

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 Writ of
Certiorari and Prohibition under and in
terms of Article 140 of the Constitution.*

Harbor View Piers Private Limited,
No. 16,
Harmer's Avenue,
Colombo 06.

CA Writ App. No. : CA (Writ) 1002/2025

And also of

No. 18/1,
Castle Avenue,
Colombo 08.

PETITIONER

-Vs-

1. Prof. P.B. Terney Pradeep Kumara,
Director General,
Department of Coast Conservation and
Coastal Resource Management,
4th Floor, New Secretariat Building,
Maligawatte, Colombo 10.
2. K.R. Uduwawela,
Secretary,
Ministry of Environment,
“Sobadam Piyasa”

No. 416 / C / 1,
Robert Gunawardana Mawatha,
Battaramulla.

3. Eastern Province Tourism Bureau,
Inner Harbour Road,
Trincomalee.

4. Chairman,
Eastern Province Tourism Bureau,
Inner Harbour Road,
Trincomalee.

5. Dr. R. Gnanasegar,
General Manager,
Eastern Province Tourism Bureau,
Inner Harbour Road,
Trincomalee.

6. Sri Lanka Ports Authority,
No. 19, Chaithya Road,
Colombo 01.

RESPONDENTS

Before : **Hon. Rohantha Abeyesuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Niranjan Arulpragasam with Lasika Udayangani,
Ashenka

De Silva instructed by Charika Wanigabaduge for the
Petitioner.

Nayomi kahawita, S.S.C. for the Respondents.

Written Submissions on : 06.04.2026 for the Petitioner.
30.04.2026 for the Respondents.

Supported on : 19.02.2026

Decided on : 10.07.2026

K. Priyantha Fernando, J.(CA)

1. The Petitioner has filed this case seeking as substantive reliefs writs of *certiorari* quashing the Demolishing Order (P9) and the communication of the Demolishing Order (P10) and the letter of the Ministry of Environment (2nd Respondent) rejecting the Petitioner's appeal (P12).

POSITION OF THE PETITIONER:

2. The Petitioner argued that, the Demolition Order DO/2025/214 (P9) dated 17.06.2025 and the subsequent rejection of its appeal (P12) were unlawful and ought to be quashed. The Petitioner Company has entered into a Joint Management Agreement dated 08.06.2024 (**P5**) with the 3rd Respondent (Eastern Province Tourism Bureau) for a five year term following a public tender process.
3. It was Petitioner's position that it invested in excess of Rs. 22 million in constructing and fitting out the Pier 1947 Restaurant on the Fisheries Jetty, Trincomalee, and that it paid monthly management fees and furnished a refundable security deposit in reliance on the 3rd Respondent's representations and conduct; these facts gave rise to a legitimate expectation that the 3rd Respondent, as the public body and lawful occupier, had obtained the requisite statutory permission under Section 14(1) of the Coast Conservation and Coastal Resource Management

Act No. 57 of 1981 (as amended) prior to calling for Expressions of Interest and prior to the award of the management contract.

4. The Petitioner argued that the Demolition Order was issued without affording it a hearing or a site inspection, notwithstanding its specific requests for a hearing and inspection in its appeals dated 16.07.2025 (P11(a) and P11(b), respectively), and that the summary rejection of its appeal by the 2nd Respondent was procedurally flawed and delayed beyond the statutory period; this denial of a pre-decisional hearing amounted to a gross violation of the principles of natural justice and relied upon authorities including Cooper v. Wandsworth Board of Works [1863] 14 CB (NS) 180 (CP), Abeyaratne v. Janatha Fertilizer Enterprises Ltd. [2003] 1 Sri L. R. 391, and Lalith Deshapriya v. Captain Weerakoon [2004] 2 Sri L. R. 314 to underscore the fundamental right to be heard and the Respondents' conduct in permitting construction to proceed for nearly two years, collecting fees, and documenting the development without objection, amounted to acquiescence and reinforced its legitimate expectation that the project was lawful.
5. The Petitioner further argued that the Demolition Order, although formally directed to the 4th Respondent (Chairman, Eastern Province Tourism Bureau), directly and prejudicially affected its business and contractual rights under the Joint Management Agreement. The Petitioner further contended that the order was therefore *ex facie* bad in law, issued in violation of natural justice and legitimate expectation, and unsupported by any compelling public interest.
6. Petitioner stated that its case is distinguishable from the Trincomalee Buddha Statue matter (CA/WRT/30/2026) on the basis that the latter involved criminal proceedings under Section 14(1) whereas the present dispute concerns a civil challenge to a demolition order and denial of procedural fairness. The Petitioner sought relief by way of writ petition to quash the Demolition Order and to prohibit demolition until the expiration of the management agreement.

POSITION OF THE RESPONDENTS:

7. The Respondents argued that the "Pier 1947" Restaurant was an unauthorized structure within the meaning of the Coast Conservation and Coastal Resource Management Act No. 57 of 1981 (as amended) because no permit had been issued by the Director under Section 14(1) prior to

the development activity; Section 31(1) and Section 31(2) rendered any such unauthorized construction liable to demolition; and that the Demolition Order was therefore lawfully issued under Section 31(2). The statutory onus to obtain the Section 14 permit rested squarely with the 3rd Respondent, the Eastern Province Tourism Bureau, which they described as the lawful occupier and lessee of the Fisheries Jetty under Lease Agreement No. 755 dated 28.03.2024 with the 6th Respondent, Sri Lanka Ports Authority. Accordingly, the Petitioner, not being the owner or lawful occupier, could not have obtained the statutory permit and lacked *locus standi* to challenge the Demolition Order.

8. The Respondents contended that the Demolition Order was correctly directed to the 4th Respondent, the Chairman of the Eastern Province Tourism Bureau, as the occupier responsible for compliance, and that communications and correspondence concerning the Section 14 permit were addressed to the 4th Respondent. The 1st Respondent, the Director General of Coast Conservation, in an affidavit dated 13.02.2026, stated that the Sri Lanka Ports Authority's approval was required for any construction on the Jetty and that the permit related communications were directed to the 4th Respondent.
9. The Respondents maintained that the Petitioner's reliance on the tender process, award and management agreement did not absolve the occupier of the statutory obligation to secure the Section 14 permit and that representations made in the tender process could not displace or negate the statutory requirement.
10. It was further submitted that, while Clause 7 of the Letter of Acceptance (P4) referred to obtaining approvals, the Respondents' pleadings advanced two related positions: the Respondents argued that Clause 7 did not impose on the Petitioner the statutory duty to obtain a Section 14 permit and that the approvals referred to were typical conditions included in permits rather than the statutory permit itself; others interpreted, alternatively, that Clause 7 required the obtaining of necessary approvals (including those under Section 14) but that, in any event, the statutory responsibility remained with the occupier. The Respondents contended that the Petitioner's construction was unauthorized from inception, the Demolition Order was validly issued, and the rejection of the Petitioner's appeal was lawful.

ANALYSIS:

11. The Petitioner has sought writs of *Certiorari* quashing the following three documents namely,

- (a) the Demolition Order No. DO/2023/14 (P9),
- (b) the letter communicating about the said Demolition Order to the Petitioner Company by the 5th Respondent on behalf of the 3rd Respondent (P11),
- (c) the letter of the Ministry of Environment (2nd Respondent) rejecting the Petitioner's appeal (P12).

12. As per the Management Agreement (**P5**), Operation and Maintenance of a Fisheries Jetty as a Tourism Attraction under Public Private Partnership (PPP). The said Fisheries Jetty is situated in Trincomalee and is a property of Sri Lanka Ports Authority (6th Respondent) and there exists a Deed of Lease (**X2**) between Sri Lanka Ports Authority and the 3rd Respondent (Eastern Province Tourism Bureau) to manage and operate the Jetty. The Petitioner has become a sub-lessee of the 3rd Respondent consequent to the Management Agreement (P5).

13. It is pertinent to note that nowhere among the covenants in P5, the Petitioner had been authorized to make any construction or install any fixtures on or pertaining to the said property. The Petitioner is only authorized to possess, use and maintain the Jetty and the structure thereof, which had been described in the Schedule 1 of the Agreement.

14. Furthermore, covenant 13 of the Agreement states, "The party of the Second Part shall not effect any alteration, structural or otherwise to the existing jetty and the premises therein without the prior written consent from the Party of the First Part".

15. The provisions of covenant 13 have also been substantiated by the letter of acceptance dated 05.07.2024 (P4) issued by the 3rd Respondent to the Petitioner. The paragraph 7 thereof provides that:

"....You should not erect or install any permanent building and/or structure within the project site except as provided in the Management Agreement. All semi-permanent and/or temporary structures in the project site shall be carried out only after obtaining the prior written approval for the building plans thereof from the Party of

the First and from other relevant statutory bodies such as the Municipality, Urban Development Authority, Court Conservation Department, etc, if any required....”.

16. The Letter dated 19.10.2024 (**5R1**) addressed to the Petitioner by the General Manager of the Eastern Province Tourism Bureau (5th Respondent) had in advance put the Petitioner on notice as to the unlawful nature of their construction. This letter 5R1 has been dispatched to the Petitioner by the 3rd Respondent prior to the issuance of the Demolition Order dated 17.06.2025 (**P9**) by the 1st Respondent (Director General of the Department of Coast Conservation and Coastal Resource Management).

IS THE ISSUANCE OF DEMOLITION ORDER (P9) A LAWFUL ACT OR NOT?

17. The Petitioner has not submitted any document to substantiate necessary authorization for the constructions from the relevant authorities including the 1st Respondent. All three State agencies of this case, namely the 1st, 3rd and 6th Respondents collectively state that the Petitioner has not obtained any prior approval for the constructions. This is supported by the following correspondence between the 3rd Respondent and the 1st Respondent. [vide X4(a) and X5(a)]. By the letter dated 27.02.2025 marked as X5(a) the 3rd respondent has been specifically notified by the 1st Respondent that a demolition order would be issued if the required documents had not been submitted.

18. In the instant case, it is revealed that the buildings have been constructed within the “coastal zone” without the permit of the Department of Coast Conservation by violating section 14(1) of the Coast Conservation and Coastal Resources Management Act No. 57 of 1981. The 1st Respondent Department has issued demolition order No. Do/2025/214 dated 17.06.2025 in terms of section 31(2) of the Act to the Chairman of Eastern Province Tourism Bureau (4th respondent).

19. The 1st Respondent Department of Coast Conservation and Coastal Resource Management is the statutorily empowered Department in managing the development activities within the Coastal Zone as defined in the Act. The terms “coastal zone” and “development activity” are defined under section 42 of the Act. His Lordship Justice Abeysuriya in the case of The All Ceylon Buddhist Congress and another v Mohamed Sheriff Mohamed Samsudeen and others

– CA/WRT/1206/2025 and CA/WRT/0030/2026 decided on 03.02.2026, made the following observations on the legislative intent of the Coast Conservation Act in the context of section 42 as follows:

“The term “development activity” as appearing in Sec 14 is defined in the interpretation section of the Act which reads thus:

42 ‘development activity’ means any activity likely to alter the physical nature of the Coastal Zone in any way and includes the construction of buildings and works, the deposit of waste or other material from outfalls, vessels or by other means, the removal of sand, sea shells, natural vegetation, sea grass and other substances, dredging and filling, land reclaiming and mining or drilling for minerals, but does not include fishing; (emphasis added)

Accordingly, as contended by both parties, the central question that has arisen in the instant matter is whether the acts complained of amounted to a violation of the aforesaid statutory provisions, and whether the Petitioners were in possession of a valid permit authorizing them to engage in such development activity within the Coastal Zone.

At this juncture, it becomes necessary to place the Coast Conservation and Coastal Resource Management Act in its proper statutory and policy context, and to consider the intention of the Legislature in enacting the said legislation.

Environmental protection in Sri Lanka is not an incidental concern but a constitutional, statutory, and judicially reinforced obligation, grounded in the recognition that nature and its resources are held in trust for both present and future generations. The Constitution of Sri Lanka, while not expressly guaranteeing a fundamental right to a clean and healthy environment, embeds environmental protection within its normative framework through the Directive Principles of State Policy and Fundamental Duties.”

20. Section 14(1) of the Act expressly provides that no person shall engage in any development activity within the “Coastal Zone”, except under the permit issued in that on behalf of the

Director General. Any person who acts in contravene of the provisions of section 14 shall be guilty of an offence under Section 28(1) of the Act. The relevant sections read as follows:

“14. (1) Notwithstanding the provisions of any other law, no person shall engage in any development activity other than a prescribed development activity within the Coastal Zone except under the authority of a permit issued in that behalf by the Director.

...

28.(1) Any person who acts in contravention of the provisions of section 14 shall be guilty of an offence under this Act and shall on conviction, after summary trial before a Magistrate, be liable-

(a) in the case of a first offence, to a fine of not less than five thousand rupees and not more than twenty-five thousand rupees, or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment; and

(b) in the case of a second or subsequent offence, to a fine of not less than fifty thousand rupees and not more than one hundred thousand rupees, or to imprisonment of either description for a term not less than one year and not exceeding three years, or to both such fine and imprisonment.”

