

**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 Certiorari, Prohibition and Mandamus under* and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**C.A. (Writ) Application
No: 0103/2026**

Wildlife and Nature Protection Society of
Sri Lanka
No. 86, Rajamalwatte Road,
Battaramulla

Petitioner

Vs.

1. Ceylon Electricity Board
100-2/2 2nd Floor,
Lady Lochore Loan Fund Building
Sir Chittampalam A. Gardiner Mawatha
Colombo.

1A. National System Operator (Private) Limited
No. 50, Sir Chittampalam A. Gardiner
Mawatha,
Colombo 02.

1A Substituted Respondent

2. Eng. Mr. K.S.I. Kumara
General Manager,
Ceylon Electricity Board
100-2/2, 2nd Floor,
Lady Lochore Loan Fund Building
Sir Chittampalam A. Gardiner Mawatha
Colombo

2A. Dr. B L Pradeep Priyadarsana Perera
Chairman
National System Operator (Private) Limited

No. 50, Sir Chittampalam A. Gardiner
Mawatha
Colombo 02.

2A Substituted Respondent

3. Prof. P.B. Terney Pradeep Kumara
Director General
Coast Conservation and Coastal Resource
Management Department,
4th Floor, Ministry of Fisheries Building,
New Secretariat, Maligawatta, Maradana,
Colombo 10
4. Central Environmental Authority,
No. 104, Denzil Kobbekaduwa Mawatha
Battaramulla
5. Kapila Rajapaksha,
Director General,
Central Environmental Authority,
No. 104, Denzil Kobbekaduwa Mawatha,
Battaramulla
6. Sri Lanka Sustainable Energy Authority,
No. 72 Ananda Coomaraswamy Mawatha
Colombo 07
7. H.K. Wickramasinghe
Director General
Sri Lanka Sustainable Energy Authority,
No. 72, Ananda Coomaraswamy Mawatha
Colombo 07
8. Urban Development Authority
6th and 7th Floors, "Sethsiripaya",
Battaramulla
9. W.T.H. Ruchira Withana,
Director General
Urban Development Authority
6th and 7th Floors, "Sethsiripaya",
Battaramulla

10. Ranjan Marasinghe,
Director General,
Department of Wildlife Conservation,
811A, Jayanthipura,
Battaramulla.

11. S.C. Palamakumbura
Conservator General of Forests,
Department of Forest Conservation,
82, Rajamalwatta Road
Battaramulla

12. Hon. P.S. Kumara Jayakody,
Minister of Energy,
Ministry of Energy,
Galle Road,
Colombo 03.

12A. Hon. Anura Karunathilaka,
Minister of Energy,
Ministry of Energy, Galle Road,
Colombo 03.

[Substituted 12A. Respondent]

13. Prof. K.T.M. Udayanga Hemapala,
Secretary to the Minister of Energy,
Galle Road,
Colombo 03.

13A. G.M.R.D. Aponsu,
Secretary to the Minister of Energy,
Ministry of Energy,
Galle Road,
Colombo 03.

[Substituted 13A Respondent]

14. Hon. (Dr.) Dammika Patabendi,
Minister of Environment,
Sobadam Piyasa, 416/C/1,
Robert Gunawardana Mawatha
Battaramulla

15. K.R. Uduwawala
Secretary,
Ministry of Environment
“Sobadam Piyasa”,
416/C/1, Robert Gunawardena Mawatha,
Battaramulla.
16. K. Kantheepan
Divisional Secretary,
Divisional Secretariat – Mannar Town,
Mannar.
17. K. Kaneswaran
District Secretary,
District Secretariat, Mannar,
Mannar.
18. Daniel Vasanthan
Chairman,
Urban Council of Mannar,
Mannar
19. A J M Jafran,
Chairman, Pradeshiya Sabha of Mannar
Mannar.
20. Public Utilities Commission of Sri Lanka
(PUCSL)
6th Floor, St. Michael’s Rd,
Colombo 03.
21. Hon. Attorney General
Attorney General’s Department
Colombo 12
*(named a Respondent in terms of the
Proviso to Article 35(3) of the Constitution)*
22. Hon. (Dr.) Harini Amarasuriya
Minister of Education, Higher Education
And Vocational Education
“Nipunatha Piyasa”,
354/2 Elvitigala Mawatha

Colombo 05

23. Hon. Bimal Rathnayaka
Minister of Transport, Highways and Urban
Development
7th Floor, Sethsiripaya Stage II,
Battaramulla.
24. Hon. Ramalingam Chandrasekar
Minister of Fisheries, Aquatic and Ocean
Resources, Ministry of Fisheries, Aquatic
and Ocean Resources,
New Secretariat, Maligawatta,
Colombo 10
25. Hon. (Prof.) A.H.M.H. Abayarathna
Minister of Public Administration,
Provincial Councils and Local Government
Independence Square, Colombo 07.
26. Hon. K.D. Lal Kantha
Minister of Agriculture, Livestock, Land and
Irrigation ,
No. 80/5, “GovijanaMandiraya”,
Rajamalwatta Lane, Battaramulla.
27. Hon. Samantha Viddyarathna
Minister of Plantation and Community
Infrastructure
11th Floor, Sethsiripaya 2nd Stage,
Battaramulla.
28. Hon. Harshana Nanayakkara
Minister of Justice and National Integration,
Ministry of Justice and National
Integration,
No. 19, Sri Sangaraja Mawatha,
Colombo 10.
29. Hon. Vijitha Herath
Minister of Foreign Affairs, Foreign
Employment and Tourism,
Republic Building, Sir Baron Jayathilake

Mawatha, Colombo 1.

30. Hon. Anura Karunathilaka
Minister of Ports and Civil Aviation,
Ministry of Ports and Civil Aviation
No. 19, Caithya Road,
Colombo 01.
31. Hon. (Dr.) Upali Pannilage
Minister of Rural Development, Social
Security and Community Empowerment,
1st Floor, Sethsiripaya
Battharamula.
32. Hon. (Dr.) Hiniduma Sunil Senevi
Minister of Buddhasesna, Religious and
Cultural Affairs,
Ministry of Buddhasena, Register and
Srimath Anagarika Dharmapala Mawatha,
Colombo 7.
33. Hon. (Prof.) Anil Jayantha Fernando
Minister of Labour
Ministry of Labour
2nd Floor, Labour Secretariat,
Colombo 05
34. Hon. K.M. Ananda Wijepala
Minister of Public Security and
Parliamentary Affairs,
Ministry of Public Security and
Parliamentary Affairs,
18th Floor, 'Suhurupaya', Battaramulla
35. Hon. Wasantha Samarasinghe
Minister of Trade, Commerce, Food Security
and Cooperative Development
Ministry of Trade, Commerce and Food
Security, and Cooperative Development
CWE Secretariat Building
Vauxhall Street,
Colombo 02

36. Hon. (Prof.) Chrishantha Abeysena
Minister of Science and Technology
Ministry of Science and Technology
Level II, Unit No: 1101,
One Galle Face Tower
No. 1 A, Centre Road, Galle Face,
Colombo 02
37. Hon. (Mrs.) Saroja Savithri Paulraj
Minister of Women and Child Affairs
5th Floor, Sethsiripaya State II,
Battaramulla
38. Hon. Sunil Kumara Gamage
Minister of Youth Affairs and Sports,
Ministry of Youth Affairs and Sports
No. 09, Philip Gunawardana Mawatha
Colombo 07.
39. Hon. (Dr.) Nalinda Jayatissa
Minister of Health and Mass Media,
Ministry of Health and Mass Media,
Suwasiripaya, No. 385,
Rev. Baddegama Wimalawansa Thero
Mawatha, Colombo 10.
40. Hon. Sunil Handunneththi
Minister of Industry and Entrepreneurship
Development,
No. 73/1, Galle Road, Colombo 03
41. Dr. H.M. Susil Ranasinghe
Minister of Housing, Construction and
Water Supply,
Ministry of Housing, Construction and
Water Supply,
12th Floor, Sethsiripaya, Stage II,
Battaramulla
42. W.M.D.J. Fernando
Secretary
Office of the Cabinet of Ministers
Lloyd's Building, Sir Baron Jayathilaka

Mawatha,
Colombo 01.

43. Ceylex Renewables (Pvt) Ltd
6th Floor, Astoria Tower 3,
No. 422 6/3, R.A. De Mel Mawatha,
Colombo 03.

43A. Windscape Mannar (Pvt) Ltd
6th Floor, Astoria Tower 3,
No. 422 6/3, R.A. De Mel Mawatha
Colombo 03

43A. Added Respondent

44. HayWind One Limited,
No. 200, Deans Road,
Colombo 10.

44A. Hayleys Fentons Limited
No. 180 Deans Road,
Colombo 10.

44A Added Respondent

Before : R. Gurusinghe, J.
&
A. Premashanker J.

Counsel : Farzana Jameel, PC with Prashanthi Mahindarathne,
Dilumi De Alwis, Manisha Dissanayake and
Minaz Izzadeen instructed by Dilhani Jayasuriya
for the Petitioner

Manohara Jayasinghe, DSG with Medhaka Fernando, SC
**for the 1A, 2A, 3rd to 15th and
20th to 42nd Respondents**

Sanjeewa Jayawardhana, PC with Rukshan Senadheera
and Dr. Milhan Mohommed instructed by Supuni
Samarawickrama **for the 43rd and 43A Respondents**

Nishan Premathirathne with Shenali Dias and
Vikum Jayasinghe instructed by
Chanuka Ekanayake
For the 44th and 44A Respondents.

Supported on : 09-07-2026, 16-07-2026, 23-07-2026,
30-07-2026, 03-08-2026 and 04-08-2026

Decided on: 31-08-2026

ORDER

R. Gurusinghe, J.

The petitioner filed the instant Writ application on 17-02-2026, seeking, *inter alia*, several Writs of Certiorari, Writs of Prohibition, Writs of *Mandamus*, and Interim Reliefs. The Writs of *Certiorari* are sought to quash the decisions taken by the State Respondents to set up and commence the Mannar Wind-Power-Phase I extension project (hereinafter sometimes referred to as “Extension Project”). In particular, the petitioner challenges the decision of the Ceylon Electricity Board (CEB), in its capacity as the project proponent (now represented by the 1A respondent, National Systems Operator (Pvt) Ltd), to select Mannar Island as the site for the “Extension Project”, and to establish wind power plants thereon. The petitioner further challenges the decision to award the Extension Project to the 43rd, 43A and 44th and 44A respondents for the purpose of building, owning and operating the said project. It is contended that the aforesaid decisions and the implementation of the Extension Project are contrary to the applicable statutes, regulations and licensing regimes.

The petitioners contend that the proposed 20MW and 50MW wind power plants on Mannar Island are detrimental to, and pose a threat to, the ecosystem of Mannar Island, including its flora and fauna, as well as the residents of the local community.

The Environmental Impact Assessment Report (“EIA” Report), marked P8, was published in October 2022. Thereafter, several approvals relating to the said Extension Project were issued by the 3rd respondent, the Director General of the Coast Conservation and Coastal Resources Management Department (hereinafter referred to as “CCD”), between November 2023 and February 2025, as evidenced by the documents marked P28 and P37.

By the amended petition dated 08-04-2026, the petitioner further seeks to challenge and quash the decisions of the State authorities to establish a 20 MW onshore wind power plant, on a Build-Own-Operate (BOO) basis, and the decision to award the said project to the 43rd respondent.

Two power generation projects are being undertaken by two separate companies, namely, Windscape Mannar (Pvt) Ltd. and Hayleys Fentons Ltd.

The 43A, added respondent, Windscape Mannar (Pvt) Ltd., is presently generating 20MW of electricity, which is connected to the National Grid. The 44A added respondent, Hayleys Fentons Ltd., has undertaken a 50 MW wind power project, which remains under construction.

The petitioner's complaints in respect of the aforesaid two impugned power generation projects are as follows:

- I. Issuance of Permits without compliance with the mandatory statutory Processes prescribed by statute and the relevant Regulations.
- II. Violation of the conditions of the Amended Permit issued by CCD based on the approval given by the Department of Wildlife Conservation (DWLC), which was in turn based on the findings and recommendations of the Avifaunal Study, which was part and parcel of the EIA.
- III. Treating the interim EIA (P8) as a final EIA, despite the requirement in P8 to carry out a one-year Avifaunal Study.
- IV. Failure to make the Avifaunal Study available to the general public as required by Section 23BB of the NEA
- V. Failure to comply with Section 9A of the FFPO.

The petitioner further alleges that the Extension Project is being implemented in contravention of the amended approval granted by the 3rd respondent and that several wind turbines have been erected or are proposed to be erected at locations that have not been approved by the relevant authority. The amended permit issued by the CCD to the CEB, dated 27-02-2025, is produced, marked P37.

Accordingly, *"All constructions should be confined to the amended layout plan (as per the letter no. WG/6/1/1/328 dated 20-01-2025 issued by the Department of Wildlife Conservation) with GPS coordinates indicated in the EIA report dated October 2022 submitted by CEB."*

The petitioner submitted that the aforesaid condition was imposed having regard to the findings of the Avifaunal Study (P33). The said

study recommended that only 10 of the 21 locations initially applied for and approved by the Provisional Approval of the CCD, by the approval marked P28 dated 15-11-2023, be utilized for the installation of wind turbines.

The petitioner further contended that any approval granted prior to 20-01-2025, or any approval permitting the installation of turbines in excess of the number authorised under the amended permit issued by the CCD, is *ultra vires* and has been issued without due compliance with the mandatory statutory provisions of the CEA Act and the regulations made thereunder.

The 1A, 2A, 3-15 and 20 - 42 respondents have taken up the position that the petitioner's own documents show that the CEB, as the project proponent of the "Extension Project", initially sought the approval of the 10th respondent, the Director General of Wildlife Conservation, proceed with the said project as the proposed project site was situated in close proximity to the Vedithalathivu Nature Reserve and the Vankalai Bird Sanctuary (as evidenced by P25).

The 10th respondent, by letter dated 05-01-2022 marked P26, granted approval to the CEB to proceed with a 35MW project in addition to the existing Mannar Wind Farm (Thambapawani).

The respondents further submitted that the 04th respondent, the Central Environmental Authority (CEA), granted its concurrence to the CCD, which was thereafter designated as the Project Approving Agency for the Mannar Wind Power Project (as evidenced by P27E).

The EIA report was published in the Gazette on 22-02-2023 as required by Section 15(2D) of the Coast Conservation and Coastal Resource Management Act (P31). The Avifaunal Study was subsequently commissioned in April 2023.

The petitioner contended that the CEA has not granted its approval in respect of the impugned project and that no statutory provision empowers the CEA to grant its concurrence to designate the CCD as the Project Approving Agency. However, the proviso to Section 23AA (2) reads as follows:

"provided, however, in respect of certain prescribed projects to be determined by the Minister, the project approving agency will grant its approval only with the concurrence of the Authority."

The respondents on the other hand, have submitted that the Avifaunal Study Report does not form part of the EIA Report. This submission gives rise to an arguable issue. Nevertheless, once the EIA Report has been prepared, the relevant authority must ensure it is published without delay.

The 43rd and 43A respondents have placed before Court a chronology of events commencing from the advertisement of the Request for Proposals (“RFP”) dated 08-12-2022 and culminating in the connection of the 20 MW project to the National Grid on 15-01-2026. Whether the petitioner has instituted the present application within a reasonable period must necessarily be determined having regard to the facts and circumstances of the case and the nature of the matters under challenge. In the circumstances of the present case, this issue cannot appropriately be determined at the threshold stage.

The 43A respondent further submitted that its 20MW wind power project does not form part of the extension of the existing CEB Wind Power Project. It is contended that the said project is a separate 20MW project, and that the locations of its wind turbines are entirely different from the proposed extension of the Thambapawani project.

Prima facie, there appear to be several material distinctions between the 50MW Extension Project and the separate 20MW project undertaken by the 43A respondent. The 43A respondent has already been generating 20MW of electricity and is connected to the National Grid pursuant to a power purchase agreement entered into with the CEB.

The respondents pointed out that, under the provisions of the National Environmental Act, an IEE or an EIA is required only in respect of projects which fall within the category of “prescribed projects”. The list of prescribed projects requiring an IEE or an EIA is set out in Gazette Extraordinary No. 772/22 dated 18-06-1993, marked P14.

The said Gazette identifies renewable energy-based electricity generating stations exceeding 50 MW as prescribed projects. Accordingly, a renewable energy-based electricity generation project having a capacity of less than 50 MW does not, by virtue of its capacity alone, fall within the category of prescribed projects requiring an IEE or an EIA under the National Environmental Act.

The 43A and 44A respondents have shown that they have employed highly sophisticated radar-based technology designed to detect the presence of birds and bats in close proximity to the wind turbines and, where necessary,

to automatically stop the turbines so as to minimize the risk of harm to such birds and bats. Further, the respondents have pointed out that they fully complied with the recommendations and/or conditions envisaged in the Avifaunal Study report.

It is also submitted that the respondents have obtained the requisite approvals from the relevant authorities. The petitioner, however, challenges the validity of such approvals on the basis that the prescribed procedure was not duly followed. In my view, this is an issue which requires further consideration.

In the above circumstances, this Court is satisfied that there are issues which warrant further consideration. The material placed before Court is sufficient to justify the issuance of notice on all the respondents.

The petitioner has sought interim relief as prayed for in paragraph II and JJ of the prayer to the petition. As noted above, the respondents have obtained the necessary approvals and licences from the relevant authorities. The 43A respondent is already supplying 20MW of electricity to the National Grid

The CEB and its successor entities are justified in proceeding on the basis that licences and approvals granted by the competent public authorities are valid and may be relied upon to make and implement their business and operational decisions. The CEB commenced the process relating to these projects by issuing the relevant advertisements in 2022. Once the requisite licences and approvals were granted, the developers were entitled to proceed with the development of the projects, particularly having regard to the limited period of validity attached to such licences and approvals.

It must be mindful that the grant of interim relief in Writ Applications instituted under Article 140 of the Constitution is a discretionary remedy. In considering whether such relief should be granted, Court must have regard not only to the interests of the petitioner but also to the wider public interest and the consequences that may follow from the grant of such relief. In the present circumstances, Court is mindful that the interim relief sought by the petitioner may result in public inconvenience.

In the case of Mundy v. Central Environmental Authority and Others [SC-CA-Appeal-58/2003] decided on 20/01/2004, the Supreme Court specifically formulated the core dilemma of this balance as: "*Whether– where the wider public interest is at stake– the Court has the discretion in deciding whether to grant or refuse the remedy [by way of writ] even if the impugned decision affects certain individuals.*"

An interim stay order in a Writ Application is an incidental order granted in the exercise of the inherent or implied powers of Court. In considering whether such interim relief should be granted in the present matter, Court must have regard to the following considerations by considering the guidelines stipulated in the case of Duwearatchi and Another v. Vincent Perera and Others [1984] 2 Sri LR 94, the Court stated the following regarding stay orders.

“ (i) Will the final order be rendered nugatory if the petitioner is successful ?

(ii) Where does the balance of convenience lie ?

(iii) Will irreparable and irremediable mischief or injury be caused to either party ?”

In the present case, these considerations must be examined having regard to the fact that the Respondents have obtained approvals and licences from the relevant authorities, that the 43A Respondent has already commenced the generation and supply of 20 MW of electricity to the National Grid, and that the projects have been undertaken pursuant to decisions and approvals made over a considerable period of time. Court must therefore carefully balance the interests of the petitioner against the interests of the Respondents and the wider public interest before determining whether interim relief ought to be granted. I am of the view that the balance of convenience does not lean to the side of the petitioner.

For the foregoing reasons, this Court is of the view that it would not be appropriate to issue interim reliefs sought by the petitioner at this stage of proceedings.

Issue Notice on all the Respondents.

Judge of the Court of Appeal

A. Premashanker J.

I agree.

Judge of the Court of Appeal.