

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

In the matter of an application in the nature of writ of Mandamus under and in terms of Article 140 of the Constitution of the Republic.

CA (Writ) Case No. 1062/2025

Munasinghe Appuhamilage Kanthi
Saumyalatha,
No. 12/1, 24 Mill Post, Badiwewa,
Jayanthipura.

Petitioner

Vs.

1. National Transport Commission,
No. 241, Park Road,
Colombo 05.
2. The Hon. Minister
Ministry of National Transport & Highways,
D.R. Wijewardena Mawatha,
Colombo 02.
3. The Secretary,
Ministry of National Transport & Highways,
D.R. Wijewardena Mawatha,
Colombo 02.
4. Sri Lanka Transport Board
Head Office
No. 200, Kirula Road,
Colombo 05.
5. The Chairman,
Central Province Transport Service
Authority,
No. 595, Digana Road, Kundasale,
Kandy.
6. The Chairman,

Road Passenger Transport Service
Authority,
North Central Province,
Vidyala Mawatha,
Anuradhapura.

7. The Hon. Attorney General,
The Attorney General's Department,
Colombo 12.

Respondents

Before: **Damith Thotawatte, J.**
K.M.S. Dissanayake, J.

Counsels: Clifford Fernando instructed by Chamindi Diloka Mannakkara for
the Petitioner.
Pulina Jayasuriya, S.C. for the Respondent.

Support: 19.01.2026 & 03.03.2026

Order Delivered: 19.03.2026

Thotawatte, J.

Introduction

This application is instituted by the Petitioner seeking, *inter alia*, a Writ of Mandamus directing the Respondents to regularise her passenger transport permit and to grant a permanent route allocation together with a time schedule, and interim relief restraining the Respondents from taking adverse regulatory action against her pending the determination of this application.

This matter was supported for the issuance of notice on the Respondents and for interim relief.

Factual Background

The Petitioner is a holder of a passenger transport permit issued within the statutory framework governing public passenger transport in Sri Lanka. The 1st Respondent, namely the National Transport Commission, together with the relevant Ministry and the Provincial Passenger Transport Authorities, constitute the statutory bodies vested with the regulation, control, and supervision of passenger transport services within the Republic.

The Petitioner states that she was granted a passenger service permit bearing No. 12203 authorising her to operate a bus service on the route “**Kandy to Siripura**”, upon payment of the prescribed fee. It is further averred that, notwithstanding the issuance of such permit, the Respondents failed to allocate a proper time schedule to enable the effective operation of the said service. Consequently, the Petitioner states that for 15 years she was compelled to operate on the route “**Kandy to Kanduruwela**” under a series of temporary permits [annexed to the petition from P 5(a) to P 5(r)] issued periodically by the Respondents.

The material placed before the Court indicates that the Petitioner has, over a period of time, continued to operate the said service while making representations to the Respondents seeking the regularisation of her operations. In particular, the Petitioner sought an amendment of the route from “**Kandy to Siripura**” to “**Kandy to Kanduruwela**”, and thereafter requested the grant of a permanent permit in respect of such route. It is further asserted that the Petitioner has complied with regulatory requirements, including the payment of fees and submission to inspections.

Notwithstanding such representations, the Petitioner states that the Respondents have failed or refused to grant a permanent permit or to regularise the route allocation.

The Petitioner contends that such conduct is arbitrary, unreasonable, and contrary to the governing statutory framework, and that no reasons have been furnished for the refusal. It is also alleged that the Petitioner has not been afforded an opportunity of being heard prior to the impugned conduct.

Reliefs Sought

In the above circumstances, the Petitioner seeks, *inter alia*:

- A Writ of Mandamus directing the Respondents to regularise the Petitioner's permit and/or to grant a permanent passenger service permit together with an appropriate route allocation;
- Interim relief restraining the Respondents from imposing fines or taking any adverse action affecting her operations pending the determination of this application; and
- Such further and other relief as this Court shall deem meet.

Issues for Determination

At this stage, the primary questions that arise for consideration are:

1. Whether the matters complained of by the Petitioner disclose a decision or determination amenable to the writ jurisdiction of this Court;
2. Whether the Petitioner has established, even *prima facie*, that the Respondents have acted illegally, irrationally, or in violation of the principles of natural justice;
3. Whether the Petitioner has demonstrated a clear legal right capable of enforcement by way of a Writ of Mandamus; and
4. Whether the Petitioner is entitled to the issuance of notice and interim relief.

Analysis

Amenability to Writ Jurisdiction

It is necessary at the outset to consider whether the impugned conduct constitutes a decision amenable to judicial review.

Although the Petitioner has stated that the Respondents had refused to regularize the temporary route permit or to grant a permanent passenger service permit together with an appropriate route allocation, the Petitioner has not submitted any evidence of such refusal or of a specific request made in the recent past that has been ignored (as would indicate a refusal) by the Respondents.

The grievance of the Petitioner, when properly analysed, is directed not at a formal or final decision refusing a permanent permit, but rather at a continuing failure and/or delay on

the part of the Respondents to regularise her operations and to allocate a route and time schedule.

Even during the past 15 years that the Petitioner herself claims this situation has continued, she has been unable to submit evidence of an occasion which she has specifically requested the regularisation of temporary route permit or the grant of a permanent passenger service permit together with an appropriate route allocation, and received a reply indicative of a refusal.

It is well settled that writ jurisdiction is engaged only where there exists a decision, determination, or definitive administrative position that has the effect of impacting legal rights. A mere expectation of securing a favourable administrative outcome, in the absence of any such conclusive determination, is insufficient to invoke the supervisory jurisdiction of this Court. In the present case, the petition before the Court indicates that the Petitioner continues to operate under temporary permits within the applicable regulatory framework, and even when the Petitioner's grievance is construed in the most favourable light, the impugned conduct of the Respondents can only be characterised as part of an ongoing administrative process involving the exercise of discretion, rather than a final determination affecting the Petitioner's rights.

In such circumstances, this Court is unable to conclude that the matters complained of disclose a reviewable decision amenable to writ jurisdiction.

Illegality / Ultra Vires/ Mala fide

The Petitioner asserts that the Respondents have acted contrary to the statutory framework governing passenger transport.

However, no specific statutory provision has been identified as having been violated. On the contrary, the Respondents appear to be acting within the scope of their statutory powers, which include the regulation of routes, allocation of time schedules, and the grant or refusal of permits.

The mere non-grant of a permit in the manner anticipated by the Petitioner does not, in itself, constitute illegality so as to attract the writ jurisdiction of this Court. Allegations of *mala fide*, being a distinct and serious ground of judicial review, must be specifically pleaded and strictly established. It is well settled that bad faith is not to be lightly inferred,

and the burden lies heavily upon the party asserting it to place before the Court clear and cogent material demonstrating that the statutory power has been exercised for an improper or collateral purpose.

Although learned Counsel for the Petitioner sought to contend that even during the period in which the Petitioner operated under temporary permits, the Respondents have imposed fines and other administrative charges in order to harass the Petitioner, the counsel for the Petitioner was unable to establish that these charges and fines were unjustified.

Irrationality / Arbitrariness

The threshold for establishing irrationality is a high one. The Court is not concerned with the merits of the decision, but with its legality.

In the present case, the regulatory framework governing passenger transport necessarily involves policy considerations and administrative discretion. The fact that the Petitioner has been permitted to continue operations under temporary permits indicates that the Respondents have acted within the regulatory scheme and not in an arbitrary, or capricious manner.

Natural Justice

The Petitioner alleges that she was not afforded an opportunity of being heard. However, the requirement to afford a hearing arises where there is a decision affecting rights in a definitive manner. In the present case, no such final adverse determination has been demonstrated.

Further, the material indicates that the Petitioner has been able to make representations and continue operations within the regulatory framework.

In such circumstances, this Court is unable to conclude that there has been a violation of the principles of natural justice.

Writ of Mandamus and Legal Right

A Writ of Mandamus will lie only where the Petitioner establishes a clear legal right and a corresponding public duty.

In the present case, the Petitioner has failed to demonstrate that she has a legal entitlement to be granted a permanent permit or a specific route allocation. The matters complained of fall within the discretionary powers of the Respondents.

Although the counsel for the Petitioner contended in the submissions that the original permit issued to the Petitioner annexed marked as P3(a) is still valid, it transpired that there is no averment in the petition to support the fact that there existed a valid permit at the time of this application or payment has been made for such a permit.

Accordingly, the prerequisites for the issuance of a Writ of Mandamus have not been satisfied.

Conclusion

For the reasons set out above, this Court is of the view that the Petitioner has failed to establish that the impugned conduct of the Respondents is amenable to the writ jurisdiction of this Court, or that the Respondents have acted unlawfully, irrationally, or in violation of the principles of natural justice.

Accordingly, this Court refuses to issue notice on the Respondents. This application is hereby dismissed *in limine*, subject to costs fixed at Rs. 10,000/-.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal