

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 made under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka

Application No. CA/WRT/448/2026

Dr. (Miss) Ekanayake Mudiyanseelage
Pavithra Erandathi Ekanayake.
227, Uduwela Road,
Ampitiya.

PETITIONER

Vs.

1. University of Peradeniya
2. Professor Terrence Madhujith
Vice Chancellor
3. Professor R. W. Pallegama
4. Professor B. C. Jayawardena
5. Professor M. D. M. L. D. K. Yatawara
6. Dr. E. M. P. C. S. Ekanayake
7. Professor B. M. H. S. K. Banneheka
8. Professor B. G. L. T. Samaranayake
9. Professor R. H. KuruppugeProfessor
10. P. S. K. Nanayakkara
11. Professor R. G. S. C. Rajapaksha
12. Dr. A. W. Kalupahana
13. Professor D. D. K. S. Karunanayake
14. Professor Pradeepa Bandaranayake
15. Professor Kapila Goonesekera
16. Professor Lakshman Dissanayake
17. Professor Oliver Illeperuma
18. Professor Vasanthi Thevanesam
19. Professor Vijaya Kumar
20. Professor S. T. B. Amunugama
21. Dr. Praneeth Wickramarachchi
22. Mr. Lal Wijenayake
23. Mr. H. M. P. Punchi Banda
24. Mr. Nimal Wickramasinghe
25. Mrs. Ranjani Jayakody
26. Ms. Kamani Ranatunge
27. Mr. Tissa G. Marahela
28. Mr. K. A. B. Damunupola
Acting Registrar
29. Professor Chandima Wickramasinghe

30. Professor Upul Abeyrathna
31. Dr. Maduranga Kalugampitiya
32. Professor Pushpa Vitharana
33. Mr. M. I. L De Zoysa
34. Mr. Nalaka S. Hewage
1st to 34th of C/O.
The Acting Registrar
University of Peradeniya
Peradeniya.
35. University Grants Commission
No. 90, Ward Place,
Colombo 07.
36. Dr. B. M. L. R. K. Basnayake
37. Miss H. M. M. S Karunaratne
38. Ms. M. G. J. Dharmasiri

RESPONDENTS

Before: Mayadunne Corea, J.
Mahen Gopallawa, J.

Counsel: K. G. Jinasena with Ms.Udyomi Kariyawasam and Imalika Dissanayake
instructed by D. K. Vikum Jayanath for the Petitioner.

Sehan Soyza, Senior State Counsel, for the 1st to 32nd and 38th Respondents.

Supported on: 02.09.2026

Decided on: 16.10.2026

Mahen Gopallawa, J.

Introduction

The Petitioner has impugned the recommendation made by the Selection Committee to appoint the 37th Respondent to the post of Lecturer (Probationary) in the Department of English Language Teaching (DELT) of the Faculty of Arts of the 1st Respondent University of Peradeniya in the instant application.

The Petitioner has sought the following substantive reliefs in the prayer to the amended petition;

- b) Grant and issue a mandate in the nature of Writ of Certiorari to quash the recommendation made in **P10D** by the Selection Committee that met on 4th June 2026*

to appoint the 37th Respondent for the post of Lecturer (Probationary), in the Department of English Language Teaching (DELT), Faculty of Arts of the 1st Respondent University.

- c) Grant and issue a mandate in the nature of Writ of Certiorari to quash the recommendation made in **P10C** by the Selection Committee that met on 4th June 2026 to appoint the 36th Respondent to the post of Senior Lecturer (Grade I) in the Department of English Language Teaching (DELT), Faculty of Arts of the 1st Respondent University.*
- d) Grant and issue a mandate in the nature of Writ of Mandamus compelling the 1st to the 27th Respondents to conduct a fresh Selection Committee in terms of the provisions made in the Procedure for Appointment (**P11**) in terms of Section 18 (2) (c) of the University Act No 16 of 1978.*
- e) Grant and issue a mandate in the nature of Writ of Mandamus compelling the 1st to the 27th Respondents to conduct a fresh interviews in terms of the provisions made in the Scheme of Recruitment (**P5, P6,P9 and P10F**) published by the UGC under and in terms of Section 18 (2) (c) of the University Act No 16 of 1978.*
- f) Grant and issue a mandate in the mature of writ of Prohibition compelling the 1st to 28th Respondents from proceeding further in respect of the recommendations (**P10C and P10D**) made by the Selection Committee of which 2nd, 15th, 17th, 30th, 31st, and 32nd Respondents were members, to appoint the 36th Respondent for the post of Senior Lecturer (Grade I) and the 37th Respondent to the post of Lecturer (Probationary) in the Department of English Language Teaching (DELT), Faculty of Arts of the 1st Respondent University.*

The aforementioned amended petition dated 12.07.2026 was filed without the prior permission of Court and the 1st to 34th Respondents had proceeded to file limited statements of objections on 17.08.2026 in response to same, objecting to the issuance of notice and interim relief. Accordingly, the application was taken up for support based on the said amended petition and the limited objections filed in respect of same.

Factual Background

It would be useful to set out a brief account of the factual background, based on the pleadings filed by the parties.

Several posts in the University of Peradeniya (“the University”), including the post of Lecturer (Probationary)/Lecturer (Unconfirmed)/Senior Lecturer Grade II/Senior Lecturer Grade I in the Department of English Language Teaching (DELT) of the Faculty of Arts, were advertised simultaneously online and in the newspapers on 02.11.2025 and extracts of the said advertisement have been annexed to the petition (P3) and the objections (R5(a) and R5(b)).

The Petitioner had applied for the post of Lecturer (Probationary), and, although the Petitioner has not annexed a copy of the said application, the Respondents have annexed a copy of the same to their statement of objections, including a cover letter and the annexures thereto, marked as R2(a).

As required by the University Grants Commission Circulars Nos. 721 (P5/R3(b)), 08/2016, 07/2018, 935 and 08/2005, applicants had been shortlisted based on the categorization of qualifications set out in the UGC Circular 721 (P5/R3(b)). The said UGC Circular 721 dated 21.11.1997 sets out four (4) categories of alternative eligibility criteria for the post of Lecturer (Probationary) Non-Medical/Dental, and, the said categories along with Note (a) thereto are set out below for ease of reference;

- (1) A Degree with specialization in the relevant subject with First or Second Class (Upper Division) Honours and at least 01 year of experience in teaching/ research/ professional work/postgraduate studies.*
- (2) A Degree with specialization in the relevant subject with Second Class (Lower Division) Honours and at least 01 year of experience in teaching/research /professional work/postgraduate studies.*
- (3) (a) A Degree with specialization in the relevant subject without Honours or any other degree with at least Second Class Honours
and
(b) A Postgraduate Degree of at least two (02) academic years duration in the relevant subject with a research component by way of thesis/dissertation.*
- (4) Such academic or professional qualifications or professional experience as may be approved by the University Grants Commission upon the recommendations of the Higher Educational Institution concerned.*

Notes:

- (a) An applicant who is eligible under (2) or (3) above could b considered for appointment only of applicants qualified under (1) above are either not available or evaluated and considered as unsatisfactory by the Selection Committee. Such appointment would require a special justification and approval of the University Grants Commission.*

In the instant application, all applications received had been made under categories (1)-(3). In so far as the Petitioner is concerned, she had obtained the Bachelor of Arts (General) Degree (3 years) in English with Second Class (Upper Division) from the University of Peradeniya (2011), and, had thereafter completed a Master of Arts Degree in Linguistics at the University of Kelaniya (2018), a Master of Arts Degree in English at the University of Peradeniya (2018) and a Doctor of Philosophy (PhD) Degree at the University of Kelaniya (2024). Based on her aforementioned academic qualifications, the Petitioner was shortlisted for interviews under category (3) above. The Respondents have pleaded that, since the Petitioner did not have a special degree, she could not be categorized under Category (1) or (2).

The Respondents have provided the following distribution of the applicants shortlisted for interviews (R6(a));

- a. Senior Lecturer- Grade 1 - 01
- b. Lecturer (Probationary) - Category 1-10
- c. Lecturer (Probationary) - Category 2-03
- d. Lecturer (Probationary) - Category 3-01

Upon approval of the Council of the University ("the Council") being granted for the list of shortlisted applicants (R6(a)) and, they had been summoned for interviews. The Petitioner had been called for an interview by letter dated 27.05.2026 (P7) and the interview had been conducted on 04.06.2026.

The Respondents have also stated that, as required by provisions of the UGC Circular No. 05/2018 (R8(a)), the Council had approved the marking scheme to be used for appointments to all academic posts in the University, as reflected in Council Paper and Minutes (R8(b) and R8(c), and that such marking scheme was used in the instant case as well.

The Selection Committee constituted in terms of section 8.1 of Appendix I of the UGC Establishments Code consisted of the 2nd, 29th, 30th, 31st, 32nd Respondents and two members appointed to the Council. In their statement of objections, the Respondents had clarified that since the tenure of the Acting Head of Department, DELT had expired and there were no suitable candidates, the 29th Respondent had been appointed as the Acting Head of Department. Furthermore, Dean of the Faculty of Arts had informed that he would be on leave on 04.06.2026 to attend to an urgent personal matter, upon his recommendation, the 30th Respondent had been appointed as Acting Dean for such period. The above matters are reflected in the documents marked R9(a)-R9(d).

The Respondents have provided information relating to the selection process and relevant marks sheets and recommendations of the Selection Committee with their limited statement of objections. They have explained that, the Selection Committee had first interviewed the senior category as required by the UGC Circular No. 8/2005 (R7). Accordingly, as reflected in the Selection Committee proceedings (R10(b)), Dr. B.M.L.R.K. Basnayake (36th Respondent), who was the only applicant under the Senior Lecturer- Grade 1 category, was recommended by the Selection Committee for appointment the post of Senior Lecturer- Grade 1 in DELT.

Thereafter, interviews had been conducted for applicants for the post of Lecturer (Probationary), with applicants in category 1 being interviewed first, followed by applicants in category 2 and the Petitioner who was the only applicant in category 3, as per UGC Circular No. 8/2005 (R7), and, the Selection Committee proceedings, including the marks sheets maintained by members of the Selection Committee, in respect of the said categories have been submitted marked R10(c), R10(d) and R10(e) respectively. As reflected in the Selection Committee proceedings (R10(c)), Ms. H.M.M.S. Karunarathne (37th Respondent), who was placed first in the order of merit in category 1 (average of 90.64 marked) was recommended for appointment to the other vacant position under the Lecturer (Probationary) category. Ms. H.A.S.H. Dissanayaka, who was ranked 2 in the order of merit in the said category 1 (average of 79.21 marks), was placed on the reserved list under the Lecturer (Probationary) category as well. The Petitioner secured an average of 72.57 at the interview but was not recommended

for selection. The recommendations of the Selection Committee to the Council dated 11.06.2026 have been tendered to this Court marked R10(f). have been

The Petitioner has sought to impugn various aspects of the aforementioned selection process in the instant application.

Grounds of Review and Analysis

When the application was taken up for support, the learned Counsel for the Petitioner sought to impugn the several aspects of the selection process. I intend herein to examine the arguments presented by the Petitioner, along with the responses of the Respondents, and provide my findings on such issues.

a. Constitution of the Selection Committee

As set out in the factual narrative above, the Selection Committee constituted in terms of section 8.1 of Appendix I of the UGC Establishments Code consisted of the following members;

- Prof. W.M.T. Madhujith - Vice-Chancellor (Chairman) (2nd Respondent)
- Prof. G.D.R.U.U. Abeyrathne - Acting Dean, Faculty of Arts (30th Respondent)
- Prof. W.M.W.G.C.S.M. Wickramasinghe - Acting Head, Department of English Language Teaching (29th Respondent)
- Prof. Kapila Goonesekara-Council Member (15th Respondent)
- Prof. Oliver Illeperuma - Council Member (17th Respondent)
- Prof. P.R.K.A. Vitharana - Senate Member, attached to the Department of English (32nd Respondent)
- Dr. N.M. Kalugampitiya - Senate Member, attached to the Department of English (31st Respondent).

The Petitioner has made several allegations regarding the constitution of the Selection Committee. One such allegation is that the Dean, Faculty of Arts (6th Respondent) had refused to participate as a member of the Selection Committee, due to *mala fide* conduct affecting the process, and, that 2nd Respondent had proceeded to illegally and in contravention of the UGC Procedures for Appointment Ordinance (P11) appoint the 30th Respondent to participate in the selection process.¹

The Respondents have rejected such position in their limited statement of objections. They have pointed out that the Dean, Faculty of Arts had informed the 2nd Respondent that he would be on leave on 04.06.2026 to attend to an urgent personal matter and had recommended that the 30th Respondent had been appointed as Acting Dean for such period by letter dated 03.06.2026 (R9(b)), and, accordingly, the said acting appointment had been made on the said day itself by the letter (R9(c)). As expressly stated in the said letter (R9(c)) itself and as acknowledged in the petition itself, the said acting appointment has been made in terms of section 49(3) of the Universities Act (as amended), which permits acting

¹ vide paragraph 21 of the petition.

appointments to be made to the post of Dean of a Faculty due to “leave of absence, illness or other cause.” Thus, the learned Senior State Counsel submitted that the appointment of the 30th Respondent had been made strictly in accordance with the law due to the “leave of absence” of the 6th Respondent and for no other reason. Based on the material before this Court, I am inclined to accept explanation provided by the Respondents on this issue.

The Petitioner has also cast certain aspersions on the academic qualifications of the 30th Respondent and his entitlement to be appointed as Chair Professor of Political Science.² However, I note that, as submitted by the learned Senior State Counsel, no material whatsoever has been placed before this Court to substantiate such allegations. Hence, the Petitioner has failed to establish the allegations made on this issue.

The Petitioner has further alleged that the 2nd Respondent had failed to appoint 33rd and 34th Respondents, who were two senior members of the academic staff of DELT, to the Selection Committee, and, that 31st and 32nd Respondents, who were from the Department of English and the Department of Education respectively, had been appointed “illegally and without authority” as the nominees of the Senate to the Selection Committee.³ Such position was rejected by the learned Senior State Counsel who submitted that the DELT, to which the appointment was to be made, was represented by the 29th Respondent, who was its Acting Head of Department. In their limited statement of objections, the Respondents had clarified that since the tenure of the Acting Head of Department, DELT had expired and as there were no suitable candidates, the 29th Respondent had been appointed as the Acting Head of Department. I further observe that, as reflected in the Minutes of the Senate Meeting (R9(d)), the appointment of the 31st and 32nd Respondents had been approved and confirmed by the Senate. Thus, the allegations made by the Petitioner on this issue remains devoid of merit as well. It is further observed that the 33rd and 34th Respondents have not complained of their non-appointment to the Selection Committee before this Court, although they had the opportunity to do so.

The learned Senior State Counsel also drew attention of Court to the fact that the Petitioner had participated at the selection interview without raising any of the aforementioned issues, and, as such, by her conduct, she had acquiesced in the selection process. Considering the fact that no reference to the above matters are made in the letter of demand dated 27.05.2026 (P4), which is the only communication sent by the Petitioner prior to the interview, I am inclined to agree with the submission made by the learned Senior State Counsel. It is well established that an objection to the constitution of a selection committee should be taken at the first available opportunity and that, in the instant case, such objection appears to have been taken belatedly.

b. Approval of the Marking Scheme

The Petitioner has further alleged that the Selection Committee had used an “unknown” marking scheme which had not been made available to the Petitioner. Responding to such

² vide paragraph 22 of the petition

³ vide paragraph 21(v) of the petition

allegation, the learned Senior State Counsel submitted that the Council had, as required by provisions of the UGC Circular No. 05/2018 (R8(a)), approved the marking scheme to be used for appointments to all academic posts in the University in 2020, as reflected in Council Paper and Minutes (R8(b) and R8(c), and, that such marking scheme was used in the instant case as well. He also pointed out that neither was there any requirement to inform applicants of such marking scheme nor had the Petitioner, in any event, made such a request in her letter of demand (P4) or elsewhere. Thus, I observe that a valid and approved marking scheme had been used at the selection interview, and, I am not inclined to accept the position taken up by the Petitioner on this issue.

c. Conduct of the Interview and the Awarding of Marks

The learned Counsel for the Petitioner strenuously contended that, on account of the fact that the Petitioner possessed a Ph.D Degree, she should have been considered for appointment under both Senior Lecturer- Grade 1 and Lecturer (Probationary) categories and that she should have been interviewed first in the Lecturer (Probationary). The latter position appears to have been taken by her in the letter of demand (P4) as well.

The learned Senior State Counsel for the Respondents contested such position, relying on several UGC Circulars. In the first instance, he submitted that applicants were specifically informed in the advertisement (P3/R5(a) and R5(b)) that, if they wished to apply for more than one post, they should submit separate applications for each post. Being so informed, the Petitioner had only applied for the post of Lecturer (Probationary), as evidenced by her application (R2(a)). Thus, the learned State Counsel submitted that not only was the Petitioner not entitled to be called for a post that she had not applied for under the above advertisement, but that she had elected to only apply for a single post, namely, Lecturer (Probationary).

Secondly, the learned Senior State Counsel submitted that the Respondents were obliged to call candidates for interviews in the manner set out in the UGC Circular No. 08/2005 (R7), which, *inter alia*, provided as follows;

- (i) *Candidates who are eligible under category (1) of the scheme of recruitment should be interviewed and evaluated first.*
- (ii) *Candidates eligible under category (2) and (3) can be invited for an interview (if)[sic] only either candidates under category (1) are not available or found to be unsuitable by the Selection Committee after interview and evaluation. Appointment of candidates under category (2) and (3) requires special justification of the Selection Committee and the approval of the Council and the UGC. If no candidates are available under category (1), approval of the UGC to appoint applicants under category (2) and (3) is not necessary.*

It was re-iterated that the Petitioner had only qualified to be considered for appointment under category (3), and, that there were applicants for the post of Senior Lecturer-Grade 1 (1 applicant) as well as applicants under category (1) (10 applicants) and category (2) (3 applicants) who were entitled to precedence over the Petitioner in terms of the above Circular.

Thirdly, the learned Senior State Counsel submitted that UGC Establishments Circular Letter No. 17/2005 (P6) that the Petitioner sought to rely on was not applicable to the Petitioner. He pointed out that provisions of clause 3(ii) were applicable to candidates with a Doctoral Degree who apply for the post of Senior Lecturer, but, in the instant case, the Petitioner had only applied for the post of Lecturer (Probationary) and not to the post of Senior Lecturer.

The learned Counsel for the Petitioner further sought to rely on the decision of this Court in **Rev. Saliya Ashokapura Nanda v. University of Kelaniya and others**,⁴ which also related to an appointment to the post of Lecturer (Probationary). However, it is doubtful whether such decision is applicable to the instant case, since the decision of the Court was premised on the fact the Selection Committee had failed to award marks in accordance with the approved marking scheme. Such position is evident from the following observations made by Court (per Mohammed Laffar J):

*The Petitioner's qualification, an M.Phil degree, is clearly recognized within the marking scheme, and postgraduate degrees are positively considered with allocated marks. The selection committee's decision to identify the Petitioner as overqualified, and consequently disqualifying him, stands in contrast to the criteria outlined. By marking the Petitioner as overqualified, the committee failed to adhere to the established framework for evaluating candidates. This action was not only contrary to the marking scheme but also deprived the Petitioner of a fair assessment based on his merits. There appears to be no reason as to such a decision than mere statements.*⁵(emphasis added)

In the instant case, the Respondents appear to have adhered to the marking scheme approved by the UGC (R8(b) and R8(c)). It is further evident that the reason for the non-selection of the Petitioner was the availability of higher qualified applicants in higher ranked categories. Thus, the relevance of the said decision to the circumstances of the instant application is extremely doubtful.

In this context, the learned Senior State Counsel also adverted to the fact that the 36th and 37th Respondents had been recommended for selection by the Selection Committee strictly in accordance with the order of merit at such interviews. Upon consideration of the aforementioned matters, I am unable to agree with the Petitioner that the interviews have been conducted and marks awarded in an irregular manner, as contended by the Petitioner.

The Petitioner had also made certain allegations about the manner in which marks sheets were maintained. One such allegation is that the simultaneous conduct of interviews prevented the members of the Selection Committee from allocating marks in separate marks sheets simultaneously.⁶ The other allegation is that the University had failed to keep individual marks sheets used by the members of the Selection Committee.⁷ A perusal of the marks sheets submitted by the Respondents R10(b), R10(c), R10(d) and R10(e) demonstrate

⁴ CA (Writ) Application No. 593/2021, decided on 07.08.2024

⁵ Ibid, p 7

⁶ vide paragraph 22(d) of the petition

⁷ vide paragraph 22(e) of the petition

otherwise. They are individual marks sheets maintained by members of the Selection Committee and it is further observed that members of the Selection Committee had used separate marks sheet in respect different categories of applicants. Thus, the allegations made by the Petitioner on this issue are devoid of merit.

d. Allegations of Illegal Conduct and Mala fides

It is observed that that the Petitioner had alleged *mala fides* in the conduct of the selection process and illegal and *mala fide* conduct on the part of the 2nd and 30th Respondent,⁸ including the following;

16.(i) However, as a result of certain manipulations and the fraudulent acts of the 2nd and 30th Respondents, the Selection Committee had proceeded to not to recommend the Petitioner for the post of Lecturer (Probationary) in the Department of English Language Teaching (DELT) Faculty of Arts of the 1st Respondent University.

However, it was submitted by the learned Senior State Counsel that, despite repeated references by the learned Counsel for the Petitioner in his submissions and in the petition, no particulars have been provided demonstrating illegal or *mala fide* conduct by such Respondents.

It is trite law that allegations of allegations of *mala fides* should be specifically pleaded and enumerated in detail in judicial review applications, and, such duty cast on a petitioner has been articulated in by this Court in **Bandaranayake v. Judicial Service Commission**,⁹ in the following terms (per Sripavan, J. as he then was);

Learned Counsel also urged bad faith on the part of the first respondent Commission. "The plea of mala fides is raised often but it is only rarely it can be substantiated to the satisfaction of Court. Merely raising doubt is not enough. There should be something specific, direct and precise to sustain the plea of mala fides. The burden of proving mala fides is on the individual making allegation as the order is regular on its face and there is a presumption in favour of the administration that it exercises its power in good faith and for the public benefit." Principles of Administrative Law (Jain & Jain, 4th Edition 1988 Page 564). Accordingly, the court will not in general entertain allegations of bad faith made against the repository of a power, unless bad faith has been expressly pleaded and properly enumerated in detail. [Vide Gunasinghe v Hon Gamini Dissanayake].¹⁰ The petition however did not set out in detail the allegations of mala fide against the first respondent Commission. (emphasis added).

⁸ vide paragraphs 16, 19 and 20 of the petition

⁹ [2003] 3 Sri L.R 101.

¹⁰ [1994] 2 Sri L.R 132.

In the instant case, I am in agreement with the position taken up by the learned Senior State Counsel and I conclude that the allegations of illegal conduct and *mala fides* made by the Petitioner against the 2nd and 30th remain unfounded and should be rejected.

The learned Senior State Counsel further submitted that such allegations have been made by the Petitioner irresponsibly, recklessly and are intended to damage the reputations and professional standing of the 2nd and 30th Respondents. In this context, I wish to observe that, reputation and professional standing play a critical role in the academic world, perhaps more than in any other field, and, as such any criticism should be made responsibly and for just cause. This is especially important since unfair criticism would not only affect the legal rights, reputation and standing of the individual concerned but would invariably affect the standing and public perception of the institution(s) they represent. In spite of being an academic herself, the Petitioner has shown a distinct lack of good judgment in exercising her right of expression in the instant case.

Conclusion and Orders of Court

For the reasons set out above, I hold that the Petitioner has failed to establish a *prima facie* case warranting the issuance of notice. Therefore, I decline to issue formal notice and proceed to dismiss the instant application.

I further order the Petitioner to pay Rs. 20,000/= each to the 2nd and 30th Respondents in costs, considering the lack of merit in the allegations of illegal conduct and *mala fides* made against them. Such payment of costs is to be made within 03 months of the date of this order.

Application is dismissed with costs.

Judge of the Court of Appeal

Mayadunne Corea J.

I agree.

Judge of the Court of Appeal