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

In the matter of an application for orders in the nature of Writs of Mandamus, Certiorari and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA (Writ) Application No. 593/2025

Best Life International (Private) Limited
No. 343,
Horana Road, Alubomulla,
Panadura.

PETITIONER

Vs.

1. Dr. Nandalal Weerasinghe,
Governor, Central Bank of Sri Lanka, No. 30,
Janadipathi Mawatha,
Colombo 01.

2. Financial Consumer Relations Department,
Central Bank of Sri Lanka,
No. 30, Janadipathi Mawatha,
Colombo 01.

2A. A.P. Liyanapatabendi,
Director,
Financial Consumer Relations Department,
Central Bank of Sri Lanka,
No. 30, Janadipathi Mawatha,
Colombo 01.

3. Central Bank of Sri Lanka,
No. 30, Janadipathi Mawatha,
Colombo 01.

4. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before	**:**	**Hon. Rohantha Abeysuriya PC, J.(P/CA)**
	:	**Hon. K. Priyantha Fernando, J. (CA)**
Counsel	:	Shehan de Silva with Nuwan Premadasa and Helindu Abeywardena instructed by Danushika Priyadarshani for the Petitioner. Amasara Gajadeera, S.C. for the 01st, 03rd and 04th Respondents.
Written Submissions on	:	27.03.2026 for the Petitioner. 06.05.2026 for the 1st, 3rd and 4th Respondents.
Supported on	:	17.02.2026
Decided on	:	15.07.2026

K. Priyantha Fernando, J. (CA)

1. The application seeks to quash an administrative determination ("P08") made by the Central Bank of Sri Lanka and its wide public dissemination, on the ground that it was made and

published without affording the Petitioner any opportunity to be heard, representing a violation of the principles of natural justice.

2. **Regarding the first objection of *laches*,** the Petitioner argued that the chronology demonstrates no inordinate or unreasonable delay as the impugned Notice ("P08") was first widely and publicly disseminated on 20.01.2025, and this application was subsequently filed on 29.05.2025. The Petitioner contended that this period of approximately four months cannot by any standard constitute an unreasonable delay.

3. Furthermore, the Petitioner stated that they became aware of notice "P08" for the first time upon its publication in January 2025, noting that the State Counsel appearing for the Respondents explicitly conceded before Court that the earlier notices published in 2023 and 2024 (marked "R3", "R4", and "R5") were never communicated to the Petitioner. The Petitioner asserted that they could not have challenged notices of which they had no prior knowledge.

4. The Petitioner further contended that during the intervening period, they did not sleep on their rights but actively pursued legitimate pre-litigation and statutory remedies. Specifically, the Petitioner stated that they dispatched a detailed response letter to the Governor of the Central Bank on the 17th of March 2025 ("P09") denying all allegations, filed a formal Right to Information (RTI) application on the following day, 18.05.2025 ("P10") seeking details of the investigation, and subsequently dispatched a reminder letter on the 24th of April 2025 ("P12") following the Respondents' failure to respond within the statutory period of 14 working days. The Petitioner argued that such proactive conduct to resolve matters through correspondence and statutory mechanisms before resorting to writ proceedings is commended, not and ought to not be penalized by courts of law.

5. The Petitioner argued that the legal criteria for *laches*, requiring the passage of time to be inordinate, inexcusable, and prejudicial to the Respondents is entirely unsatisfied in this case. Conversely, it was contended that it would be profoundly inequitable for the Respondents to argue the existence of *laches*, given that they themselves took over seven years and four months from the purported conclusion of their investigation in September 2017 to the publication of "P08" in January 2025 before taking adverse action. The Petitioner argued that this timeline

lacks rational progression, proceeding from a 2015 appreciation of business contributions to a secret condemnation in 2017 and a destructive public notice in 2025.

6. In support of this, the Petitioner relied upon the principle affirmed in *Colonel U.R. Abeyratne v. Lt. Gen. N.U.M.M.W. Senanayake* CA/WRT/239/2017 decided on 07.02.2020, wherein it was held that administrative action which disregards comprehensive evidence and departs from a rational basis is susceptible to review on grounds of irrationality and Wednesbury unreasonableness. The Petitioner also stated that the Investigation Report ("R1"), which concluded in September 2017, was systematically hidden and never communicated to them until it was produced in these court proceedings, meaning they cannot be accused of delay regarding a determination they did not know existed.

7. The Petitioner further contended that the complete absence of legal action under Section 83C of the Banking Act over a period of eight years strongly undermines the credibility and seriousness of the Respondents' allegations. While Section 83C (2) establishes a criminal offense for operating prohibited pyramid schemes, Section 83C (7) mandates the referral of information to law enforcement for prosecution, and **Section 83C (8) provides for obtaining *ex parte* prohibitory orders from the High Court, the Respondents failed to execute any of these statutory duties or take any regulatory actions to freeze accounts or prohibit operations.**

8. The Petitioner argued that this total inaction strongly suggests that the determination in "R1" and the subsequent notices were arbitrary and capricious administrative actions rather than genuine regulatory concerns. The Petitioner asserted that instead of deploying proportionate measures such as a show-cause notice, a compliance hearing, or a private warning, the Respondents immediately engaged in public naming and shaming.

9. In support of this position, the Petitioner cited *KIA Motors (Lanka) Ltd v. Consumer Affairs Authority* [2020] 2 Sri L. R. 299, which laid down that an administrative authority must not resort to the most damaging available response without first attempting lesser measures, and that timing manipulation designed to maximize harm constitutes disproportionate administrative action.

10. The inconsistency of the Respondents' conduct was further exposed when the Petitioner stated that during 2020, the Petitioner successfully obtained substantial loan facilities totaling Rs. 325 million from NDB Bank and Sampath Bank, which included two COVID-19 relief loans approved under the Central Bank's own strict oversight, control, and supervision of banking sector lending. The Petitioner argued that if the Respondents genuinely and *bona fide* believed that the Petitioner was operating an illegal scheme, they had a regulatory duty to alert the lending banks, refuse approval for the facilities, or initiate prosecution. The Petitioner contended that by remaining silent for over seven years, conducting no follow-up, communicating no adverse findings, and facilitating Rs. 325 million in loan approvals while the Petitioner operated openly, the Respondents created a clear, unequivocal, and reasonable expectation that no adverse action would follow.

11. The Petitioner further relied upon the doctrine of legitimate expectation as established in the case of *Chandrasena and Another v. Divisional Secretary, Ampara* [2020] 2 Sri L. R. 23, which confirmed that where a public authority by its conduct creates a clear and reasonable expectation, it is bound to honor it or afford the party an adequate hearing before departing from it. The Petitioner argued that the abrupt publication of "P08" in 2025 shattered this expectation, meaning the Respondents must answer for the delay and inconsistency.

12. **In response to the second preliminary objection regarding disputed facts**, the Petitioner contended that the Respondents have fundamentally mischaracterized the nature of the reliefs sought. The primary reliefs are grounded in procedural illegality, violation of natural justice, ultra vires action, and breach of legitimate expectation, which are well-established heads of judicial review that writ courts routinely adjudicate upon without inquiring into the underlying merits of factual disputes.

13. The Petitioner cited *Chairman, Pradeshiya Sabha, Dimbulagala v. Chief Minister, North Central Province* [2020] 2 Sri L. R. 164, which affirmed that a clandestine determination where an authority secretly treats a party as offending while continuing to engage with it, and then publishes an adverse finding after years of concealment, is a nullity for violation of the *audi alteram partem* rule.

14. **The critical question is purely one of administrative law i.e. whether the Respondents were entitled to make and widely disseminate an adverse determination without first**

affording the Petitioner an opportunity to be heard. The Respondents' own pleadings confirm and admit that the Petitioner was never issued a show-cause notice, never provided with Investigation Report "R1", never given notice of adverse findings, and never afforded a hearing prior to the publication of "P08". The Petitioner argued that because these are undisputed admissions on the face of the pleadings, the violation of the *audi alteram partem* rule is patent and requires no factual investigation or trial.

15. The Petitioner further argued that by making and publishing the impugned determination without following statutory procedures for prosecution or court orders, the Respondents acted ultra vires their statutory authority. The Section 83C of the Banking Act No. 30 of 1988 empowers the Central Bank to conduct investigations only, and does not confer any power to make administrative determinations of illegality or to publicly condemn a business entity, as the statute vests the power of adjudication exclusively in the courts.

16. In seeking to establish the argument the Petitioner relied on the case of *Gunathilake and Others v. Minister of Lands* [2020] 3 Sri L.R. 144, in which it was held that a statutory authority cannot arrogate to itself judicial functions, criminal penalties can only follow court conviction, and that an administrative body which invents a public condemnation process without Parliamentary authorization acts beyond its statutory power and in violation of the separation of powers. The Petitioner further noted that they were systematically denied access to the Investigation Report "R1", police statements, and financial data during the administrative phase.

17. **Regarding the third preliminary objection alleging the suppression and misrepresentation of material facts**, the Petitioner contended that the Respondents' allegations are bare, sweeping, vague, and unparticularized, making them incapable of sustaining a preliminary objection. The Petitioner stated that their Petition contains a full, frank, and comprehensive disclosure of all material facts, including the 2016-2017 correspondence, the subsequent eight years of silence, the receipt and public dissemination of "P08", a comprehensive summary of accounts ("P04") verified by an affidavit of the Chief Financial Officer ("P05"), and the details of the RTI applications. The Petitioner argued that the allegation of suppression is ironic because one cannot suppress what one does not possess. This is due to the fact that the Investigation Report "R1" was systematically withheld from the Petitioner for over seven years and was only made available when produced alongside the Respondents' objections in these proceedings.

18. The Petitioner stated that it is the Respondents who have systematically withheld material information at every turn by failing to provide Report "R1", failing to disclose the nature and contents of complaints, and publishing notices in 2023 and 2024 without ever communicating them to the Petitioner. The Petitioner argued that this complete absence of reasons for an adverse administrative determination permits the legal inference that no rational grounds exist for that determination.

19. On the other hand, the 1st, 3rd, and 4th Respondents contended that the Writ Application filed by the Petitioner, should be dismissed *in limine*. The Respondents stated that the Petitioner sought various substantive reliefs, including writs of *certiorari* to quash the determination and publication of the press release "P08", writs of prohibition to prevent further action or publicity regarding "P08", and writs of *mandamus* to withdraw "P08", disclose the reasoning behind the determination, and provide an opportunity to respond to the complaints. Furthermore, they argued that the Petitioner is not entitled to maintain this application based on several preliminary objections, namely: *laches*, misrepresentation and suppression of material facts, inviting the Court to investigate disputed facts, failure to demonstrate a cognizable legal basis, misjoinder of parties, and the application being patently misconceived in law.

20. The Respondents heavily argued that the Petitioner is guilty of both *laches* and the deliberate suppression of material facts. They stated that while the Petitioner impugns "P08", the 3rd Respondent had already issued three identical public notices on 31.05.2023, 25.08.2023, and 19.12.2024 ("R3", "R4", and "R5"), all of which explicitly named the Petitioner. The Respondents contended that the cause of action crystallized upon the publication of the first notice in May 2023, and that the Petitioner's failure to seek relief for nearly two years constitutes an inordinate, inexcusable delay and tacit acquiescence to the practice.

21. Furthermore, the Respondents asserted that the Petitioner deliberately withheld the existence of these prior notices from this Court to advance a false narrative that their knowledge of the determination arose only in January of 2025. The Respondents cited the cases of *Sarath Hulangamuwa v. Siriwardene* [1986] 1 Sri L. R. 275, *Alphonso Appuhamy v. Hettiarachchi* 77 NLR 131, and *Dahanayake and Others v Sri Lanka Insurance Corporation Ltd* [2005] 1 Sri L. R. 67, the Respondents argued that this selective presentation of facts demonstrates a lack of *uberrima fides* and that such rigorous failure to make a full and fair disclosure justifies dismissing the application without examining its merits. The Respondents

further stated that even if "P08" were treated as the sole relevant act, the Petitioner's unexplained delay of over four months still constitutes laches.

22. The Respondents additionally contended that the Petitioner is impermissibly inviting this Court to investigate disputed questions of fact, specifically whether the Petitioner conducted prohibited schemes under Section 83C of the Banking Act. The Respondents stated that the 3rd Respondent conducted investigations into complaints and arrived at a regulatory determination based on evidence. They argued that the Court, in exercising its discretionary public law jurisdiction, is not permitted to embark upon a *de novo* investigative exercise or substitute its assessment of the facts for that of the statutorily authorized body.

23. The Respondents stated that under Section 83C of the Banking Act, the 3rd Respondent holds investigative powers to probe violations, seize documents, and share findings with law enforcement authorities for prosecution, and bears no responsibility for securing criminal convictions itself. Furthermore, the Respondents argued that the Central Bank of Sri Lanka Act mandates the 3rd Respondent to maintain price and macroeconomic stability. Consequently, issuing press releases acts as a necessary public cautionary notice to protect consumers from the adverse financial impacts of prohibited pyramid structures. The Respondents contended that there is no statutory restriction requiring criminal convictions prior to conducting such public awareness programs, making the 3rd Respondent's actions fully lawful.

24. Finally, the Respondents argued that the application suffers from fatal structural and legal defects. The Respondents stated that the Petition is vitiated by the misjoinder of parties, as the 2nd Respondent (the Financial Consumer Relations Department) is neither a natural nor a legal person against whom a petition can be maintained. Regarding the specific reliefs sought, the Respondents contended that the Petitioner failed to establish the foundational requisites for a writ of mandamus.

25. Relying on *Kaluarachchi v Ceylon Petroleum Corporation* [2019] 1 Sri L. R. 406, the Respondents argued that *mandamus* requires a clear and enforceable legal right based on a public duty, which the Petitioner entirely lacks without a favorable determination under Section 83C. The Respondents also stated that the Petitioner failed to establish a *prima facie* case warranting judicial intervention, noting that the Petitioner's lawful supermarket operations remain unsuspended and that the delay in issuing the press releases actually commercially

advantaged the Petitioner by allowing them to secure loans. Citing *Laub v. Attorney General* [1995] 2 Sri L. R. 89, the Respondents concluded that the Petitioner's own unmeritorious and unreasonable conduct in engaging in prohibited schemes deprives them of any claim to discretionary writ relief.

26. The inquiry with regard to the preliminary objections was taken up on 17.02.2026 and after hearing both parties, this Court directed the parties to file a written synopsis and fixed the matter for order. The preliminary objections raised by the 1st and 3rd respondents are namely:

(i) Laches and unreasonable delay;
(ii) The existence of disputed facts;
(iii) Suppression and misrepresentation of material facts;
(iv) Misjoinder of parties as the 2nd respondent is neither a natural nor legal person;
(v) Application is patently misconceived in law.

LACHES OR NOT?

27. The Petitioner is impugning the Press Release P8 issued on 20.01.2025 which reports the name of the Petitioner as one of the companies that the 3rd Respondent has determined to have engaged in a scheme prohibited under Section 83(c) of the Banking Act No. 30 of 1980 as amended by the Amendment Act No. 2 of 2005 ("Banking Act"). The Respondents have drawn attention of the Court to the fact that the 3rd respondent has issued three Public Notices of identical character prior to the impugned document, namely on 31st May 2023, 25th August 2023, and 19th December 2024 (vide R3, R4 and R5); each of those notices named the Petitioner. Therefore, it was contended that the Petitioner's failure to seek relief in response to any of the three preceding notices, spanning nearly two years constitutes inordinate and inexcusable delay; in the alternative, by electing not to challenge earlier notices, the Petitioner must be taken to have acquiesced in them.

28. The Petitioner's contention was that, they became aware of the impugned notice P8 for the first time when it was published in January 2025. The present application was filed on 29.05.2025 within a period of 04 months. It was revealed to the Court that the earlier notices published in

2023 and 2024 were never communicated to the Petitioner. Therefore, it is apparent that the Petitioner could not have challenged notices of which it had no knowledge.

29. Furthermore, Petitioner has pursued legitimate remedies during the intervening period as follows:

(i) Dispatched a detailed response letter to the Governor of the Central Bank on 17.03.2025 (vide P9), categorically denying all allegations and seeking to engage constructively;

(ii) Filed a formal Right to Information application on 18.03.2025 (P10) seeking details of the investigation;

(iii) Dispatched a reminder letter on 24.04.2025 (P12) following the Respondents' failure to respond within the statutory period of 14 working days.

30. It is seen that the Respondents themselves have taken over 7 years from the conclusion of their own investigation in September 2017 to the publication of P8 in January 2025. It is important to note that the Investigation Report R1 which concluded in 2017 has never been communicated to the Petitioner and the Petitioner has remained entirely unaware of its existence. Thus, the Petitioner cannot be accused of delay in challenging a determination of which it had no knowledge. In the above circumstances, there is no inordinate delay or laches on the part of the Petitioner.

<u>ARE THE MAJOR FACTS IN DISPUTE</u>?

31. It was contended by the Respondents that the Petitioner has invited the Court to investigate disputed facts especially the question of whether the Petitioner has conducted schemes prohibited under Section 83C of the Banking Act.

32. It is not the correctness of the determination that the 3rd Respondent has arrived is the concern of this Court. It is whether such determination is lawful or unlawful. Dispute over the fact that whether the Petitioner engaged in a Pyramid Scheme or not is not the concern of this Court. Whether the Respondents applied the due process when reaching such finding is the only concern of this Court. In brief, the Court will look at the legality of the decision of the 1st to 3rd Respondents.

33. The principal reliefs sought by the Petitioner are the quashing of the administrative determination in P8 on the grounds of procedural impropriety, violation of natural justice, ultra vires act and breach of legitimate expectation. Courts exercising writ jurisdiction routinely adjudicate upon such grounds without inquiry into the merits of the underlying factual disputes.

34. The critical question before the Court is not whether the Petitioner's business constitutes a pyramid scheme under Section 83C of the banking Act, but whether the Respondents were entitled to make an adverse determination without affording the Petitioner any opportunity to be heard.

35. The Respondents have admitted in their pleadings that the Petitioner was never issued a show-cause notice or provided with the Investigation Report 'R1' or its conclusions; or given notice of any adverse findings or offered any hearing before the publication of P8. These are not disputed facts but admissions on the face of the pleadings. It was contended by the Petitioner that section 83C of the Banking Act empowers the Central Bank to conduct investigations only; it does not confer any power to make determinations of illegality or to publicly condemn a business entity.

36. Section 83C (7) expressly mandates that the results of any investigations be provided to law enforcement authorities for criminal prosecution, and Section 83C (8) provides that prohibitory orders may be obtained only from the High Court.

37. In *Gunathilake and Others v. Minister of Lands* [2020] 2 Sri LR 144, it was affirmed that a statutory authority cannot arrogate to itself judicial functions and that criminal penalties can only follow court conviction, and that an administrative body which invents a public condemnation process without parliamentary authorization acts beyond its statutory power and in violation of the separation of powers.

38. **Section 83C** of the Banking Act No. 30 of 1988 (as amended by Amendment) Act No. 2 of 2005 prohibits pyramid-like schemes. It stipulates that,

> "*83C. No person shall directly or indirectly initiate, offer, promote, advertise, conduct, finance, manage or direct a scheme where a participant is required to contribute or pay money or monitory value and the benefits earned by the participant are largely*

dependent on -

(a) increase in the number of participants in the Scheme, or

(b) increase in the contribution made by the participants in the Scheme.".

39. It was revealed that the Petitioner has not been provided the Investigation Report 'R1' until these proceedings, nor has it been given an opportunity to respond to the police statements, the bank statement analysis, or the financial data relied upon by the Respondents.

40. It was Petitioner's position that had a proper hearing been conducted, these factual matters would have been ventilated and resolved at the administrative level. It is the view of this Court that the Respondents should not be allowed to rely upon the very factual complexity created by their own procedural failure as a reason for this Court to decline jurisdiction.

IS THE PETITIONER GUILTY OF SUPPRESSION OF MATERIAL FACTS?

41. It was contended that the Petitioner has withheld from this Court the existence of the press releases published in 2023, each of which named the Petitioner and placed it on clear notice of the 3rd respondent's position. In the Counter Objections dated 03.11.2025, it was stated that the Petitioner was **unaware of the earlier notices until the widely publicized January 2025 notice** and the respondents' pattern of issuing such notices over nearly two years, without affording a hearing, reflect a deliberate and systematic disregard for fairness and due process. If the Respondents genuinely believed the matter to be so urgent as to warrant repeated public notices, they ought to have acted with corresponding urgency in affording the petitioner a hearing.

42. In the case of *Chandana Kumara v. Air Vice Marshal, Sri Lanka Air Force* [2020] 3 Sri L. R. 319, it was held that the complete absence of reasons for an adverse administrative determination permits the inference that no rational grounds exist for that determination. The Respondents' persistent refusal to provide evidence, reasoning, or finding to the Petitioner over 7 years, or in response to formal RTI requests supports the contention of the Petitioner that the impugned determination lacks any rational basis.

43. Furthermore, it was revealed to the Court that in 2020, the Central Bank, through its oversight of the banking sector had approved or oversaw substantial loans of Rs. 325 million to the Petitioner, including two COVID-19 relief loans. These facts demonstrate the complete absence of any basis for the suppression allegation. Despite purportedly concluding in their 2017 Report that the Petitioner was committing a criminal offence, the Respondents have not taken any legal action under Section 83C for more than 8 years, during which they have facilitated loan approvals.

44. In the circumstances, the Petitioner has a prima facie case and the question of law arises as to **whether the Respondents can reach an adverse finding against the Petitioner without affording an opportunity of being heard to the Petitioner**.

45. On the said question of law, I am inclined to issue formal notice on the Respondents. The preliminary objections are overruled. Formal notice issued on the Respondents.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal