jurisdiction of this Court with clean hands. To establish this contention, the learned State Counsel submits that the Petitioner has failed to disclose in the Petition that the Petitioner had not tendered sufficient material to establish his residence. He has failed to disclose that he had attempted to correct this mistake by attempting to produce fresh material at the appeal inquiry which is not allowed by the circular itself. On a plain reading of the Petition this Court agrees with the submission of the learned State Counsel. The Learned State Counsel also brought to this Court's attention the documents marked as P8 and P9. Document P8 is a letter issued by the University of Peradeniya which says that the Petitioner's mother is in occupation of a university land. Quite contrary to this position, the Petitioner has tendered an affidavit marked as P9 also marked as R3(13) by the Respondents, which is affirmed by the Petitioner's mother-in-law whose name is reflected in P8 as stating that the said land belongs to her and after her it is to be transferred to the Petitioner. This is clearly contradictory to the document P8 as P8 states that the land belongs to the university whereas P9 states that the land belongs to the Petitioner's mother-in-law and is to be transferred to the Petitioner. Hence, the contention that the Petitioner has not acted with *uberrima fides*.

Has the Petitioner established that his residence falls within "close proximity" category?

Accordingly in my view, the Petitioner has failed to produce the documents needed to establish his residence to qualify himself to come under the category of "*close proximity to the school*". The Petitioner has attempted to rectify this omission and establish his residence upon his initial application being rejected for want of proof of residence by supplementing with additional material. However, the circular marked P4 clearly

precludes this attempt by the Petitioner. Hence, the Petitioner's argument that his application was rejected without any legal basis, fails. The Petitioner also alleges that the Board of Appeal by refusing to accept new material has violated the circular no. 25/2024. I cannot agree with this contention as there is a specific provision in the circular itself which precludes considering new material and specifically stating that only material that had been submitted with the application for the initial interview should be submitted to the Appeal Board.

The Petitioner in his submissions stated that though the affidavit marked as P9 contains erroneous facts, they have not tendered the said document to the initial interview. However, if that is so, the Petitioner, as per the affidavit marked R2 has not even tendered the letter issued by the university marked as P8 which stated that the Petitioner's mother-in-law occupied the university land. In the said circumstances the Petitioner's own contention militates against him as the Petitioner has not tendered the most relevant material to establish residence. This Court has considered the submission of the learned State Counsel whereby he argues that the documents marked as P3(b), P8, P11, P13, P14, P15, P24(b), P24(d) and P25, were not tendered with the application. The Petitioner did not contest this contention.

This Court has also considered the case law sighted by the Petitioner whereby he relied on four Fundamental Rights Applications to the Supreme Court. Although the said applications too relate to school admissions, the facts and circumstances of the said cases are different to the instant case before me. In the instant case, the Petitioner has failed to establish the required requisites under the circular which entitles him to enter his child to the school by failing to provide documentary proof.

For the above stated reasons this Court is of the view that the Petitioner has failed to establish any illegality in the document P19. In the absence of any illegality in P19 the Petitioner does not get any legal right or entitlement that has been refused to be enforced by the 1st Respondent to enable him to obtain a Writ of Mandamus.

The learned Counsel for the Petitioner in closing his submission contended that the 1st Respondent had been a member of the first interview panel and also had presided at the appeal inquiry. However, this Court observes that this ground had not been pleaded by the Petitioner and also the Petitioner has failed to tender any material to substantiate the position that the 1st Respondent had been a member of the first interview panel. I also observe the Petitioner invoking the jurisdiction of this Court submitted that the Petitioner had not been called to the first interview at all but had only got a letter which states that the child's application has been rejected for proof of residence. If that was

so, then the Petitioner's contention that the 1st Respondent had been a member of the first interview panel in which he participated has to fail.

The letter of rejection pursuant to the appeal signed by the 1st Respondent

The letter of rejection received by the Petitioner would have been signed by the 1st Respondent in her official capacity but there is no material to demonstrate that the Petitioner had been in the first selection panel that had decided that the Petitioner has failed to establish his residence at the outset. In the absence of such, this Court cannot come to a conclusion as to whether the 1st Respondent herself has rejected the initial first application and also been a member of the appeal body. In such circumstances this Court does not want to make any observation or pronouncement on the said contention. However, it is sufficient to state that it is trite law that the burden of proof in a Writ application lies with the Petitioner.

In the case of ***Saranguhewage Garvin De Silva v. Lankapura Pradeshiya Sabha and others*** SC Appeal 10/2009 decided on 15.12.2014, at page 5, it was provided that, *"The burden of proof in any application for prerogative writ including mandamus is on the person who seeks such relief, to prove the facts on which he relies"*.

In ***Handapangoda Mudalige Mahendra Gunasekara, and another v. Ms. W.A.S. Chandrasekara, Commissioner General of Inland Revenue and 5 others*** CA/WRIT/313/24 decided on 29/08/2024, it was stated;

*"Further, it is observed that though the Petitioners contend that they were not the directors as per the evidence submitted through their own pleadings, it is clear that this business entity had been in operation since 2006. It is also clear that the entity had been submitting its returns to the IRD which means it had been operating. Then there should have been a workforce under the entity and their salaries and statutory dues would have been paid. The profits of the entity would have been collected and some person would have been responsible for the losses if any. None of these facts were addressed by the Petitioners though **the burden of proof in a writ application lies with the Petitioners.**"*

Hence, it is the Petitioner who has to establish his contention which he has failed to do so by producing any material. I must also observe that in any event the Petitioner in this instant case has failed to establish that he has in fact presented enough material as

required under circular 25 of 24 to demonstrate his residence and to establish his main ground of qualification to the school namely, the close proximity to school.

Conclusion

I have considered all the material tendered to this Court and the submissions that were made. In my view, the Petitioner has failed to establish the grounds urged that warrants the intervention of this Court pertaining to the decision reflected in P19. In the circumstances, I am unable agree with the Petitioner's contention that the document marked as P19 is bad in law as the Petitioner has failed establish that P19 is bad in law. Accordingly, this Court refuses to issue a Writ of Certiorari and a Writ of Mandamus and proceeds to dismiss this application. Parties to bear their own costs.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal