

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

*In the matter of Contempt of Court in terms of  
the Article 105(3) of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.*

**CA Contempt Application No.  
COC/0005/2021**

**CA (Writ) Application No.  
0292/2021**

Dr. Mrs. S.M.S.P. Sathkumara  
No. 75/1,  
Circular Road,  
Malkaduwawa,  
Kurunegala.

**Petitioner**

Vs.

1. Dr. S.H. Munasinghe  
Secretary,  
Ministry of Health.
2. Dr. A.K.S. De Alwis  
Additional Secretary,  
Ministry of Health
3. Dr. Asela Gunawardana  
Director General of Health Services,  
Ministry of Health
4. Dr. P.W.C.L. Panapitiya  
Deputy Director General of Health  
Services,  
Ministry of Health

*All of*

“Suwasiripaya” ,

No. 385,

Ven. Baddegama Wimalawansa Thero

Mawatha,

Colombo 10.

5. Dr. Pramitha Shanthilatha

Acting Director,

Teaching Hospital,

Kurunegala.

6. Dr. Chandana Kandagamuwa

Deputy Director,

Teaching Hospital,

Kurunegala.

7. Dr. K.K. Malawige

Deputy Director

Teaching Hospital,

Kurunegala.

8. Dr. Lanka Tennakoon

Paediatrician Consultant,

Neonatology Unit,

Teaching Hospital,

Kurunegala.

9. Mr. L.A. Kalukapuarachchi

Secretary,

Health Service Committee,

Public Service Commission,

No. 1200/09,

Rajamalwatta Road,  
Battaramulla.

**Respondents**

**AND NOW**

Dr. Mrs. S.M.S.P. Sathkumara  
No. 75/1,  
Circular Road,  
Malkaduwwa,  
Kurunegala.

**Petitioner – Complainant**

Vs.

1. Dr. S.H. Munasinghe  
Secretary,  
Ministry of Health.
2. Dr. A.K.S. De Alwis  
Additional Secretary,  
Ministry of Health
3. Dr. Asela Gunawardana  
Director General of Health Services,  
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*All of*  
“Suwasiripaya” ,  
No. 385,  
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4. Dr. Pramitha Shanthilatha  
Acting Director,  
Teaching Hospital,  
Kurunegala.

5. Dr. Chandana Kandagamuwa  
Deputy Director,  
Teaching Hospital,  
Kurunegala.

6. Dr. Lanka Tennakoon  
Paediatrician Consultant,  
Neonatology Unit,  
Teaching Hospital,  
Kurunegala.

**Respondent – Accused**

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

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

Counsel : Saliya Pieris, PC, with Geeth Karunaratne and  
Dhimarsha Marso instructed by Ms. Bhagya Peiris for  
the Petitioner- Complainant.

Manohara Jayasinghe, DSG, for the Respondent  
Accused.

Written Submissions on : 07.07.2026 for the Petitioner.

28.07.2026 for the Respondents.

Supported on : 20.05.2026

Decided on : 14.09.2026

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

1. The matter at hand deals with an alleged contemptuous act committed by the Respondents to the application which resulted in the Complainant, a Resident Pediatrician at the Teaching Hospital Kurunegala (hereinafter referred to as ‘TH Kurunegala’) being unable to perform any service or duties at the TH Kurunegala despite there having been an interim Order by this Court in the case bearing no. CA/WRT/292/2021. The interim Order dated 28.06.2021 reads as follows:

*“Also we issue an interim order directing the 1<sup>st</sup> 3<sup>rd</sup> 5<sup>th</sup> and 6<sup>th</sup> Respondents to continue to assign the Petitioner, to the Neonatology Unit of Kurunegala Teaching Hospital who should carry out usual duties at the said unit. This interim order [is] operative until the next date of this case.*

*Further, this Court makes the observation that the Petitioner’s alleged appointment letters marked P20 and/or P18 do not impede 1<sup>st</sup> 3<sup>rd</sup> 5<sup>th</sup> and 6<sup>th</sup> Respondents [from] allocating usual duties by the said Neonatology unit to the Petitioner”*

2. The Complainant stated that the issue she was faced with, which led her to file the writ case detailed above, was that although she was being paid her monthly salary for a lengthy period of time, she was not being given any work in the TH Kurunegala. Thus, the complainant initially, through letter dated 25.11.2020 sought special permission from the 3<sup>rd</sup> Respondent (The Director General of Health Services) to apply for the annual transfer list for the year 2021, which ordinarily would not have been granted to her as she had already applied for the 2020 transfer. This request was rejected by the Respondents on the grounds that not only she was required to adhere to the rules of the transfer, but that since the Public Service Commission had approved her present transfer no further amendment could be made. As such, the Complainant stated that she then requested that the 7<sup>th</sup> Respondent (Deputy Director to the

TH Kurunegala) instead appoint the Petitioner as Consultant to the Neonatology unit of TH Kurunegala. The Complainant contended that even this request was vehemently denied by the Ministry and that instead she was verbally offered an appointment to the Neonatology Unit in the Teaching Hospital Kuliapitiya. As such, the Complainant contended that this had resulted in her being unable to perform any service for over a year.

3. It was then that the Complainant sought the intervention of this Court by way of a writ, and in turn the interim Order dated 28.06.2021 was granted which directed the Respondents to assign the Complainant to the Neonatology Unit in the TH Kurunegala and to allow her to assume her normal duties and responsibilities.
4. However, the Complainant is now before this Court based on the allegation that the Respondents did not allow for the Petitioner to assume her duties or carry out any work in the Neonatology Unit.
5. It is the contention of the Respondents, by way of the Affidavit of the 3<sup>rd</sup> Respondent that the Petitioner was assigned to the Neonatology Unit of TH Kurunegala. He categorically denied the claim of the Petitioner that she was not assigned any work during the course of this issue. The Respondent stated that however in order to resolve the matter complained of, the Petitioner was given three main alternatives, which the Respondent contended that all three were declined by the Complainant.
  - Appointment as a Consultant Paediatrician in TH Kurunegala
  - Appointment to the Neonatology Unit of the Kuliapitiya Hospital
  - Temporary appointment to the Neonatology Unit of TH Kurunegala for the year 2021 with the opportunity to apply for another post upon completion of the said period.
6. The Respondents stated that in compliance with the said interim Order of the Court of Appeal delivered in case bearing no. CA/WRT/292/2021, the Complainant was assigned to the Neonatology Unit of TH Kurunegala by way of the letter marked 'A4'. Thus, it is the contention of the Respondents that they have complied with the interim Order delivered by the Court of appeal and that no contemptuous act was committed. A4 specifically references the interim

order in Writ Application 292/2021. The letter has been copied to the Director General, and the consultants serving in the Neonatology Unit at the time.

7. Secondly, the Respondent drew the attention of this Court to the document marked A5, being a medical report signed by the Complainant. The frank on the bottom right hand refers to the Petitioner as 'Consultant Paediatrician', 'Neonatology Unit' of the Kurunegala Teaching Hospital. The Respondents contend that the Petitioner herself has been holding out that she is a part of the Neonatology unit (NNU).
8. **The Complainant has exhaustively responded by filing the Counter Affidavit dated 22<sup>nd</sup> October 2023 and stated that**, she reported to the TH, Kurunegala on 11.06.2020 with the intention of assuming duties in the post of 'Resident Pediatrician' (RP). However, to her surprise, she was informed by the administration that there are no duties to be carried out in the said post though it was published as a New Vacant Post in the annual transfer for the year 2020; the post of RP is an unnecessary post and there are no duties to be carried out; said post was created disregarding the strong objections of the TH Kurunegala (vide P14); P13 which was written by 6<sup>th</sup> Respondent also reflects the same.
9. On 13.06.2021, she was informed by 5<sup>th</sup> Respondent that, since all the fields are covered by the Consultants there is no necessity of a RP. However, since the VOGs and the Pediatric surgeon have requested a second Consultant to the Neonatology unit (NNU) as they were not satisfied with the Management of NNU, the 5<sup>th</sup> Respondent decided to discuss the matter in the Consultant's meeting and she was asked to submit a letter requesting to be appointed to the NNU (vide P11). During the consultant's meeting, the 4<sup>th</sup> Respondent (Dr. Pramitha) suggested that the Complainant be appointed to the NNU, but the **6<sup>th</sup> Respondent (Dr. Lanka Tennakoon) refused to accept a 2<sup>nd</sup> Consultant to the NNU and objected stating that there is no work for two consultants** although facts revealed otherwise. Thereafter, the 5<sup>th</sup> Respondent tried to post her in two different units namely the Accident and Emergency unit (A & E unit) and the Post Natal Wards but all those endeavors ended up in failure.

10. **The Complainant further explained why the said endeavors failed:**

a. Accident and Emergency unit (A & E unit):

At the A & E unit she met two Consultants Dr. Barana Millawithana (RP) and Dr. Sriyantha Adikari (Consultant A & E unit). According to them, the place was created for a single consultant but four more were appointed without increasing the infrastructure. The Petitioner submitted that the A & E unit hardly gets any pediatric cases and even if they get a case, the A & E consultants were competent enough to manage such cases and an appointment of a RP would be an utter waste of human resource. However, the Complainant stated that if the post was designated as Consultant Pediatrician (A & E), she would've stayed in the unit even though it was over staffed, less spacious and had no patients to attend to.

b. Post Natal Ward:

This ward belongs to the Gynecology and Obstetrics unit where the mothers who delivered stay with the baby until they are fit to go home. Pediatricians' role in the post-natal ward is to verify that the baby is in good condition to be discharged. If the baby has some abnormality or if the baby is ill, the Pediatrician should attend to those problems; ideally all newborns should be examined by a consultant before being discharged; in TH Kurunegala, this job is done by medical officers; there are more than 50 babies to be discharged daily.

The Complainant states that when she was posted in the post-natal ward, she had to examine and write details of 50-60 babies daily and in some cases she had to order other investigations and prescribe treatments. The Petitioner stated that it was very challenging as she did not have even a single medical officer to assist her even though a consultant is entitled to have a staff. **Despite all these obstacles she worked in the said unit for five days until the interference of the 6<sup>th</sup> Respondent which the 6<sup>th</sup> Respondent through her objection letter P13 strongly objected to this appointment stating that this post jeopardizes normal function of the entire NNU and that she had verbally requested from the MOH to cancel the post as soon as possible.** Upon making the verbal request, the MOH took prompt action by asking the Complainant to withdraw from her duties at Post Natal Wards however, the same Ministry failed to

provide any solution for her issue despite handing over many letters and meeting several personnel at many occasions.

11. The 4<sup>th</sup> and 5<sup>th</sup> Respondents took several attempts to allocate her to the NNU as it was the only available vacancy for a Pediatrician in the hospital. However, **her appointment was blocked by the severe objections of the 6<sup>th</sup> Respondent and the undue influence made at the ministry level.** Instead, that vacancy was filled by appointing an acting Neonatologist who just finished training when the neonatologist post in leading Teaching Hospital remained vacant. As there was no other unit to get her services, the 5<sup>th</sup> Respondent by P14 requested the Deputy Director General Health services to abolish the post of ‘Resident Pediatrician’ as it is an unnecessary post for the TH Kurunegala and urged to revert her back to a suitable station as required by her; as no proper solution was given, the 4<sup>th</sup> Respondent by P15 again wrote to the MOH and requested that since she is not performing any duties at TH Kurunegala, she may be transferred to her previous post as Consultant Pediatrician at the Provincial General Hospital Kegalle as the said post was vacant at that time.
12. Since she was paid monthly salary without performing any service and no solution was provided for her issue, and the RP post published in the annual transfer list of 2020 was an unnecessary post, via P16, she requested special permission from the 3<sup>rd</sup> Respondent to apply for the annual transfer list for 2021 to get a post according to her merit order as she would not ordinarily eligible to be applied for the same as she had applied for the transfers in the year 2020 for a post with no actual vacancy. By the letter dated 12.12.2020 (P17) the MOH rejected her request and informed that she has to adhere to the rules applicable for the annual transfers for the year 2021. Following which, via P17, she was informed that since this is an internal issue of TH Kurunegala, it is appropriate to resolve the issue with an agreement with the Director of TH Kurunegala.
13. Thus, seeing as the Petitioner was not given any opportunity to apply for the annual transfers for the year 2021 or to revert back her transfer to her previous post and was directed to resolve the issue internally by the letter P18 dated 04.01.2021, the 6<sup>th</sup> Respondent specifically requested the approval from the MOH to appoint her as a Consultant to the Neonatology unit of TH Kurunegala as there were substantial duties to be carried out in the NNU. The 3<sup>rd</sup> Respondent (Director General Health Services) by letter dated 03.02.2021 (P19) directed the 4<sup>th</sup> Respondent to obtain Complainant’s services effectively, in a suitable manner by an internal

arrangement. The letter P20 was issued appointing the Complainant to the NNU **and even after the issuance of P20, due to the undue influence from ministry level and severe objections from 6<sup>th</sup> Respondent, her appointment was blocked until the interim order dated 28.06.2021 was issued** by this Court effecting P20.

**WAS THERE AN ULTERIOR MOTIVE OF SNEAKING INTO THE 'NNU' ON THE PART OF THE PETITIONER?**

14. The Petitioner-Complainant stated that she was made to understand that her presence at the post of RP would be an utter waste of her 29 years of experience and expertise and in the said circumstances, she requested to revert back to her previous post at PGH Kegalle or to be appointed to any vacancy in the island and then allow her to apply for the annual transfers for the year 2021 to select a post according to her merit order. Therefore, the Respondents' position that her appointment to the post of RP was with the ulterior motive of sneaking into the NNU is completely false.
15. Appointing her to the NNU via P20 was an internal arrangement of the Director who relied on the letters P17 and P19 which were issued by the MOH. If she was allowed to apply in 2021 list, she would be the most eligible person to get the Consultant post in the Neonatology unit as Dr. Udaya Nelumdeniya (who was the present appointee) is below her as per the merit order which reflects the seniority. If she was with an ulterior intention of getting an appointment at the NNU, she would have waited and applied for the NNU from annual transfers list for 2021 as she would be anyway eligible to be appointed to the said post according to her seniority; even after the issuance of P20 since she was prevented from performing services at the NNU, the application CA WRIT/292/21 was filed seeking a Writ of *Mandamus* compelling the Respondents to appoint her as a Consultant Pediatrician to the NNU.
16. On the day of supporting the application before this Court, three written options were provided for her as a final settlement of the matter. The Petitioner states that the options were not submitted with genuine intention of settling the matter but with the sole intention of preventing the grant of interim reliefs.

17. She had specific reasons not to take up the 3 options:

(i) The 1<sup>st</sup> option was to appoint her as a Consultant Pediatrician; however, by the time this post was forwarded, a Consultant Pediatrician was allocated to the post from 2021 annual transfer list and the list was already published. If she had accepted this option, Dr. Ranjane Edirisooriya, Consultant Pediatrician in Base Hospital Dambadeniya would have lost her opportunity to come to TH Kurunegala which she legally eligible for and if the respondents were really wanted to settle the matter by giving this post, they wouldn't have published the annual transfer list allocating the said post to Dr. Ranjane Edirisooriya, Consultant Pediatrician.

(ii) The 2<sup>nd</sup> option was to attach her to the NNU in Kurunegala for six months with an unfair and threatening condition that she would have to apply in the 2022 annual transfer list and leave the NNU. If she would not apply, that they would send her to a station as they preferred even though she was eligible to be posted in Kurunegala for two more years.

(iii) The 3<sup>rd</sup> option was to serve at the NNU Kuliyaipitiya for rest of her 4-year assignment in TH Kurunegala. She states that she was unable to accept this option mainly because she had to leave Kurunegala while she had two and a half years to be remained at Kurunegala.

THE SITUATION AROSE AFTER ISSUING THE INTERIM ORDER:

18. The Petitioner reported to her duties at the TH Kurunegala and had a discussion with 5<sup>th</sup> respondent to resume her duties; she was informed by the 5<sup>th</sup> respondent to resume duties at NNU **sharing duties with 6<sup>th</sup> respondent who was then Consultant to the NNU; however, 6<sup>th</sup> respondent deliberately refrained from allocating duties to her whilst being aware of the Court order;** even after three days from reporting to the NNU, since she was not allocated any duties and 6<sup>th</sup> respondent was not complying the interim order, she informed 5<sup>th</sup> respondent to resolve the issue (vide X3); 5<sup>th</sup> respondent by letter of appointment dated 04.07.2021 formally assigned her to the NNU; however, **she states that even though a letter was issued, she was prevented from being given work at the NNU as 6<sup>th</sup> respondent intentionally refrained from allocating duties to her (vide X4); the 6<sup>th</sup> respondent and the Acting Consultant Dilani Dehigama by letter (Z1) addressed to Director and Acting Director**

**strongly objected for she being appointed to the NNU as per the interim order;** in Z1, they categorically challenged the interim order by stating that they will not tolerate her appointment to the NNU. Z1 is verbatim reproduced as follows:

*“This is to bring forward to your serious consideration that **we categorically opposed** the placement of Dr. S. Sathkumar (Resident pediatrician) to the Neonatology unit without proper documentation from the Director General of Health services. I would like to bring your notice that we have two consultants in the unit working very methodically with all staff together during the prevailing covid 19 situations. Residential pediatrician post was created purposefully for Dr. S. Sathkumar to remain in Kurunegala unethically and against the rules of the re transfer list. This is not the first time you try to attach her to our unit and you were given specific instructions from Director General of Health not to do so. I, Dr. L. Tennakoon personally have 34 years of experience in the health ministry and we will not tolerate this type of unethical appointments which degrades our noble profession. Lets peacefully and ethically set this problem by adhering to proper way according to the transfer orders rather than seeking to do illegal appointment”.*

19. Furthermore, the following were drawn to the Court’s attention:

(a) Regardless of the interim order and petitioner’s new letter of appointment, all the new patient admissions to the NNU were allocated only to the 6<sup>th</sup> Respondent and to another Acting Consultant.

(b) Since the Petitioner was not allocated any patients at the NNU by the 6<sup>th</sup> Respondent, the Petitioner has forwarded her grievance to the 5<sup>th</sup> Respondent by letter dated 08.07.2021 (vide X-05)

(c) Despite the interim order, the 6<sup>th</sup> Respondent has prepared the duty roster pertaining to the NNU for the month of July 2021 excluding the Petitioner.

(d) By the letter dated 13.07.2021 addressed to the 6<sup>th</sup> Respondent, the Petitioner has formally informed 6<sup>th</sup> respondent about violation of interim order (vide X-07).

(e) Since the 6<sup>th</sup> respondent is not complying the directions made by 5<sup>th</sup> respondent or the interim order, the 5<sup>th</sup> respondent again issued a direction to the 6<sup>th</sup> respondent by letter dated 22.07.2021 (vide X-06) stating the Petitioner be allocated duties.

(f) Despite several directions, the 6<sup>th</sup> respondent has repeatedly failed to allocate duties.

20. When the Writ Application 292/21 came up on 19.07.2021, the Court extended the interim order and observed that both parties to the application are bound to follow any order by the Court of Appeal (vide X8). The Petitioner dispatched letters of demand to the 1<sup>st</sup> 3<sup>rd</sup> 5<sup>th</sup> and 6<sup>th</sup> Respondents.

21. The 6<sup>th</sup> Respondent replied that the interim order was not made against her and it was not her responsibility to allocate duties to the Petitioner (vide X10). During the annual transfers for the year 2021, although the 6<sup>th</sup> Respondent was transferred from NNU of TH Kurunegala, the successors namely Dr. Rajeema Srinani and Dr. Udaya Nelumdeniya also continued with the same act continuously violating the interim order (Z2).

22. Subsequent to the filing of this contempt matter on 27.10.2021, the 5<sup>th</sup> Respondent called for a meeting with the presence of Dr. Rajeema Srinani (Neonatologist), Dr. Udaya Nelumdeniya and the Petitioner to resolve the issue. In the said meeting the 5<sup>th</sup> Respondent asked the Petitioner whether she had received a duty roster and **the Petitioner replied that duty roster was neither given to her nor displayed in the unit.**

23. Thereafter, the 5<sup>th</sup> Respondent explained the consequences that he might have to face if it was not done and requested explanations from Dr. Srinani for not providing the duty roster of NNU. However, Dr. Srinani replied that according to the legal advice she received, it is illegal to attach the petitioner into the Neonatology Unit.

24. **Thus, the above circumstances show that during the period the interim order was in operation, the Petitioner was never allocated any duties at the NNU of TH Kurunegala and that one or more or all of the Respondents have acted in violation of the interim order issued by this Court.**

**WAS THIS A DECISION OF THE PUBLIC SERVICE COMMISSION OR A RESULT OF THE INTERNAL ARRANGEMENTS OF THE TH KURUNEGALA?**

25. This Court has delivered their order dated 15.11.2022 regarding the preliminary objection raised by the Respondents, overruling the same. Moreover, the actions of the Respondents were strongly observed as follows:

*“But the process adopted by the Respondents to agitate the said interim order especially by annexing two additional affidavits is unsatisfactory. The ‘R11’ and ‘R12’ are two affidavits affirmed by a Consultant Pediatrician and a Consultant Neonatologist. Both of them are currently serving at Government Hospitals and not parties to this application; or no application has been made on their behalf for intervention to the instant Application. I am conscious of the provisions of Chapter XXXIII of the Establishments Code which deals with legal actions relating to public officers. The Respondents have allegedly annexed those two affidavits to their Statement of Objections only for the purpose of supporting the matters set out therein. Anyhow, the affirmant of the affidavit, marked ‘R12’ making adverse remarks against the Petitioner in several paragraphs of the affidavit states that ‘it is absolutely paramount that the Court of Appeal, without delay, varies the interim order and direct the Petitioner be removed from the Neonatology Unit’. **I take the view that no person who is not a party to this application has a legal or moral right whatsoever to influence this Court to vary the said interim order in the manner that the affidavit has been affirmed. I make a strong observation that this kind of influence through a Consultant who is not even serving in the Kurunegala Teaching Hospital may lead to contempt of court as it is the paramount duty of the Hospital authorities including all the Respondents to obey any order issued by this Court irrespective of the post held by them or irrespective of their expertise in a particular field of study**”. (vide Z-4). (the emphasis was added)*

26. The 3<sup>rd</sup> Respondent at paragraphs 20 and 21 of his affidavit stated that there is no basis for the Petitioner to allege that the Respondents failed to appoint her to the Neonatology Unit as she herself had been holding out to the world that she is a Consultant Pediatrician at the Kurunegala Teaching Hospital. Attention was drawn to the rubber frank at the bottom of the document which contains the words 'Neonatology Unit'. (vide A5-the Child health Development Record - the discharge document of a patient dated 21.07.2022)

27. The Petitioner-Complainant has denied the same and stated that:

(i) NNU is the place where neonates are given ward treatment. Each baby has a Bed Head Ticket (BHT). On discharge, they are given diagnosis cards with the name of the consultant who treated the baby. If the Petitioner was appointed to the unit and indeed engaged in work, the Respondents should have proved that by providing a BHT or one such diagnosis card holding her name without providing a page of a book of a different unit (A-5) and showing a seal without Petitioner's signature on it.

(ii) The interim order was in operation for almost 17 months and usually, there are more than 200 admissions per month. Therefore, it was not a difficult task for the Respondents to submit to Court one such diagnosis card.

(iii) Document A5 is not a Diagnosis card but page 7 of a small booklet called Child Health Development Record (CHDR) which is issued for each newborn baby on his discharge which is kept with the parent's custody.

(iv) When discharging babies, medical officer who is doing the neonatal examination has to examine and write notes for around 60 babies on a given day. Sometimes when the medical officer is finishing the examination, the consultant is not available in the unit to get the opinion for those in need.

(v) Occasionally, a medical officer showed those babies to the Petitioner as they are unable to discharge the baby with the mother without the opinion of a consultant. Otherwise, it can cause unnecessary hospital stay. A5 is the Child Health Development Record (CHDR) of one such baby. The medical officer had detected an abnormal sound in the heart and requested

Petitioner's opinion to know whether he needed an urgent echocardiogram. The Petitioner has suggested him to get it done in one week.

(vi) Even though the Respondents are trying to submit A5 as proof of the Petitioner being engaged in the duties of NNU, A5 is a page of a Child Health Development record (CHDR) belongs to a child who was referred to the Petitioner for her opinion. A5 is titled as 'To be filled by the medical officer performing neonatal examination'. The Petitioner states that if she were actually engaging in the usual duties of the NNU it was not very difficult for respondents to submit Court the duty roster or even one diagnosis card which Petitioner has treated at the NNU.

(vii) This rubber frank used in the CHDR (A5) is a hospital property which did not belong to the Petitioner. **It was made by the hospital in 2015 when the Petitioner was appointed to the neonatology unit in TH Kurunegala as the Consultant Neonatologist where Petitioner served at the unit until 2019.** She stated that the rubber frank used in A5 is currently in the custody of the hospital and one or more or all of the respondents may have purposefully inserted the seal in A5. She stated that the rubber frank used in A5 is an old rubber frank used during the period of 2015-2019 which was used when the Petitioner was serving at the Neonatology unit of TH Kurunegala (vide Z5).

#### WAS THERE A WILFULL AND DELIBERATE BREACH OF THE INTERIM ORDER?

28. On the material elicited before this Court, it is revealed that **the Respondents were made aware of the interim order granted on 28.06.2021 through the Registrar of the Court of Appeal on 30.06.2021.** Thus, the Respondents being well aware of such order, were met with the Petitioner who had wished to discuss her role with the 5<sup>th</sup> and 6<sup>th</sup> Respondents and how duties would be shared between them.

29. However, when the Petitioner reported for duty 01.07.2021, the **6<sup>th</sup> Respondent deliberately refrained from allocating her duties by omitting her name from the scheduled duty roster.** It is further revealed that the Petitioner has complained to the 5<sup>th</sup> Respondent (vide X3) and has been subsequently appointed to the Neonatology unit (vide X4) by the 5<sup>th</sup> Respondent. Even then, the 6<sup>th</sup> Respondent continuously refrained from allocating duties to the Petitioner by omitting her name from the scheduled duty roster.

30. The Petitioner has continued complaining to the 5th Respondent (vide X-5) regarding it. By letter dated 13.07.2021 (vide X-7) notified the 6<sup>th</sup> Respondent and the 5<sup>th</sup> Respondent (vide X-6) as the 6<sup>th</sup> Respondent has repeatedly failed to act. The acting consultant Dr. Dilani Dehigama along with the 6<sup>th</sup> Respondent has strongly objected to the Petitioner being appointed in the NNL of the TH Kurunegala even after obtaining the interim order (vide Z-1). Following the exit of the 6<sup>th</sup> Respondent due to the annual transfer list of 2021, such a position has been taken over by Dr. Udaya Nelumdeniya and Dr. Rajeema Srinani who have followed the act of the 6<sup>th</sup> Respondent and continued to act same towards the Petitioner (vide Z-2).
31. Subsequent to the Petitioner filing contempt papers, the 5th Respondent has arranged a meeting with the Petitioner, Dr. Udaya Nelumdeniya and Dr. Rajeena Srinani to discuss the duty roster and as to why the Petitioner has been omitted from it (vide Z-3).
32. The Respondents have taken the position that the Petitioner had worked at the NNU in the TH Kurunegala. However, it is revealed that in the NNU, each infant has a bed head ticket and on discharge they are given a diagnosis card which includes the name of the consultant. If the petitioner has served at the NNU, the best evidence would be such documents which they have failed to adduce. Document A-5 is not a diagnosis card but merely a Child Health Development Record (CHDR) which is allocated to each newborn on discharge. It was submitted by the Petitioner that when medical officers are unsure in discharging newborns, they obtain advice from consultants such as the Petitioner to avoid unnecessary stays which lead to congestion in hospitals. It is revealed that A-5 is a such document. According to the Petitioner's version, the rubber stamp used in A-5 was an old stamp made by the hospital which was used between 2015-2019 when the Petitioner was appointed to the NNU as a Consultant Neonatologist (vide Z-5)
33. If the Respondents have complied with the interim order they would have easily tender the duty roster which was in their custody, stipulating the duty allocation of the Petitioner at the NNU.
34. I find it pertinent to refer to the decision delivered in Gnanamuttu V. Chairman, Urban Council (Bandarawela) and others 43 NLR 366, wherein rule was issued on the Respondent for willfully violating the interim injunction which restrained him from interfering and/or altering the water supply to the Petitioner's bungalow. Howard, C.J, made particular reference to the fact that the contemptuous conduct was carried out "after the receipt of the telegram".

35. The excerpt below includes a portion of the judgment delivered in Spokes v. Banbury Board of Health L.R.I. Eq. 42 by Sir. W. Page Wood, V.C. cited in the *Gnanamuttu* case and reads as follows:

(at page 371 citing a portion of Spokes v Banbury [supra])

*“...but that the simple and only view is, that an order must be obeyed, and that those who wish to get rid of that order must do so by the proper course, an appeal. So long as it exists, the order must be obeyed, and obeyed to the letter; and anyone who does not obey it to the letter is guilty of committing a wilful breach of it, unless there be some misapprehension, which all mankind are subject to, and which may mislead him upon the plain reading of the order.*

...

(at page 380)

*The injunction was wide in its terms and the **Council was restrained from altering or otherwise interfering with the water supply to the petitioner’s bungalow till the matter was finally determined** in the District Court of Badulla. All the witnesses for the first respondent admitted that **work was done after the receipt of the telegram**. Trenches were filled and a stopcock chamber constructed. Work took place not only during the night of the 11th but also on November 12 and 13. How can it be said that in such circumstances compliance was made with the orders of the Court? The injunction has most certainly been violated in letter and spirit and hence a contempt has been committed, vide *Attorney General v. The Great Northern Railway Company*[64 E. R. 741].”*

36. The 6<sup>th</sup> Respondent’s conduct of continuously refraining from allocating duties to the Petitioner since 01.07.2021 by omitting her name from the scheduled duty roster continued even after notification of the interim order by the Registrar of the Court of Appeal on 30.06.2021. Thus, it is clear that the Petitioner’s violation was not due to a misapprehension or a mistake but a deliberate and willful disobedience of the Order of this Court.

37. On the above analysed material before the Court, I find that there is a *prima facie* case of contempt against the 6<sup>th</sup> Respondent-Accused. Accordingly, I am inclined to issue summons/rule on the 6<sup>th</sup> Respondent-Accused.

**Judge of the Court of Appeal**

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

I agree.

**President of the Court of Appeal**