

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/or
a Writ of Prohibition and/or a Writ of
Mandamus under and in terms of Article
140 of the Constitution of the Democratic
Socialist Republic of Sri Lanka.*

Case No : CA (Writ) 1095/25

Geekiyanage Vasantha Kumara
No. 58,
D.M. De Silva Mawatha,
Colombo Road,
Chilaw.

Petitioner

Vs.

1. Mr. Harshana Nanayakkara,
Minister of Justice & National
Integration,
Ministry of Justice and National
Integration
No. 19, Sri Sangaraja Mawatha,
Colombo 10.
2. Ms. Ayesha Jinasena, P.C.
Secretary,
Ministry of Justice and National
Integration
No. 19, Sri Sangaraja Mawatha,
Colombo 10.

3. Ms. Krishanthi Meegahapola
Additional Secretary (Reforms)
Ministry of Justice and National
Integration
No. 19, Sri Sangaraja Mawatha,
Colombo 10.
4. Mr. Thilina Gammunage
Additional Secretary (Reforms)
Ministry of Justice and National
Integration
No. 19, Sri Sangaraja Mawatha,
Colombo 10.
5. M.H.T.T. Thushara
Assistant Director
Ministry of Education,
Higher Education and Vocational
Education
Isurupaya,
Battaramulla.
6. Ms. P.A.M.K. Kulasooriya
Assistant Secretary,
Ministry of National Policies, Economic
Affairs, Resettlement & Rehabilitation,
Northern Province Development,
Vocational Training & Skills
Development and Youth Affairs
Colombo 01.
7. Mr. Sangeewa Bopearachchi
Public Relations Officer of the Honorable
Former Minister of Justice,

Ministry of Justice and National
Integration

No. 19, Sri Sangaraja Mawatha,
Colombo 10.

8. Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondents

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

: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Bojaya Kasun instructed by Ruwani Adikari for the
Petitioner.

Sachithra Fernando, SC for the Respondents.

Written Submissions on : 24.08.2026 for the Petitioner.

Supported on : 23.07.2026

Decided on : 14.09.2026

K. Priyantha Fernando, J. (CA)

1. The Petitioner submitted an application seeking relief in the nature of Writs of *Certiorari* and *Mandamus* concerning the impugned selection and assignment of Inquirers into Sudden Deaths (Coroners).

POSITION OF THE PETITIONER:

2. The Petitioner argued that the administrative process adopted by the Respondents was contrary to applicable rules, irrational, and unreasonable, resulting in the wrongful denial of his appointment to the Chilaw General Hospital. The Petitioner was appointed as an honorary Inquirer into Sudden Deaths in 2014 for thirteen Grama Niladhari Divisions within the Chilaw Divisional Secretariat Division, which included the Pitipana North division attached to the Chilaw General Hospital.
3. The Petitioner had continuously performed his duties at the hospital from 2014 to 2023. On 08.05.2023, the 3rd Respondent issued a letter (marked P2) calling for applications under a purported new Standing Code of Conduct. The Petitioner submitted his application and after attending an interview was one of the five selected from the division.
4. However, the Petitioner emphasized that despite having nine years of relevant hospital service, being the only applicant residing in the hospital's Grama Niladhari Division, possessing the longest continuous service in the relevant division within the Puttalam District and holding an LL.B Degree and enrolment as an Attorney-at-Law, he was arbitrarily assigned to the Madampe Division and not the Chilaw Division. The Petitioner further pointed out that another candidate, Mr. S.M. Jawfer, was assigned to the Chilaw General Hospital despite lacking equivalent hospital service and qualifications. The Petitioner further submitted that formal requests he made to the higher authorities seeking rectification yielded no fruitful action.
5. The Respondents argued that the application should be dismissed on the grounds of *laches* and undue delay. The Petitioner contended that the delay in instituting the application was reasonably explained and not a result of deliberate inaction. The Petitioner submitted that the marking scheme (marked P6) was only obtained on 14.02.2025, through a request filed under the Right to Information Act. Upon obtaining the marking scheme, the Petitioner noted material irregularities, including the failure to award him marks for his degree qualification. Furthermore, the Petitioner argued that he acted under the *bona fide* belief based on the official communication marked P2, that a new Standing Code of Conduct had been introduced and hence the marking scheme was different.

6. However, upon the receipt of a subsequent Right to Information response from the Ministry of Justice and National Integration on 25.08.2025 (marked P4) the Petitioner discovered there was in fact only one applicable Standing Code of Conduct. Thus, it was then that the Petitioner questioned the representation that a "new" code had been prepared.
7. The Petitioner filed the present application on 10.11.2025 (the docket reflects the date of filing as 12.11.2025), approximately two and a half months after uncovering this information, having spent the period of time from September 2023 to August 2025 communicating with the authorities in pursuit of administrative redress.
8. Furthermore, the Petitioner argued that the explained delay should not bar discretionary relief, and cited the jurisprudence of Gunasekera vs. Abdul Latiff [1955] 1 Sri L. R. 225, Issadeen v. The Commissioner of National Housing and others [2003] 2 Sri L. R. 10, and Nallaperuma Thanthrige Leelawathie and other v. Divisional Secretary Karadeniya and others CA/WRT/0218/2017 decided on 02.12.2019.
9. In Gunasekera vs Abdul Latiff [1955] 1 Sri L. R. 225 at page 235, Ranaraja, J. defined delay or *laches* as below:

“The word ‘laches’ is a derivative of the French verb ‘Lacher’, which means to loosen. Laches itself means slackness or negligence or neglect to do something which by law a man is obliged to do. (Stroud’s Judicial Dictionary 5th Ed., pg 1403.) It also means unreasonable delay in pursuing a legal remedy whereby a party forfeits the benefit upon the principle vigilantibus non dormientibus jura subveniunt. The neglect to assert one’s rights or the acquiescence in the assertion or adverse rights will have the effect of barring a person from the remedy which he might have had if he resorted to it in proper time (Mozley & Whiteley’s Law Dictionary, 10th Ed., pg. 260)”.

10. In the instant case, when the Petitioner got to know the content of P2, he came to court as soon as possible and therefore he may be considered as one who is vigilant and it is the duty of the law to “...help(s) those who are vigilant, not those who sleep on their rights”.

11. In Issadeen v The Commissioner of National Housing and others [2003] 2 Sri L. R. 10 at pages 15 and 16, Bandaranayake J., dealing with a belated application for a Writ of *Certiorari* held as follows:

*“It is however to be noted that delay could defeat equity. Although there is no statutory provision in this country restricting the time limits in filing an application for judicial review and the case law of this country is indicative of the inclination of the Court to be generous in finding ‘a good and valid reason’ for allowing late applications, I am of the view that there **should be proper justification given in explaining the delay** in filing such belated applications. In fact, regarding the writ of certiorari, a basic characteristic of the writ is that there should not be an unjustifiable delay in applying for the remedy”.* (the emphasis was added)

12. In the instant case, although there is a period of 26 months between the impugned assignment dated 07.09.2023 and the institution of the application on 12.11.2025, the said delay is reasonably explained by the circumstances. Thus, I apply the dicta in the above judgments and find that the Petitioner has sufficiently explained the delay.

13. The Petitioner further argued that his circumstances gave rise to a legitimate expectation that his longstanding service of nine years at the Chilaw General Hospital and his residency in the relevant Grama Niladhari Division would be duly considered, as expressly contemplated in the official documents (P2 and P5).

14. Relying on Hilaire Barnett’s definition of legitimate expectation in ‘Constitutional and Administrative Law’ (14th edn., 2021) and the precedent set in Siriwardane vs. Seneviratne and four others [2011] 2 Sri L. R. 1, the Petitioner contended that the Respondents' arbitrary departure from these represented criteria materially prejudiced him.

15. There are three main questions of law that require this Court's determination:

First, whether there is illegality on basis of the absorption process, given that document P4 suggests no new Standing Code of Conduct actually existed to necessitate such a process;

Second, whether the Respondents' failure to apply their own stated criteria regarding the applicant's residence and prior duty area is reasonable or not; and

Third, whether the material discrepancies in the marking process (evidenced by P6 and P6(a) to P6(d)), which failed to award the Petitioner marks for his valid qualifications amounts to procedural impropriety.

16. Consequently, the Petitioner concluded that the application is not founded merely upon a dissatisfaction with the decision of the Respondents, but is based on a legitimate expectation which accrued to the Petitioner by way of the documents marked P2 and P5. Thus, the Petitioner argued that the Court's exercise of its discretionary writ jurisdiction is warranted.

17. The Respondents have not filed any limited objections or affidavits or written submissions.

18. Therefore, on the material available before the Court, I find that there is a *prima facie* case which warrants formal notice to be issued on the Respondents. Accordingly, formal notice is issued on the Respondents.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal