

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

**C.A. (Writ) Application
No: 0252/2025**

1. Roshan Nadeera Tennakoon
Owner
2. Sewwandi Anurudhika Jayawardena
Manager

Both of
A/Sri Rahula College – Anuradhapura
No. 623/22, Freeman Mawatha,
Anuradhapura

Petitioners

Vs.

1. R A Chandana Saman Ranaweera Arachchi
Commissioner – General of Lands
Commissioner – General of Lands
Department
'Mihikatha Medura', Land Secretariat,
1200/6, Rajamalwatta Road,
Battaramulla
2. S.S.M. Sampath Rohana Dharmadasa
Divisional Secretary
Divisional Secretariat
Nuwaragam Palatha East – Anuradhapura
3. Anuradhpura Municipal Council
Anuradhapura Municipal Council
Maithripala Senanayake Mawatha,
Anuradhapura.

4. N.H.R. Nishantha
Commissioner
Anuradhapura Municipal Council
Anuradhapura Municipal Council
Maithripala Senanayake Mawatha,
Anuradhapura
5. Hon. K.D. Lal Kantha,
Minister of Agriculture, Livestock, Land
And Irrigation
Ministry of Agriculture, Livestock, Land
And Irrigation
'Mihikatha Medura',
1200/6, Rajamalwattha Avenue,
Battaramulla
6. Sanath Gunarathne
Secretary
Sinha Sports Club
No. 874,
Stage II,
Anuradhapura
7. Sagara Piyathilika
No. 897
State II
Anuradhapura

Respondents

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

Counsel : Sapumal Bandara with Vishmi Yapa Abeywardena
and Kaveesha Vithanawasam instructed by
Thavisha Hettiarachchi
for the Petitioners

Esara Wellala instructed by Bandula Wellala
for the 03rd and 04th Respondents

Dilantha Sampath SC
for the 01st, 02nd and 05th Respondents

Supported on: 07-07-2026

Decided on: 04-08-2026

ORDER

R. Gurusinghe, J.

The petitioners are, respectively, the owner and the Manager of a private school situated in Anuradhapura. The petitioners aver that they submitted an application to the Commissioner General of Lands seeking allocation of a parcel of State land for use as a playground for the students of their school.

In consideration of the said request, the Divisional Secretary of Anuradhapura sought observations from the Municipal Council of Anuradhapura, as to whether the land referred to in document marked P7 could be allocated to the petitioners' school. Thereafter, upon consulting the relevant parties by letter dated 20-08-2020, marked P9(a), the Divisional Secretary of Nuwaragam Palatha East of Anuradhapura informed the Commissioner General of Lands that the proposed allocation could not be recommended in view of objections raised by the residents of the area. The said communication further records that the Municipal Council had unanimously objected to the proposal. Several correspondences were exchanged between the relevant authorities concerning the Petitioners' request.

Subsequently, by letter dated 29-07-2020 marked P10(a), the then Minister of Lands requested the Commissioner General of Lands to consider whether the land referred to therein could be leased to the petitioners' school for a period of 30 years.

Upon application made by the petitioners, the Municipal Council of Anuradhapura granted permission to the petitioners to use the public playground known as the "Singha playground" for the students of their school, on weekdays between 7.00 a.m. and 4.30 p.m., subject to the

payment of a monthly maintenance charge of Rupees Eight Thousand (Rs. 8,000/-).

The letter granting such permission specifically states that after 4.30 p.m. and throughout Saturdays and Sundays, the ground should remain open to the general public. The petitioners are accordingly advised to maintain cordial relations with the residents of the area.

Thereafter, by letter dated 11-03-2025 marked P13, the Municipal Commissioner of Anuradhapura informed the Principal of the petitioners' school that the permission previously granted by the letter dated 11-09-2023 had been cancelled. The letter further stated that, as the playground constituted public property vested in and administered by the Municipal Council, the petitioners may apply to the Municipal Council to reserve the playground, if necessary.

The Petitioners now seek to quash the decision contained in letter P13. It appears, *prima facie*, the impugned decision in the said P13 was not unlawful. The playground is public property under the control and management of the Municipal Council, and the petitioners are entitled to apply for its use in the ordinary course. If the playground is available, the Municipal Council may permit its use. However, a public playground cannot be reserved exclusively for the benefit of students of a private school.

It is settled law that, to issue a Writ of Mandamus, there must be an existence of both a public right and a public duty imposed upon the part of the respondents.

In the case of Perera vs. National Housing Development Authority [2001] 1 Sri LR 50, the Court held, *inter alia*, that “*foundation of Mandamus is existence of a right. Mandamus is not intended to create a right, but to restore a party who has been denied his right to the enjoyment of the said right. The right to enforce must be a “public right” and the duty must be enforced, and must be of a public nature. In this case, the petitioners have not shown they have a right to obtain a Writ of Mandamus.*”

Similarly, In Borella Private Hospital vs. Bandaranaike and two others CA/1006/2000(writ) CA minutes 21-11-2004 it has been held that “*in an application of a Mandamus where petitioner alleged a statutory functionary as having acted without jurisdiction and/or authority the petitioner is obliged to disclose the statutory provision that has been violated that establishes a*

legal right in the petitioner and a corresponding legal duty on the statutory functionary.”

In the present application, the petitioners have failed to establish the existence of any enforceable legal or public right entitling them to the relief sought. In the above circumstances, the Court refuses to issue formal notice on the respondents. Application is dismissed without costs.

Judge of the Court of Appeal

A. Premashanker J.

I agree.

Judge of the Court of Appeal.