21. In terms of Section 31 of the Act, the 1st Respondent Department has the power to demolish unauthorized construction within the coastal zone without a court order. In terms of section 31(2) of the Act, demolition order can be issued by giving notice to the owner or occupier to remove such unauthorized construction within such time as the Director General may specify in the notice. Any person who has been aggrieved by any Direction issued by the Director General can make an appeal within three days to the Secretary of the Ministry. Section 31 reads as follows:

“31. (1) No person shall, with effect from the appointed date, erect or construct any unauthorized structure, house, hut, shed or other building on any part of the Coastal Zone.

(2) The Director may, by giving notice to the owner or occupier, as the case may be, by affixing a notice to some conspicuous part of such structure, house, hut, shed or other building, direct such owner or occupier to take down and remove such unauthorized structure, house, hut, shed or other building within such time as the Director may specify in the notice.

(3) Any person aggrieved by any direction issued by the Director- General under subsection (2), may within three days of the affixing of the notice, appeal therefrom to the Secretary to the Ministry of the Minister to whom the subject of coast conservation has been assigned,”

22. In view of the above circumstances, issuance of demolition order is a lawful act. The logical consequence then is that the act of construction by the Petitioner become an unlawful act before the law.

CAN AN UNLAWFUL ACT GIVE RISE TO A LEGITIMATE EXPECTATION?

23. In answering the question posed above, the judgement delivered by Justice K. M. G. H. Kulatunga in SC/FR/0361/2021 dated 17.06.2026 considered the difference between “a mere hope” and a legitimate expectation and held as follows,

“I observe that Indian jurisprudence has followed a similar approach. In Union of India and others v. Hindustan Development Corporation and others (1994 AIR 988, decided on 15.04.1993), K. Jayachandra Reddy, J., observed as follows:

“For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be, and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation.

The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.”

24. Furthermore, ‘*Administrative Law*’ by Wade and Forsyth (Eleventh Edition, Oxford University Press) at pages 452 – 453 considered whether an expectation alone suffices. The authors wrote that it was necessary not only for there to be an expectation but for that expectation to be legitimate. This further raises the question of whether a legitimate expectation is capable of arising from an unlawful act. The portion of *Wade* reads as follows,

“When is an Expectation Legitimate? It is not enough that an expectation should exist; it must in addition be legitimate. But how is it to be determined whether a particular expectation is worthy of protection? This is a difficult area since an expectation reasonably entertained by a person may not be found to be legitimate because of some countervailing consideration of policy or law. A crucial requirement is that the assurance must itself be clear, unequivocal and unambiguous. Many claimants fail at this hurdle after close analysis of the assurance. The test is ‘how on a fair reading of the promise it would have been reasonably understood by those to whom it was made.’”

25. The Petitioner articulates its argument on legitimate expectation on the following: The 3rd Respondent (Eastern Province Tourism Bureau) is a body corporate established under the Eastern Province Tourism Bureau Statute No. 1 of 2016 (vide Gazette Extraordinary No. 1958/73 dated 18.03.2016 - P2). One of the functions of the 3rd Respondent is to develop and control the tourism industry in the Eastern Province (vide Section 13(a) of the Statute - P2). The 3rd Respondent has the power to enter into contracts with any persons including government departments, public corporations or private institutions as may be necessary (vide Section 14(a) of the Statute P2).

26. In this context, Petitioner’s expression of interest in response to the “Requests for Expression of Interest” published in the newspaper by the 4th Respondent, which categorically stated, 3rd

Respondent had decided to manage, operate, and maintain the Fisheries Jetty - Trincomalee as a tourism attraction under a public private partnership management (vide Newspaper Advertisement P3). The 3rd Respondent as the lawful occupier of the Fisheries Jetty had taken a policy decision to develop the Fisheries Jetty and called for EOIs from the public at large in this regard. In these circumstances, the Petitioner had a legitimate expectation that the 3rd Respondent, as a responsible public body and the lawful occupier of the Fisheries Jetty, had obtained the requisite Section 14 permit prior to the very moment of publishing the advertisement calling for EOIs to manage and operate the Jetty.

27. It was submitted that the legitimate expectation of the Petitioner is founded on the representation arose from (i) a public tender process, (ii) a formal award, (iii) **a signed management agreement**, (iv) actual possession and operation of the Jetty, and (v) continued collection of monthly management fee by the 3rd respondent.
28. However, the Letter of Acceptance dated 05.07.2024 (P4) and Management Agreement (P5) **specifically contained clauses prohibiting the Petitioner from effecting any permanent or semi-permanent buildings or structures without prior written approvals from the 3rd Respondent as well as the other relevant statutory bodies**. Thus, there cannot arise any legitimate expectation as alleged by the Petitioner of approvals must have been taken by the 3rd Respondent.
29. Furthermore, the Management Agreement (P5) contained the clause 18 which provides for resolution of any dispute arising out of said agreement as follows: *“In the event where the parties have failed to arrive to a consensus to a dispute the parties may refer the dispute to a single arbitrated tribunal appointed by both the parties agreement”*.
30. Thus, the proper relief is for the Petitioner to resolve the dispute with the 3rd Respondent whom in the Petitioner’s perspective has given a hope of having all the approvals but found to be false promise. If the Petitioner has suffered any damages, it is to be resolved by way of alternative relief provided in the Management Agreement P5 i.e. by way of arbitration. When alternative relief is available writ will not lie.

HAS THERE BEEN A BREACH OF NATURAL JUSTICE?

31. In relation to the argument advanced by the Petitioner regarding the right to have been heard prior to the issuance of a demolition order, I am of the view that the happenings of this case do not warrant the Petitioner to possess a legitimate expectation of a hearing. Firstly, it ought to be noted that the demolition order sought to be quashed by the Petitioner is not against the Petitioner itself, but against the 4th Respondent. Secondly, in the absence of a Section 14 permit (obtained by the 4th Respondent or Petitioner), the construction is simply unlawful and has been so since inception. Thus, against this backdrop of facts, any hearing afforded to the Petitioner would have simply been, as was described in Glynn Vs. Keele University and another [1971] 1 W.L.R. 487, “*some general plea by way of mitigation*”.

32. The Keele University case was considered by His Lordship, Chief Justice P. Padman Surasena in the decision delivered in the case of SC/Expulsion/01/2022 decided on 06.10.2023. While the judgment above (and the minority judgment delivered by Mark Fernando, J. in Jayatilake and another v Kaleel and others [1994] 1 Sri L. R. 319 [to which detailed reference was drawn in SC/Expulsion/01/2022]) are factually concerned with expulsions as the subject matter, the English cases referred to in those judgments considered a variety of other administrative instances wherein a hearing was not commonly afforded. As such, the Keele University decision established the following principle, “*I do not disregard the importance of such a plea in an appropriate case, but I do not think the mere fact that he was deprived of throwing himself on the mercy of the vice-chancellor in that particular way is sufficient to **justify setting aside a decision which was intrinsically a perfectly proper one.***”

33. Moreover, Justice P. Padman Surasena (as His Lordship was then) held as follows in SC/Expulsion/01/2022:

“The main ground on which the Petitioner has sought to canvass his expulsion from the party is the fact that the SLMC did not conduct a formal inquiry according to the law.⁴⁵ For the reasons I have already set out above, I have held that the SLMC had not breached the Rules of Natural Justice in the instant case as it had granted ample opportunities for the Petitioner in the instant case to tender his written explanation as to why he had violated the party decision taken at the High Command meeting held on

21-11-2021. I have also held that the absence of a formal inquiry has not vitiated the decision of the SLMC to expel the Petitioner under the circumstances of the instant case. Therefore, the Petitioner is not entitled to succeed on this ground.”

34. Similarly, in the matter at hand, the Petitioner preferred an appeal under Section 31 of the Coast Conservation and Coastal Resource Management Act No. 57 of 1981, by way of the letter dated 16th July 2025 (marked as P11(a) and (b)) which was subsequently rejected. The Petitioner in its letter had not tendered a written explanation as to why it had violated covenant 13 of the agreement (construction without permit). Thus, the decision to reject the appeal of the Petitioner has not amounted to a breach of the principles of natural justice.

35. However, to reiterate, the proper relief that ought to be utilised to resolve the dispute with the 3rd Respondent (The Eastern Province Tourism Bureau), who has in the eyes of the Petitioner, given a false hope, is arbitration as provided for by P5. Thus, the Petitioner is able to settle the dispute between itself and the 3rd Respondent by way of arbitration.

36. Accordingly, the application of the Petitioner is dismissed without costs.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal