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 Mandamus under and in terms of Article 140 of the Constitution

CA/WRT/418/2026

The Gateway Educational Services (Pvt) Ltd.
No. 06, Rodney Street,
Colombo 08.

Petitioner

Vs.

The Registrar General of Companies,
Department of the Registrar of Companies,
Samagam Medura,
No, 400, D.R. Wijewardene Mawatha,
Colombo 10.

Respondent

Before: Damith Thotawatte, J.

K.M.S. Dissanayake, J.

Counsels: Nalin Amarageewa instructed by W.I. Himaya Boteju for the Petitioner.

Supported: 28.07.2026

Order Delivered: 24.08.2026

Thotawatte, J.

The Petitioner, The Gateway Educational Services (Private) Limited, has invoked the jurisdiction of this Court under Article 140 of the Constitution seeking, *inter alia*, mandates in the nature of Writs of Mandamus against the Respondent, the Registrar General of Companies.

The principal grievance of the Petitioner arises from an error said to have occurred in "Form 6" dated 12.05.2009 relating to the issue of 158,351 shares. The Petitioner states that the consideration for the said issue and the stated capital consequent thereto had been inadvertently and erroneously entered in "Form 6" as Rs.1,583,510/- and Rs.2,833,510/- respectively, whereas the correct figures ought to have been Rs.15,561,152.77 and Rs.16,811,152.77.

The Petitioner states that the Annual Returns subsequently filed for the years 2009 to 2019 reflected what it claims to be the correct position and were accepted by the Respondent. It is further stated that, upon electronic filing becoming compulsory, the Annual Returns for the years 2020 to 2025 could not be submitted owing to the inconsistency between the figures contained in "Form 6" and those appearing in the subsequent Annual Returns.

The Petitioner now seeks, *inter alia*, mandates compelling the Respondent to cancel or revoke the "Form 6" dated 12.05.2009, accept and register a corrected "Form 6", make consequential corrections to the company records and prior Annual Returns, and accept the Annual Returns for the years 2020 to 2025.

At the stage of support, this Court must be satisfied that the material placed before Court discloses a *prima facie* or arguable case warranting the issuance of formal notice. The Court is not required to issue notice merely because relief has been formulated in the form of a prerogative writ. The Court may examine at the threshold whether the essential conditions for the remedy sought have been disclosed.

Requisites for writ of Mandamus

Before invoking the writ jurisdiction of this Court, a Petitioner must first have made a distinct and specific request to the relevant authority to rectify the matter complained of, and that request must have been met with a refusal. Mandamus lies to remedy a refusal to act, not to bypass the authority's first opportunity to act. Where no such prior request has been made and refused, the foundation for a writ of mandamus is absent.[1]

Of particular relevance to the present application is the requirement of "demand and refusal". In ***Henagge Upali Wijayawardhana v. Sumith Alahakoon and People's Leasing and Finance PLC***[2], the Court reiterated that a demand for the performance of the duty and a refusal to perform it must precede an application for Mandamus. Referring to ***Credit Information Bureau of Sri Lanka v. Messrs Jafferjee and Jafferjee (Pvt) Ltd.***[3], the Court observed that one of the prerequisites for Mandamus is that the application must be preceded by a distinct demand for the performance of the duty. The Court further referred to Wade and Forsyth, *Administrative Law*, 11th Edition, p. 528, wherein it is observed that although an express demand and refusal have been regarded as requirements preceding Mandamus, those formalities may be satisfied by the conduct of the parties prior to the application and a refusal may be implied from such conduct. The substantial requirement is that the public authority should have been clearly informed of what the applicant expected them to do, thereby affording the authority an opportunity to decide whether to act.

The requirement of demand and refusal was more specifically addressed in ***Malani de Silva v. Commissioner General of Excise and Another***[4]. The Court held that, in the absence of a refusal, Mandamus would not be available and, referring to ***S.I. Syndicate v. Union of India***[5], observed that the authority must have been made aware of what it was required to do and that there must be evidence of a distinct demand for that which the applicant seeks to enforce and that such demand was met by a refusal.

Absence of a Specific Demand for Rectification

The error complained of is not an error attributed to the Respondent. It is an error which, according to the Petitioner's own case, originated in Form 6 submitted on behalf of the

[1] *Rasammah and another v. A.P.B. Manmperi* [1974] 77 NLR 313, *Weerasinghe v. Nanayakkara and others* CA/WRT/821/2023 Decided on 30.09.2024, *Wijayawardhana v. Alahakoon* CA/WRT/67/2020 Decided on 27.07.2022, *Ramalingam Ranjan v. Hon. Sanjay Rajaratnam and Others* CA/WRT/437/2022 Decided on 27.03.2023
[2] CA/WRT/67/2020 Decided on 27.07.2022
[3] (2005) 1 Sri.LR 89
[4] CA/WRT/445/2020 Decided on 03.06.2021
[5] AIR 1975 SC 460

Petitioner in 2009. The Petitioner now seeks the intervention of this Court to compel the Registrar General of Companies to rectify the consequences of that error.

Before Mandamus could properly be invoked for that purpose, it was incumbent upon the Petitioner to place before the Registrar a proper application requesting rectification, supported by material sufficient to establish, the existence of the alleged error, the true corporate position, the circumstances in which the error occurred, and the precise correction which the Registrar was being requested to effect.

The material before this Court does not show that any formal application was made to the Registrar requesting correction of the alleged error. Although the Petitioner refers to earlier inquiries and discussions with officers of the Department, no evidence has been produced to establish that such inquiries or discussions took place, with whom they were held, or what transpired. In any event, an inquiry or discussions as to whether an error could be corrected is not equivalent to a formal request calling upon the Registrar to correct it on the basis of supporting material.

The Letter of Demand

The principal document relied upon by the Petitioner in this regard is the letter dated 27.04.2026, marked **P16**. It is undoubtedly a formal letter of demand. It identifies the alleged error and calls upon the Respondent within fourteen days to permit the withdrawal, cancellation, correction or replacement of the erroneous "Form 6", to accept a corrected "Form 6", to make consequential corrections and to accept the Annual Returns for the years 2020 to 2025. The letter therefore demonstrates that a demand was made.

However, a demand for relief is not necessarily a proper application for administrative determination. There is a material distinction between demanding that an administrative authority grant relief and placing before that authority a proper application containing the material necessary for the authority to consider and determine whether such relief may lawfully be granted.

The Petitioner maintains that the entries made approximately seventeen years ago were the result of an inadvertent or clerical error. However, there is no material to show that, before instituting these proceedings, the Petitioner placed before the Registrar any affidavit or sworn declaration from a person with knowledge of the explaining how the erroneous entries came to be made and verifying that they were in fact the consequence of an inadvertent mistake. Nor does the material disclose that a completed corrected "Form 6", together with the necessary supporting material, was formally tendered to the Registrar for consideration and acceptance.

The Board Resolution dated 10.04.2009, marked P3

The Board Resolution dated 10.04.2009, marked P3, records the terms upon which the relevant shares were resolved to be allotted and may therefore serve as material against which the entries subsequently made in "Form 6" may be compared. However, P3 neither refers to any error in "Form 6" nor explains how the alleged error occurred or establishes that it resulted from an inadvertent or clerical mistake. It therefore does not, by itself, constitute proof of the circumstances in which the impugned entries came to be made in 2009.

This is particularly significant because the Petitioner is seeking to compel the Registrar not merely to receive a prospective filing, but to alter the consequences of a statutory filing made and accepted many years previously.

The Board Resolution dated 16.03.2026, marked P15

The Board Resolution dated 16.03.2026, marked **P15**, records the Company's position that an error had occurred in Form 6 and resolves to request the Registrar of Companies to treat the Annual Returns filed for the years 2009 to 2019 as cancelled, with a view to thereafter obtaining the approval of Court to amend Form 6. However, **P15** is an internal corporate resolution and does not, by itself, establish that such request was in fact submitted to the Registrar. More importantly, the resolution does not call upon the Registrar to rectify Form 6. It only contemplates an application to Court for that purpose.

This is particularly relevant as **P15** may actually undermine any assertion that the company had formally requested the Registrar himself to rectify "Form 6", because its express scheme appears to contemplate Court approval for the amendment of **"**Form 6", rather than administrative rectification of "Form 6" by the Registrar.

The requirement that an applicant first invoke the administrative process is not a mere technicality. It enables the statutory authority to consider the relevant material, ascertain the facts, and determine the matter within the scope of its powers before the supervisory jurisdiction of this Court is invoked. The Petitioner's assertion that officers of the Department had indicated that “Form 6” could not be cancelled or regularised without an order of Court does not establish that a proper application, supported by the necessary material, was placed before the Registrar General of Companies and refused.

Public Duty

In ***Credit Information Bureau of Sri Lanka v. Messrs Jafferjee and Jafferjee (Pvt) Ltd.***[6], the Supreme Court held that among the conditions precedent to the issue of Mandamus are that the applicant must have a legal right to the performance of a legal duty by the person against whom the writ is sought; that the foundation of Mandamus is the existence of such legal right; and that the right sought to be enforced must be a public right and the corresponding duty must be of a public nature.

In the present case, the Petitioner has not identified any provision of the Companies Act, No. 07 of 2007, which imposes upon the Registrar a duty to cancel, amend or substitute the Form 6 in question in the circumstances pleaded. Nor has the Petitioner established that a proper application for such rectification, supported by material establishing the alleged error, was placed before the Registrar for determination. In these circumstances, the Petitioner has failed to establish either a legal right to the particular rectification sought or a corresponding public legal duty on the part of the Registrar which is capable of enforcement by Mandamus. The existence of a general statutory responsibility for company records does not, without more, establish a corresponding public duty to grant the particular relief demanded by the Petitioner.

The Respondent's failure to respond to P16 does not necessarily cure that deficiency. Silence following a demand may, in an appropriate case, constitute an implied refusal. However, an implied refusal presupposes that the authority had first been placed in a position where it could meaningfully determine the request made to it.

[6] (2005) 1 Sri.LR 89

Prematurity of the application

In my view, the Petitioner has approached this Court **prematurely**. The Petitioner should first place before the Registrar General of Companies a proper and comprehensive application seeking rectification or regularization of the records, identifying the statutory basis upon which the Registrar is requested to act and tendering such material as may be necessary to substantiate the assertion that a genuine inadvertent error occurred. Such material may include the relevant Board Resolutions, the original and proposed corrected statutory forms, Annual Returns, appropriate affidavits or declarations from persons competent to explain the discrepancy, and other contemporaneous corporate and accounting records upon which the Petitioner seeks to rely.

It would then be for the Registrar to consider that application and determine, according to law and within the limits of the powers vested in that office, whether and in what manner the request may be entertained.

The supervisory jurisdiction conferred upon this Court by Article 140 cannot properly be invoked to substitute the Court for the administrative authority at the first instance, particularly where the authority has not yet been afforded the opportunity to determine, upon a properly constituted application and supporting material, the very matter which the Court is now requested to compel it to decide in a particular manner.

Conclusion

I am therefore not satisfied that the Petitioner has, at this stage, demonstrated the prerequisites necessary to invoke the remedy of Mandamus. In these circumstances, I am unable to conclude that the Petition discloses a *prima facie* or arguable case warranting the issuance of formal notice upon the Respondent.

Accordingly, notice is refused and the application is dismissed *in limine*.

I make no order regarding cost.

The dismissal of this application shall not preclude the Petitioner from making an appropriate application to the Registrar General of Companies, supported by the relevant material, seeking such rectification or regularization as may be permissible in law, nor from seeking such remedy from this court as may thereafter be available in law consequent upon the determination or failure of Registrar General of Companies to determine such application.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal