

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

In the matter of an application under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka for the grant and issue of a writ of certiorari, mandamus and prohibition.

CA (Writ) Application No.650/2024

Ran Patabendige Anura Lal Weerawansa
No.3,Nelum Mawatha,
Sirimal Uyana,
Ratmalana.

Presently in death row
at; Welikada Prison,
Colombo 01.

PETITIONER

Vs.

1. Harini Amarasuriya
Minister of Justice, Public Administration,
Provincial Councils,
Local Government and Labour,
Ministry of Justice, Public Administration,
Provincial Councils,
Local Government and Labour,
No.19,
Sri Sangaraja Mw
Colombo 10.
- 1A. Harshana Nanayakkara
Minister of Justice and National Integration,
Ministry of Justice and National Integration,
No.19,
Sri Sangaraja Mw
Colombo 10.
2. W.P.P. Yasaratne
Secretary
Ministry of Justice,
Prison Affairs and Constitutional
Reforms

No.19,
Sri Sangaraja Mw
Colombo 10.

- 2A. Ayesha Jinasena
Secretary
Ministry of Justice and National Integration,
No.19,
Sri Sangaraja Mw
Colombo 10.
3. H.M.T.N Upuldeniya
Commissioner General of Prisons
Prisons Headquarters
No.150,
Baseline Road,
Colombo 09,
Sri Lanka.
- 3A. Nishan Dhanasinghe
Acting Commissioner General of Prisons
Prisons Headquarters
No.150,
Baseline Road,
Colombo 09,
Sri Lanka.
4. Sisira Kumara Rathnayaka – Retired
High Court Judge
Member
5. Ajith Marasingha
Retired High Court Judge
6. R.G.S Saman Kumara
Additional Secretary
Ministry of Justice
7. K.V.D.S Karawita
Senior Deputy Inspector General of
Police (SDIG)
8. Sumathipala Keeragala
Attorney At Law

All of whom are members of the long- term prisons committee and/or whom are members of the 'Committee for Prisoners Imprisoned for More Than 20 Years and with Severe Medical Conditions' appointed by the predecessor to the 1st Respondent.
Care of the Department of Prisons
Prisons Headquarters,
No.150,
Baseline Road, Colombo 09

9. Attorney General
Attorney Generals Department,
Colombo.

RESPONDENTS

Before: Mayadunne Corea, J.
Mahen Gopallawa, J.

Counsel: Manohara de Silva, PC with Ms. Nadeeshani Lankathilaka for the Petitioner.

Ms. Panchali Witharana, State Counsel for the Respondents.

Supported on: 12.03.2026

Decided on: 08.05.2026

Mahen Gopallawa, J.

Introduction

The Petitioner was convicted for murder in by a Trial-at Bar in the High Court of Colombo¹ and sentenced to death on 01.10.2002 and the appeal preferred by the Petitioner too was dismissed by the Supreme Court, which affirmed his conviction and sentence.² The Petitioner has presently completed 22 years on death row at the Welikada Prison since his conviction in 2002.

¹ High Court Case No. HC/836/2001

² SC Appeal No. 17/2003 (TAB). Reported in [2005] 1 Sri L.R 358

In the instant application, the Petitioner has challenged the failure on the part of the Respondents to consider and/or recommend the Petitioner to His Excellency the President for the commutation of his sentence and/or grant of a pardon.³ Accordingly, he has sought the following substantive reliefs;

- b) *Grant and issue a mandate in the nature of a writ of mandamus directing the Respondents and/or more specifically the 1st to 3rd and/or the 4th to 9th Respondents and/or any one or more of them to review and recommend the Petitioner to His Excellency the President of Sri Lanka for;*
- I. a grant of pardon, either free or subject to lawful conditions and/or;*
 - II. grant any respite, either indefinite for such period as the President may think fit of the execution of any sentence passed on the Petitioner and/or;*
 - III. substitute a less severe form of punishment for any punishment imposed on the Petitioner and/or;*
 - IV. remit the whole or any part of any punishment imposed or of any penalty or forfeiture otherwise due to the Republic on account of such offence;*
- c) *Grant and issue a mandate in the nature of a writ of mandamus directing the Respondents and/or more specifically the 1st to 3rd and/or the 4th to 9th Respondents and/or any one or more of them to review and recommend the Petitioner to His Excellency the President of Sri Lanka for his sentence to be commuted to life imprisonment and/or a fixed number of years with a specific term and/or any other form of a reduced sentence to mark religious days, public holidays and other days of importance.*
- d) *Grant and issue a mandate in the nature of a writ of mandamus directing the Respondents and/or more specifically the 1st to 3rd and/or the 4th to 9th Respondents and/or any one or more of them to forward any recommendation made by any of the committees referred to in Section (E) of this Petition and/or any other Committee, to the President.*

Limited objections were filed by the Respondents objecting to the aforementioned reliefs sought by the Petitioner and seeking the dismissal of the application.⁴

Submissions of the Parties and Analysis

We have heard the submissions of the learned President's Counsel for the Petitioner in support of the application and the submissions of the learned State Counsel opposing same.

³ vide paragraph 5 of the petition

⁴ Limited statement of objections and an affidavit from the 3rd Respondent were filed on 02.05.2025

At the outset, it is observed that the grant of pardons, including pardons in respect of prisoners sentenced to death, is governed by Article 34 of the Constitution.⁵ Article 34(1) thereof provides as follows;

34. (1) The President may in the case of any offender convicted of any offence in any court within the Republic of Sri Lanka –
(a) grant a pardon, either free or subject to lawful conditions;
(b) grant any respite, either indefinite for such period as the President may think fit, of the execution of any sentence passed on such offender;
(c) substitute a less severe form of punishment for any punishment imposed on such offender; or
(d) remit the whole or any part of any punishment imposed or of any penalty or forfeiture otherwise due to the Republic on account of such offence:

Provided that where any offender shall have been condemned to suffer death by the sentence of any court, the President shall cause a report to be made to him by the Judge who tried the case and shall forward such report to the Attorney-General with instructions that after the Attorney-General has advised thereon, the report shall be sent together with the Attorney-General's advice to the Minister in charge of the subject of Justice, who shall forward the report with his recommendation to the President.

The scope of such the aforementioned Article 34 of the Constitution has been extensively considered and interpreted in several cases by the Supreme Court, most recently in ***Hirunika Eranjali Premachandra v Hon. Attorney General and others***⁶ and ***Women & Media Collective v Hon. Attorney General and others***.⁷

The learned State Counsel for the Respondents submitted that, in terms of Article 34 of the Constitution, the grant of a pardon was a prerogative of the President and did not accord a right for a prisoner to seek a pardon or recognize a corresponding duty on the part of the Respondents to confer same. As such, she submitted that the writs of Mandamus sought under paragraphs (b) and (c) of the prayer to the petition were misconceived in law. Upon consideration of the aforementioned text of the Article 34(1) and the judicial authorities on the issue, I am inclined to accept the position taken by the learned State Counsel.

However, the learned President's Counsel for the Petitioner submitted that, whilst the Petitioner has prayed for a recommendation for a pardon by way of relief, the principal purpose of filing the

⁵ In addition, Article 154B(9) of the Constitution provides for the grant of pardons by the Governor of a Province, without prejudice to the powers of the President under Article 34 and subject to his directions, in respect of persons convicted of an offence against a statute made by the Provincial Council of that Province or a law made by Parliament on a matter in respect of which the Provincial Council has power to make statutes and to grant a respite or remission of punishment imposed by Court on any such person.

⁶ SC FR Application No. 221/2021, SC Minutes dated 17.01.2024. SC FR Applications Nos. 225/2021 and 228/2021 were considered and determined along with the said SC FR Application No. 221/2021.

⁷ SC FR Application No. 446/2019, SC Minutes dated 06.06.2024

instant application was to obtain a commutation of his sentence. In such context, he explained that, since death sentences are imposed although they have not been carried out in Sri Lanka since 23.06.1976, the practice is for prisoners under a death sentence to be held in prison for an indefinite period either until they receive a pardon, a commutation of sentence or dies whilst serving the sentence.

Relying on the report of the study on the Sri Lankan prison system conducted by the Human Rights Commission of Sri Lanka (HRC) in 2018 titled "*Prison Study by the Human Rights Commission of Sri Lanka*," (HRC Report)⁸ the learned President's Counsel submitted that in order to become eligible for a pardon, a prisoner serving a death sentence must first have such sentence commuted by a commutation committee from an indeterminate sentence period to a normal convicted sentence with a determined end date.⁹ He further submitted that commutation committees are appointed by the Ministry of Justice to commute condemned and life sentences as well as long-term sentences to a specific term of imprisonment, usually 20 years.¹⁰

In the petition, reference has been made to 03 committees that appointed by the Minister of Justice since 2013 to review and/or reduce sentences from the year 2013, as follows:

