

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

*In the matter of an application for
mandates in the nature of Writs of
Certiorari and Prohibition under and in
terms of Article 140 of the Constitution.*

R.M.S.D.K. Rathnayake

Rathupaskatiya, Aluthwela South,

Diyathalawa.

CA / Writ / 0095/ 2025

Petitioner

Vs.

1. G.A.M.R. Amarakoon

Medical Superintendent,

Base Hospital,

Diyathalawa.

2. R.M. Dayananda Rathnayake

Secretary,

Ministry of Health – Uva Provincial

Council,

No. 301, RH Gunawardhana Mawatha,

Badulla.

2(a). H.M. Jeewantha Herath

Secretary,

Ministry of Health – Uva Provincial

Council,

No. 301, RH Gunawardhana Mawatha,
Badulla.

3. L.A.A.H.K. De Silva
The Regional Director of Health Service,
Mahiyanganaya Road,
Badulla.

4. N.G.S. Panditharathne,
Director,
Health Service – Uva Province,
Mahiyanganaya Road,
Badulla.

4(a). Mrs. J.C.M. Tennekoon
Director,
Health Service – Uva Province,
Mahiyanganaya Road,
Badulla.

5. D.M.N.P. Dissanayake
Chief Inquiry Officer,
The Regional Director of Health Service,
Badulla.

6. Public Service Commission of Uva
Province
No. 14/4, Pilipothagama Road,
Pinarawa,
Badulla.

7. A.L. Wickramasinghe
Chief Inquiry Officer,

Ministry of Finance and Planning Law
Peace,
Educational, Local Government and Land
– Uva Province.

8. H.M. Jeewantha Hearath,
Secretary,
Public Service Commission – Uva
Province,
No. 14/4, Pilipothagama Road,
Pinarawa,
Badulla.

9. Hon. Attorney General,
Attorney General's Department,
Hulftsdorp, Colombo 12.

Respondents

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Nuwan Godage instructed by Dhanuka Lakmal for the
Petitioner.
Dilantha Sampath, SC for the Respondents.

Supported on : 05.02.2026

Decided on : 04.03.2026

K. Priyantha Fernando, J.(CA)

1. The Petitioner has invoked the jurisdiction of this court seeking namely Writs of *Certiorari* quashing the decision of the Respondents to transfer and interdict the Petitioner and Writs of *Mandamus* compelling the Respondents to conduct a fresh and impartial inquiry.

THE POSITION OF THE PETITIONER:

2. The Petitioner, who served as the Chief Pharmacist in the Base Hospital Diyathalawa purchased medicines and medical instruments through a local procurement from George Stuart & Company on or around. Following the receipt of the said goods on 14.02.2018, Mr. D. P. L. Saman Priyantha, a representative of the company requested that the Petitioner make the relevant payment and the Petitioner submitted that he undertook to do so. However, the Petitioner stated that Mr. D. P. L. Saman Priyantha then made a complaint stating that the Petitioner had sent his own bank account details to on Mr. Saman Priyantha and had requested that he deposit the money to the bank account of the Petitioner. Due to the nature of the complaint, the 5th Respondent was appointed as inquiry officer of the internal inquiry mandated by the 3rd Respondent.
3. The Petitioner continued serving in his capacity as Chief pharmacist after the inquiry had been conducted and a charge sheet framed against the Petitioner was issued as there was no communication made by the Respondents in relation to the future of the Petitioner's position as Chief Pharmacist. However, 2 years after the conclusion of the inquiry a letter was sent to the Petitioner by the 2nd Respondent (Secretary, Ministry of Health-Uva Provincial Council)

dated 27.10.2020 which stated that the Petitioner would be transferred with immediate effect to the Divisional Hospital of Demodara.

4. The Petitioner submitted that due to his transfer a follow up letter was sent to him directing him to hand over work-related items to an officer who would be appointed. However, no such officer was appointed to the knowledge of the Petitioner and by letter dated 17.12.2020 from 2nd Respondent under the Public Service Disciplinary Code of Uva Provincial Council, the Petitioner was interdicted from his work. As such the Petitioner contended that the letter marked P10 signed by the 1st Respondent-Medical Superintendent, in which it was stated that the Petitioner did not hand over the work-related documents is false and misrepresented as no officer was appointed to facilitate such a handover.
5. Furthermore, the Petitioner submitted that he was interdicted from his service under and in terms of regulation numbers 31:1, 31:1:13, 31:1:14, 31:1:15 and 31:5:1 all of which. The Petitioner was of the view that he did not commit the offences listed under those regulations.
6. A subsequent inquiry was then held on 19.02.2021 and a report made by the 7th Respondent-Chief Inquiry Officer. The inquiry focused on the Petitioner's failure to accept the transfer order and comply with such requirements. Following the report however, no charge sheet was drafted until a charge sheet dated 13.09.2021 was sent to the Petitioner (P16). The Petitioner contended that P16 was not prepared in accordance with regulation 14 of the Public Service Disciplinary Code of Uva Provincial Council, the second inquiry was based on a nullified charge sheet and against the regulations of the Public Service Disciplinary Code of Uva Provincial Council.

7. The 2nd Respondent then issued a disciplinary order against the Petitioner dated 26.10.2022 (P20) and it was held that the 2nd, 3rd and 4th charges were proved against the Petitioner and as such it was conveyed to the Petitioner that he would not be getting any salaries for the period of his interdiction via the order dated 26.10.2022 and marked P20.
8. The Petitioner's position was that the purported decision to interdict and transfer the Petitioner is ex facie arbitrary, unfair, unreasonable and ultra vires as the Respondents have failed to follow the principle of natural justice and that it was a result of the personal grudges of the Respondents toward the Petitioners.

THE POSITION OF THE RESPONDENT:

9. The Learned State Counsel for the Respondent submitted that as this matter was one which **relates to an inquiry conducted by the Uva Provincial Public Service Commission**, it is the Provincial High Court that should hear this matter. As such, the counsel urged that this Court make an order under and in terms of the High Court of Provinces (Special Provinces) Act No. 19 of 1990.
10. Moreover, it was submitted that since the subject matter of this application falls under the second concurrent list of the Constitution, the matter ought to be transferred to the relevant High Court and pro forma dismissed in this Court.
11. In response, it was maintained by the Petitioner that although the High Court is vested with the jurisdiction to hear a matter of this nature, there is no bar preventing the Petitioner from invoking the jurisdiction of this Court.

12. The Respondent submitted an excerpt of Regulation No. 170 of the 1978 පළාත් සභා රාජීය සේවයේ කාර්ය පටිපාටික රීති සංග්‍රහය. It reads as follows:

“171. ඉහත 170 වන වගන්තියෙහි සඳහන් පරිදි ආයතන ප්‍රධාන වෙත නොදන්වා රාජකාරියට වාර්තා නොකර සිටින නිලධරයකු සිය තනතුර අතහැර ගියා සේ සැලකෙන්නේ ය. ඒ අනුව ඒ බැව් නිලධරයා වෙත ලියාපදිංචි නැපැලෙන් අක 12 පරිශීලනය ප්‍රකාරව වහාම දන්වා යැවීම, නිලධරයාගේ පත් කිරීම් බලධරයාගේ හෝදෙපාර්තමේන්තු ප්‍රධානගේ හෝ ආයතන ප්‍රධානගේ හෝ වගකීම වන්නේ ය. පත් කිරීම් බලධරයා හැර වෙනත් බලධරයකු විසින් එම දන්වා යැවීම කරන ලද කලහි, එහි පිටපත් පත්කිරීම් බලධරයා වෙත හා අනෙකුත් අදාළ බලධරයන් වෙත යොමු කිරීමටද ක්‍රියා කළ යුතු වන්නේ ය ”.

13. It is important to consider the effect of **Article 154 P (4) (b)** on the jurisdiction conferred on the Court of Appeal under Article 140 of the Constitution. When Article 154 P (4) conferred the jurisdiction with the High Court, the powers already conferred with the Court of Appeal with regard to the areas covered under sub-article (b) had not been taken away from the Court of Appeal.

14. This issue has been discussed by Mark Fernando J in the case of *Weragama V. Eksath Lanka Wathu Kamkaru Samithiya and Others*, 1994 (1) Sri L.R. 293; "These amendments affected the appellate revisionary, and writ jurisdiction of the Court of Appeal only in two respects. Firstly Article 154 P (3) (b) Conferred appellate and revisionary jurisdiction (but not writ jurisdiction)

*in respect of Magistrate's Court and Primary Courts (but not labour tribunal or other courts and tribunals); this was "notwithstanding anything in article 138" (and that article was in any event "subject to the provisions of the constitution") and so either the jurisdiction of the Court of Appeal was protanto transferred to the High Courts or the Court of Appeal and the High Courts had concurrent jurisdiction. **secondly, Article 154 P (4) conferred writ jurisdiction over any person exercising within the province, any power under any law or statute specified there in; this was not stated to be "exclusive" or "notwithstanding anything in Articles 140 and 141" and hence the High Court had concurrent jurisdiction with the Court of Appeal.**"*

15. Sri Skandarajah J in the case of Nilwala Vidulibala Company (Pvt) Ltd V. Kotapola Praseshiya Saba and Others 2005 (1) Sri LR 296; has stated that,

"Writ jurisdiction conferred on the Provincial High Court is Concurrent with the jurisdiction of the Court of Appeal and Article 140 and the latter has not been diminished by the 13th amendment. " Under these circumstances it is understood that with regard to the applications come within Article 154 P (4) of the Constitution, Provincial High Courts are conferred with concurrent jurisdiction with the Court of Appeal."

16. **Proviso to section 12** of the High Court of Provinces (Special Provisions) Act No 19 of 1990 has given the Court of Appeal a discretion as to which court should hear such application when it is before the Court of Appeal. **Proviso to section 12** of the said Act reads as follows;

"Provided, however, that where any appeal or application which is within the jurisdiction of a High Court established by Article 154 P of the Constitution if filed in the Court of Appeal, the Court of Appeal may if it considers it expedient to do so order that such appeal or application

be transferred to such High Court and such High Court shall hear and determine such appeal or application." (the emphasis was added)

17. Under these circumstances it is understood that with regard to the applications come within Article **154 P (4)** of the Constitution, Provincial High Courts are conferred with concurrent jurisdiction with the Court of Appeal.

18. In the case of CA/Writ/ 23/2013 decided on 10.06.2016, the Petitioner K.A. Allen Nona had come before court seeking a Writ of Certiorari to quash the determination marked P-8 made by the 2nd Respondent under section 90 of the Agrarian Development Act No. 46 of 2000. The counsel for the Respondents has raised preliminary objections for the maintainability of this application before this court. The objections raised by the Respondents were twofold. Firstly, they took up the position that the Court of Appeal has no jurisdiction to hear and determine the present application and only the Provincial High Court has the jurisdiction, under the provisions of the 13th Amendment to the Constitution.

19. Article 154 (4) of the Constitution of the Democratic Socialist Republic of Sri Lanka reads thus, *"Every such High Court shall have jurisdiction to issue, according to law – a) Orders in the nature of habeas corpus, in respect of persons illegally detained within the Province, and b) Order in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the Province, any power under – (i) any law; or (ii) any Statutes made by the Provincial Council established for that Province, in respect of any matter set out in the Provincial Council List."*

22. As such it is clear that the ingredients listed above have been satisfied by the circumstances and facts of the case at hand. This would render it possible to transfer the matter to the Provincial High Court of Uva

23. In the instant case, the Provincial High Court of Uva Province is conferred with concurrent jurisdiction with the Court of appeal to hear and determine this case. Even though the Petitioner to the present application has decided to come before the Court of Appeal to use its concurrent jurisdiction, with regard to the present application, the Court is of the view that it is expedient to hear and determine this case in the Provincial High Court of Badulla rather than in Court of Appeal.

24. Therefore, the case is transferred to the Provincial High Court of Uva Province holden in Badulla.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree

President of the Court of Appeal

