

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

*In the matter of an application for mandate in the
nature of Writ of Certiorari and Writ of Mandamus
under and in terms of Article 140 of the Constitution
of the Democratic Socialist Republic of Sri Lanka*

**Court of Appeal Writ
Application No: 735/2025**

1. Narendra Gampathige Hiruni
Chamindya Ayeshi Gunasekara,
No. 131, Udagama,
Uduwela, Kandy
2. Meegampatti Gedara Mangala
Udaya Kumara No.317/B/1,
Wathuliyadda,
Uduwela
3. Ampitiye Gedara Dhanushka
Nadeek Maduranga No.2371,
Nahiniwela,Thalaathuoya.
4. Nambikalu Arachchilage Shantha
Kumara Gunasekara,
No.110, Kandy Road. Thalaathuoya
5. Walisundara Mudiyanseelage Ajith
Bandara Walisundara
No.05, Ganengoda Bútawatta
6. Herath Mudiyanseelage Mahesh
Janaka Bandara
No.07. Udunuwara Gedara
Kapuliyadda

7. Medagedara Chiran Darshana
Bandara Medagedara.
No.233. Welegama
Mahamedagama
8. Udagedara Saman Priyantha Kumara
Gunapala No.23, Moragolla Nugaliyadda
9. Rajasingha Padi Gedara Nisantha Kumara
Rajasingha No. 70, Janaudanagama.
Ratemulla
10. Herath Mudiyanseleage Gamini Herath
No. 88/5, Kirimatiya, Gammadda,
Nugaliyadda
11. Wickramasingha Mudiyanseleage Mahanama
Wickramasingha
No. 103/A, Yalwela. Mahamadagama
12. Kotuwegedara Nuwan Kumara
No.427/1/A, Meeruppa, Marassana
13. Rathnayaka Mudiyanseleage Saman Kumara
Banda Rathnayaka
No.53, Oluwawatta, Marassana
14. Bogahawela Gedara Chaminda Saman
Bandara Bogahawela
No. 321/1, Uda Delthota, Belwood
15. Thaheer Mohommard Akram
No.72, Pupuressa Road, Galaha
16. Iroosan Loganadan Mul Kumburawatta,
Delthota
17. Matiwala Gedara Shehan Kaushalya
Chandrasiri Gabadagama,
Delthota

18. Segu Dawood Faheem Muhammad

No.18, Bopitiya Road, Delthota

PETITIONERS

VS.

1. K.S.B. Rajanayake,
Chairman,
Patha-hewaheta, Pradeshiya Sabha,
No. 15, Talatuoya - Gurudeniya,
Thalathuoya
2. A. H. M. K. C. K. Athapattu
Commissioner of Local Government - Central
Province Department of Local Government Central
Province, Provincial Council Complex, Pallekale,
Kundasale
3. Returning Officer - Kandy Administrative District
Department of Elections - Kandy 2nd floor,
District Secretariat Complex, Yatinuwara Street,
Kandy
4. Hapugaskubure Gedara Ajancha Piyal Jayasingha
Vice Chairman Pàthahewaheta Pradeshiya Sabha
No.15, Talatuoya-Gurudeniya. Thalathuoya
5. Aththanayaka Mudiyansele Saliya Dinesh
Aththanayaka
6. Herath Mudiyansele Chandana Susantha
Piyaala
7. Delgahapale Korallalage Damika Amila Bandara
Siriwardhana

8. Balasubramaniam Prasanna Kumara
9. Nadaraja Jegadeesan
10. Muhammadu Sadeek Muneer Muhammad
11. Pahala Sinhage Prasanna Anura Kumara Dias
12. Bogahawela Gedara Manel Sandareka
13. Holiya Bandara Mahagedara Thamara Kumari
14. Herath Mudiyanseelage Udagedara Shanthi
Udaya Kumari Herath
15. Amunugaha Abeykoon Kotuwege Mallika
Abeykoon
16. Vihare Gedara Mangalika
17. Wickrama Pathiranage Weerasekara
18. Rama Krishnan Rajeshwaran
19. Hetti Arachchige Susilawathi Wattegama
20. Konara Mudiyanseelage Shashini Ishara
Maduwanthi
21. Galagoda Herathge Susil Jayalath Wijewickrama
22. Himesh Tharindu Thennakon
23. Walisundara Mudiyanseelage Chamila Hasanthi
Kumari Walisundara
24. Wijesingha Herath Mudiyanseelage Chandana
Pradeep Kumar Wijesingha
25. Mohommard Rafeek Mohommad Risad
26. Kandan Kamaladasan

*5th to 26th Respondents all Elected Members of
Pàthahewaheta Pradeshiya Sabha No, 15,
Talatuooya-Gurudeniya, Thalathuooya*

27. Dr. A. H. A. H. Abayaratne
Minister of Public Administration, Provincial
Councils and Local Government, Ministry of
Provincial Councils & Local Government
Independence Avenue, Colombo 07

28. Secretary Ministry of Provincial Councils & Local
Government Independence Avenue, Colombo 07

29. Ranjith Madduma Bandara General Secretary
Samagi Jana Balawegaya, No. 592, Kotte Road, Sri
Jayewardenepura Kotte

30. Thalatha Athukorala
General Secretary United National Party Sirikotha
No. 400, Kotte Road, Pitta Kotte, Sri
Jayewardenepura

31. Sagara Kariyawasam General Secretary.
Sri Lanka Podujana Peramuna,
No. 1316, Nelum Mawatha, Jayanthipura

32. Lasantha Alagiyawanna
General Secretary Peoples' Alliance
No.301, T.B. Jayah Mawatha Colombo 10

33. Ranjan Seneviratne General Secretary
Sarvajana Balaya Party No.11, Park Avenue,
Colombo 08

34. Jeewan Thodaman General Secretary Ceylon
Workers Congress,
No. 72 Ananda Coomaraswamy Mawatha, Colombo
07

35. Mazihudeen Naimulla General Secretary
United National Alliance
No.07. Norris Avenue, Borella, Colombo 08

RESPONDENTS

Before: Hon. Justice N. R. Abeyesuriya PC (P/CA)
Hon. Justice K. P. Fernando

Counsel: Upul Kumarapperuma PC with Minuri Peiris instructed by Darshika
Nayomi for the Petitioner

Uditha Egalahewa, PC for the 1st, 4th-16th, 19th-21st, 25th and 26th
Respondents.

Ranga Dayananda for 22nd and 24th Respondents instructed by
Lilanthi De Silva

Manohara Jayasinghe, DSG with M.Fernando, SC for the 2nd, 3rd,
27th and 28th Respondents

Supported On: 21.01.2026

Written Submissions Tendered On: 09.02.2026 (Petitioners), 16.02.2026 (2nd,
3rd, 27th and 28th Respondents, 17.02.2026 (1st, 4th 22nd - 24th Respondents).

Decided On: 04.03.2026

N. R. Abeysuriya, PC, J. (P/CA),

The Petitioners have filed the instant writ application impugning the appointment of the 1st Respondent as the Chairman of the Pathahewaheta Pradeshiya Sabha and the appointment of the 4th Respondent as the Vice Chairman of the Pathahewaheta Pradeshiya Sabha on 19th June 2025.

The Petitioners *inter alia* seek the following reliefs.

- a) Issue notice of this application on the Respondents;
- b) Issue an interim order preventing 1st and 4th Respondents respectively performing as Chairman and Vice Chariman of Pàthahewaheta Pradeshiya Sabha until final determination of this application;
- c) Grant a mandate in the nature of a Writ of *Certiorari* quashing the decision of the 2nd Respondent to illegally appoint the 1st Respondent as the Chairman of the Pàthahewaheta Pradeshiya Sabha;
- d) Grant a mandate in the nature of a Writ of *Certiorari* quashing the appointment of the 4th Respondent as the Vice Chairman of the Pàthahewaheta Pradeshiya Sabha who was so appointed while the 1st Respondent wrongfully presided the Council;
- e) Grant a mandate in the nature of a Writ of *Mandamus* directing the 2nd Respondent to hold a de novo election to appoint a fresh Chairman and the Vice Chairman to the Pàthahewaheta Pradeshiya Sabha in terms of Law;
- f) Grant a mandate in the nature of a Writ of *Mandamus* directing the 2nd Respondent to follow the lawful procedure to appoint a Chairman for the Pàthahewaheta Pradeshya Sabha in terms of the provisions of Local Authorities Elections Ordinance;

- g) Grant a mandate in the nature of a Writ of Prohibition preventing any further functioning by the purported Chairman and Vice Chairman;

The principal legal contention of the Petitioners is that the procedure adopted by the 2nd Respondent to elect the 1st and 4th Respondents is unlawful and illegal.

Petitioners argue that the 2nd Respondent appointed the 1st and 4th Respondent as Chairman and Vice Chairman respectively in contravention of the Local Authorities Elections Act as amended.

The said provisions are reproduced below.

66 E (1) *Where the names of more than two members are proposed and seconded for election as Mayor and no single member receives at the first voting more votes than the aggregate of the votes received by the remaining members, one member shall be excluded from the election as hereinafter provided, and the voting shall proceed in the same manner, one member being excluded from the election after each subsequent voting, until a member receives more votes than the aggregate of the votes received by the remaining members at that voting or until voting in respect of two members only is held and completed, as the case may be.*

(2) *The manner in which a member may be excluded from the election as referred to in subsection (1), shall be as follows:*

(a) if the number of votes received by one member is lower than the number of votes received by each of the remaining members, the candidate receiving the lowest number shall be excluded; and

(b) if each of all the members receive an equal number of votes or if each of two or more members receives an equal number of votes which is less than the number of votes received by the remaining member or each of the remaining members, one of the members receiving the equal number of votes shall be excluded and the determination as to which of the members is to be excluded, shall be made by lot to be drawn in the presence of the presiding officer, in such manner as he shall determine.

(3) Where there are two members at any voting and the number of votes cast is equally divided and the addition of one vote would entitle one of the members to be elected as Mayor, the determination of the member to whom the additional vote shall be deemed to have been given, shall be made by lot to be drawn in the presence of the presiding officer, in such manner as he shall determine.

Accordingly, in terms of Sec 66 E (1), Petitioners contend that none of the candidates received “*more votes than the aggregate of the votes received by the remaining member*”¹. The votes were as follows;

1. 1st Respondent - 20 votes
2. 5th Petitioner - 19 votes
3. 22nd Respondent - 03 votes

It is the contention of the Petitioners that the 2nd Respondent failed to follow the procedure laid down in Sec 66 E (1) read with Sec 66 E (2) to exclude the candidate with least amount of votes (i.e 22nd Respondent) and conduct another round of voting among the other two candidates who secured the highest number of votes in the previous round of voting.

Petitioners state that the 2nd Respondent immediately proceeded to appoint the 1st Respondent as the Chairman of the Pradeshiya Sabha and the 4th

¹ Vide Page 12 of X1 - Meeting Minutes dated 24 November 2025

Respondent as the Vice Chairman alleging that the 1st Respondent was appointed improperly. In the second round, 1st respondent received 23 votes and the 5th Petitioner received 19 votes.

The Petitioners have contended that in the instant case the failure of the 2nd Respondent to strictly adhere to the procedure mandated by Sec 66E has directly affected the integrity of the voting process resulting in an outcome that is “tainted by the procedural illegality”. The Petitioners have further contended that “non-compliance cannot be retrospectively legitimized by characterizing the breach as a genuine or inadvertent mistake.”

The Respondents in response drew the attention of court to the minutes of the meeting² of the said first meeting of the Pathahewaheta Pradeshiya Sabha which revealed the following

- a) *The 1st Respondent received 20 votes, 5th Petitioner received 19 votes and the 22nd Respondent received 03 votes in the first round of votes to elect the Chairman of the Pathahewaheta Pradeshiya Sabha.*
- b) *The 2nd Respondent initially by inadvertence declared the 1st Respondent as the Chairman of the Pathahewaheta Pradeshiya Sabha, without taking steps to exclude the 22nd Respondent and holding a further vote between the 1st Respondent and the 5th Petitioner.*
- c) *However, the 2nd Respondent promptly identified her error and took immediate steps to rectify it by recalling the 1st Respondent from the seat of the Chairman.*
- d) *At that point, the 1st Respondent immediately stood up from the seat of the Chairman and sat back in his seat as a council member.*
- e) *The 2nd Respondent thereafter took steps in terms of Sec 66 E (1) of the Local Authorities Elections Ordinance (as amended) read with Sec 66 E (2)*

² Vide Page 12 - 18 of X1 - Meeting Minutes dated 24 November 2025

(a) and exclude the candidate who had the least number of votes (i.e 22nd Respondent) and go for another round of voting.

f) At the second round of voting, the 1st Respondent received twenty-three votes(23) while the 5th Petitioner received 19 votes

g) Consequent to this, the 2nd Respondent proceeded to invite the 1st Respondent to the seat of the Chairman of the Pathahewaheta Pradeshiya Sabha

*h) The Deputy Chairman of the Pathahewaheta Pradeshiya Sabha was only elected **after** the 1st Respondent was duly appointed as Chairman of the Pathahewaheta Pradeshiya Sabha as aforesaid.*

The principal contention of the Respondents is that the rectification of the 2nd Respondent's administrative error was justified and reasonable as it was immediately effected.

Respondents cited the following judicial authority that an administrative error which is rectified promptly will not be regarded as being unreasonable.

In **Dona Diana Pearly v. Premaratne, Acting Secretary Educational Services Board and Another**³ the Supreme Court held that to make a mistake and correct it by itself involved no breach of equality or equal protection. However it was held that the time taken to correct the error and to inform the affected party must not be unreasonably long.

In the said case the Supreme Court further made the following observations,

Administrative Processes, such as recruitment and public examinations, must be carried out with due regard to the rights and interests of the public, and although errors can be corrected, the process of correcting errors must not cause undue harm, loss, or prejudice.

³ (1997) 3 Sri L R 77 at Page 81 and Page 82

(Emphasis Added)

Quite apart from delictual rights and duties, the wide powers vested in those responsible for recruitment have to be exercised in the public interest and for the public benefit. It is true that only the qualified must be appointed, and the unqualified must not be allowed, needlessly, to entertain the belief that they are qualified. While the executive should not be penalized for mistakes, yet mistakes must be promptly corrected.

(Emphasis Added)

It should be noted that the aforesaid case pertains to a fundamental rights application with regard to the appointment of teachers. An error had occurred with regard to the marks obtained by the Petitioner in that case at the relevant competitive exam. However it was subsequently rectified and the Petitioner was permitted to finish the course of study. The Petitioner in that case was informed of the said error after a lapse of 8 months. It was the view of the Supreme Court that this time gap of 8 months is unreasonable and therefore held that the fundamental rights contained in article 12(1) of the constitution was infringed.

In the instant matter the error committed by the 2nd Respondent was rectified immediately.

I am of the view that since the inadvertence on the part of the 2nd Respondent was admittedly rectified within minutes, no material prejudice was caused to any party.

Upon the consideration of the facts of the instant application and the submissions by both parties, I am of the view that the inadvertence on the part of the relevant Respondent in adopting an incorrect procedure initially has not caused material prejudice to the Petitioner since almost immediately the said

Respondent has rectified the error and followed the statutorily laid down procedure.

Therefore, I hold that the Petitioner has failed to establish a *prima facie* case warranting issuance of formal notices.

Application dismissed.

No Costs.

PRESIDENT OF THE COURT OF APPEAL

K. P. Fernando, J.

I agree.

JUDGE OF THE COURT OF APPEAL