1. *The Condemn Prisoners Committee (also known as the "Nimal E Dissanayaka Committee"):* 2013-2017;
2. *The "Long-Term Prisoners Committee"(also known as "Sunil Rajapaksha Committee"):* 2017-2022; and
3. *The "Committee for Prisoners Imprisoned for More Than 20 Years and with Severe Medical Conditions:"*2023-2024¹¹

According to the petition, the Petitioner had been summoned before the aforementioned 1st and 3rd Committees, although he had not been informed of the recommendations made by the said Committees. In their limited objections, the Respondents have, *inter alia*, stated that the aforementioned 1st Committee had refused to recommend amnesty and reduction of his sentence "in view of the grievous and heinous nature of the crime and strong evidence of calculated prior preparation"¹² and that the aforementioned 3rd Committee "had declined to recommend a commutation of sentence and further recommended that the prisoner must be further rehabilitated for 12 months, subject to which a recommendation may be reconsidered at the end of such rehabilitation period."¹³ The Respondents have further stated therein that "the said Committee was suspended and stands suspended to date due which none of the

⁸ The said HRC Report is marked as part of the brief (P1) in SCFR Application No. 169/2023 previously filed by the Petitioner as pp 65-927

⁹ vide page 398 of the HRC Report (p 496 of the brief (P1))

¹⁰ vide page 399 of the HRC Report (p 497 of the brief (P1))

¹¹ vide paragraphs 10-19 of the petition

¹² vide paragraph 31 (f) of the Respondents' statement of objections

¹³ vide paragraph 31 (j) of the Respondents' statement of objections

recommendations channeled to the Presidential Secretariat through the Ministry of Justice has been actioned.”¹⁴

The learned President’s Counsel further drew the attention of Court to an order made by the Supreme Court in ***Rajapakse Arachchige Dias alias Marcus v Hon. Attorney General***,¹⁵ wherein the Court took cognizance of the aforementioned practice for the President to commute death sentences, and proceeded to make a recommendation regarding the computation of the term of imprisonment, without making any order or direction, in the event the executive were to inclined to exercise its unfettered discretion to commute death sentences.

On this issue, it is pertinent to note that the recommendations by commutation committees made in respect of the Petitioner have been disclosed in the statement of objections filed by the Respondents themselves. The learned State Counsel submitted that, although there had been commutation committees appointed by the Minister of Justice in the past, their mandates had lapsed. Thus, it would appear that the sole reason for not taking action upon the recommendation made by the aforementioned 3rd Committee is because of the suspension of such Committee. It is pertinent to note that no reason has been disclosed for such suspension.

She further adverted to the decision of the Cabinet of Ministers taken on 02.06.2025 to appoint an Expert Committee to review existing procedures and make recommendations for a revised, transparent and accountable process to be followed in relation to requests for the grant of a pardon or remission and submitted that the Petitioner may make representations to such Committee to obtain relief. However, the learned President’s Counsel for the Petitioner in response submitted in response that the mandate of such Committee did not extend to recommending relief in particular cases, and, as such, did not constitute an equally efficacious alternative remedy.

Conclusions and Orders of Court

Upon consideration of the positions taken up by the respective parties on regarding the recommendations made by Commutation Committees, I am of the view that the Petitioner has been able to establish a *prima facie* case regarding his entitlement to have the recommendation made by the Commutation Committee for Prisoners Imprisoned for More Than 20 Years and with Severe Medical Conditions (2023-2024) (“the 3rd Committee”) given effect to by the Respondents and submitted for the consideration of the President, which needs to be further inquired into by this Court.

In such circumstances, I am inclined to issue notice on the Respondents specifically and solely on the following issue;

¹⁴ vide paragraph 31 (k) of the Respondents’ statement of objections

¹⁵ SC (Spl) LA Application No. 71/2020, SC Minutes dated 16.09.2022

Is the Petitioner entitled to obtain a mandate in the nature of a writ of mandamus directing the Respondents and/or any one or more of them to give effect to the recommendation made by the Committee for Prisoners Imprisoned for More Than 20 Years and with Severe Medical Conditions (2023-2024), as referred to in the statement of objections of the Respondents, and to submit same for the consideration of the President.

Accordingly, I direct that formal notices be issued on the Respondents on the aforementioned specific issue returnable on a date to be fixed in open Court.

Notice issued.

Judge of the Court of Appeal

Mayadunne Corea J.

I agree.

Judge of the Court of Appeal