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

Capital Alliance Securities (Private) Limited
Level 5, Millennium House,
No.46/58, Nawam Mawatha
Colombo 2.

**PETITIONER**

CA WRIT APPLICATION
Case NO.**CA/WRT/0789/2024**

**Vs.**

1. Securities and Exchange Commission of Sri Lanka Level 28 and 29, East Tower,
   World Trade Center,Colombo 1.

2. Colombo Stock Exchange
   #04-01, West Block,
   World Trade Centre, Echelon Square, Colombo 1.

3. Mr.B.G.G.S.Kumara
   No. 767/1 B, Bandarawatta,
   Millawa, Kurunegala.

4. Mr. Janaka Basuriya
   Chairman
   Dispute Resolution Panel
   Colombo Stock Exchange
   #04-01, West Block,
   World Trade Centre, Echelon
   Square, Colombo 1.

5. Mr. Nandun Fernando
   Member
   Dispute Resolution Panel
   Colombo Stock Exchange
   #04-01, West Block,
   World Trade Centre, Echelon
   Square,
   Colombo 1.

6. Mr. Deepta Ekanayake
   Member
   Dispute Resolution Panel
   Colombo Stock Exchange
   #04-01, West Block,
   World Trade Centre, Echelon
   Square,
   Colombo 1.

**RESPONDENTS**

**Before:** Hon. Justice B. Sasi Mahendran

Hon. Justice Adithya Patabendige

**Counsel:** Suren Gnanaraj with Ms. A. Wannakuwatte for the Petitioner.

Ms. Prabhashanee Jayasekara, SC, for the 1st Respondent.

Manoj Bandara with Ms. Sashiprabha Wijitharatne for the 2nd, 4th to 6th Respondents.

Radhya Herath for the 3rd Respondent.

**Supported On:** 12.06.2026

**Written Submissions On** : 19.08.2026 (by the Petitioner)

04.08.2026 (by the 3rd Respondent)

**Order On:** 25.08.2026

## <u>ORDER</u>

**B. Sasi Mahendran, J.**

The Petitioner a stockbroking company, a licensed market intermediary regulated by the 1st Respondent, the Securities and Exchange Commission of Sri Lanka, seeks, inter alia, a Writ of *Certiorari* to quash the directive dated 27th June 2024 issued by the 1st Respondent, marked **"P15"**, and the proceedings commenced before the Dispute Resolution Panel of the 2nd Respondent, Colombo Stock Exchange pursuant thereto on 8th October 2024. The Petitioner further seeks a Writ of *Prohibition* restraining the 1st, 2nd, and 4th to 6th Respondents from proceeding with or determining the purported appeal preferred by the 3rd Respondent.

During the argument stage, learned Counsel for the Petitioner submitted to Court that, pursuant to the issuance of the letter marked *1R3* annexed to the 1st Respondent's Objections, and in view of the circumstances arising during the pendency of this application, the Petitioner would be satisfied to confine the reliefs sought in this application to the Writs of *Prohibition* prayed for in Prayers (e) and (f) of the Petition dated 11.12.2024, which reliefs are sought solely against the 1st Respondent.

**The following facts are relevant to this application**

The Petitioner granted credit facilities to the 3rd Respondent under Section 7 of the Stockbroker Rules (P4). In April 2022, the value of the securities pledged as collateral fell by approximately 25%, thereby giving rise to a margin call requiring the 3rd Respondent to rectify the shortfall. According to the Petitioner, the 3rd Respondent failed to comply with the margin call. Consequently, pursuant to Section 7 of the Stockbroker Rules, the Petitioner force-sold the collateralized securities on 26th and 27th April 2022 in order to meet its obligations.

Being aggrieved by the forced sale, the 3rd Respondent lodged a complaint before the Petitioner's Compliance Officer on 28th April 2022 under Section 10.1 of the Stockbroker Rules, alleging that no margin call had been issued before the sale. Upon considering the complaint, the Compliance Officer found that the Petitioner had acted in accordance with the applicable law and the Stockbroker Rules and dismissed the complaint.

Being dissatisfied with the Compliance Officer's determination, the 3rd Respondent appealed to the Colombo Stock Exchange Panel (hereinafter referred to as the CSE Panel) under Rule 10.2 of the Stockbroker Rules. After hearing both parties, the CSE Panel, on 18th July 2022, found that the Petitioner had failed to issue a margin call before the forced sale on 26th April 2022 and directed the Petitioner to reinstate the securities sold on that date, while held that the required margin call had been made prior to the forced sale on 27th April 2022.

Aggrieved by the CSE Panel's decision, both the Petitioner and the 3rd Respondent appealed to the Dispute Resolution Committee (hereinafter referred to as the DRC) under Rule 10.3 of the Stockbroker Rules. By its decision dated 20th February 2023, marked P9, the DRC found in favour of the Petitioner, holding that the requisite margin calls had been duly made prior to the forced sales on 26th and 27th April 2022 in accordance with the Stockbroker Rules. Accordingly, the DRC set aside the decision of the CSE Panel.

The Petitioner further states that, with effect from 3rd April 2023, the Stockbroker Rules were repealed and replaced by the Trading Participant Rules and the Dispute Resolution Rules of the Colombo Stock Exchange, which are marked as P10.

According to the Petitioner, these new Rules operate prospectively and do not apply to the present dispute, which arose in 2022 and was conclusively determined under the repealed Stockbroker Rules. The Petitioner therefore maintains that the Dispute Resolution Rules do not confer jurisdiction on the 1st Respondent to refer the matter to a Dispute Resolution Panel (hereinafter referred to as the DRP) or provide any right of appeal against the DRC's determination made under the repealed Rules.

Notwithstanding the determination of the Dispute Resolution Panel, the 3rd Respondent appeal purported to the 1st Respondent. Thereafter, by directive dated 27th June 2024, purportedly issued under Section 16(c) of the Securities and Exchange Commission Act No. 19 of 2021 (hereinafter referred to as the Act) and marked P15, the 1st Respondent directed the 2nd Respondent to conduct a fresh in-person inquiry into the 3rd Respondent's complaint and afford him an opportunity to be heard.

Despite the objections taken by the Petitioner, the 1st Respondent referred the matter to the DRP. By its determination dated 18th December 2023 marked P14, the panel held that it lacked jurisdiction to hear and determine the purported appeal filed by the 3rd Respondent.

Pursuant to P15, the Petitioner was required to appear before the DRP on 8th October 2024. At the commencement of the proceedings, the Petitioner objected to the Panel's jurisdiction on the basis that the dispute had already been finally determined under the repealed Stockbroker Rules. The Panel stated that the inquiry was being conducted pursuant to the 1st Respondent's directive, and the hearing was postponed pending disclosure of the directive, which was furnished on 16th October 2024. The proceedings were subsequently made available to the Petitioner on 20th November 2024, marked P16.

The Petitioner states that, despite its objections, the Panel proceeded to fix the 3rd Respondent's appeal for hearing on 13th December 2024. The Petitioner, being aggrieved by the aforesaid decision, has invoked the writ jurisdiction of this Court seeking appropriate relief in respect thereof.

During the argument stage, the 1st Respondent informed this Court that the 1st Respondent has withdrawn its earlier Directive dated 27 June 2024; instead, the 1st Respondent would conduct its own inquiry into the conduct of the Petitioner.

The question before us is whether the 1st Respondent had the power to refer the matter to the DRP at the request of the 3rd Respondent. Under Rule 2.3 of the new Dispute Resolution Rules, a matter may be referred to the DRP against a decision of the **CSE Mediation Panel**.

The dispute arose on 26th and 27th April 2022. Thereafter, the 3rd Respondent made an appeal to the 2nd Respondent, following which the Chief Executive Officer of the CSE made a decision in favour of the 3rd Respondent. Aggrieved by that decision, both parties appealed to the DRC.

It should be borne in mind that, under Rule 10.7 of the Stockbroker Rules, the stockbroker firm was entitled to make an appeal to the DRC for a review of the said decision. At this juncture, it is pertinent to refer to the said Rule 10.7.

*"In the event the Stockbroker Firm does not abide by the decision taken by the officer/s of the CSE and where the Stockbroker Firm has not appealed to the Dispute Resolution Committee for a review of the decision under Rule 10.3 above, the Chief Executive Officer of the CSE shall refer the matter to the Arbitration and Disciplinary Committee in terms of Section 11 of the rules"*

This means that the decision of the DRC was final and that no right of appeal was available to the 3rd Respondent. Subsequently, upon the said Act coming into operation pursuant to Section 64 thereof, a new set of Rules was introduced. These Rules came into force on 3rd April 2023. Under Rule 2.3 thereof, a matter could be referred to the DRP only against a decision of the CSE Mediation Board Panel.

However, according to the Petition, on 9th June 2023, the 3rd Respondent made a written appeal to the 1st and 2nd Respondents against the decision of the DRC, which had been made on 20th February 2023 under the repealed Stockbroker Rules. By letter dated 27 June 2024, the 1st Respondent directed the 2nd Respondent to conduct an in-person inquiry under Section 16 (c) of the said Act with regard to the complaint made by the 3rd Respondent. When the matter was referred to the DRP, the panel summoned the petitioner.

The 1st Respondent produced document 1R3, which reveals that the 1st Respondent had decided to withdraw its directives dated 27 June 2024 requiring the conduct of an in-person inquiry. Instead, the 1st Respondent decided to conduct an inquiry into the matters surrounding the complaint made by the 3rd Respondent.

The question before us is whether the 1st Respondent had the power, under Section 16(c) of the said Act, to appoint the DRP to conduct an inquiry and, if not, whether such a decision was *ultra vires.*

Under the Dispute Resolution Rules marked P10, particularly Rule 2.3, the DRP is empowered to hear only decisions of the CSE Mediation Panel. Under the earlier Stockbroker Rules, the DRP had the power to revisit or reconsider its own decision only to the Petitioner. It should also be noted that the said Rules were formulated by the 2nd Respondent with the approval of the 1st Respondent. The said rules provide no right of appeal against the determinations of the DRC.

Further, Section 16(c) of the said Act does not confer upon the 1st Respondent any appellate or review jurisdiction over a decision of the DRC, nor does it empower the 1st Respondent to order a fresh inquiry under the Stockbroker Rules. It is also significant that the 1st Respondent did not refer the matter to the CSE Mediation Panel for consideration.

The main grievance of the Petitioner is that the 1st Respondent has abused the powers vested in it and has acted *ultra vires*. Where a statutory authority exercises its power beyond the limits prescribed by the enabling statute, such exercise of power may be held to be *ultra vires*. The purpose of the *ultra vires* doctrine is to ensure that a statutory authority acts within the limits of the powers conferred upon it by law. It is therefore necessary to bear in mind that administrative powers exercised by a statutory authority are derived from, and must be exercised within the framework of, the enabling statute.

According to the document marked P15, the 1st Respondent purported to act under Section 16(c) of the said Act in directing that an in-person inquiry be conducted. At this juncture its relevant to refer to Section 16(c) of the said Act, which reads as follows,

> *"(C) to give general or specific directives or instructions to market institutions, market intermediaries, registered persons, clearing members, trading participants, depository participants, issuers, investors, recognized market operators or such other person or persons as may be necessary to give effect to the provisions of this Act from time to time;"*

At this juncture, it is pertinent to refer to the following authorities and legal texts concerning the doctrine of *ultra vires.*

De Smith's *'Judicial Review'*, 8th edition, at pp. 210-211, states that,

> *"The doctrine of ultra vires*
>
> *In essence, the doctrine of ultra vires permits the courts to quash decisions made by bodies exercising public functions which they have no power to make. Acting ultra vires and acting without jurisdiction have essentially the same meaning, although in general the term "vires" has been employed when considering administrative decisions and delegated legislation, and "jurisdiction" when considering judicial decisions, or those having a judicial flavour. "*

In Wade and Forsyth, in "*Administrative Law"*, 13 th edition at page 27,

> *"The simple proposition that a public authority may not act outside its powers (ultra vires) might fitly be called the central principle of administrative law. "The juristic basis of judicial review is the doctrine of ultra vires. To a large extent the courts have developed the subject by extending and refining this principle, which has many ramifications and which in some of its aspects attains a high degree of artificiality.*
>
> *..............................*
>
> *An act which is for any reason in excess of power (ultra vires) is often described as being 'outside jurisdiction'. 'Jurisdiction', in this context, means simply 'power', though sometimes it bears the slightly narrower sense of 'power to decide', e.g. as applied to statutory tribunals. It is a word to which the courts have given different meanings in different contexts, and with which they have created a certain amount of confusion. But this cannot be explained intelligibly except in the particular contexts where difficulties have been made. Nor should*

*the difficulties be exaggerated. For general purposes 'jurisdiction' may be translated as 'power' with no risk of inaccuracy.*

*Any administrative act or order which is ultra vires or outside jurisdiction is void in law, i.e. deprived of legal effect. If it is not within the powers given by the Act, it has no legal leg to stand on. The situation is then as if nothing had happened, and the unlawful act or decision may be replaced by a lawful one."*

The foregoing principles were considered by Sharvananda J. (as he then was) in ***Sirisena and Others v. Honourable H. S. R. B. Kobbekaduwa, Minister of Agriculture and Lands,*** [1978] 1 SLR page 01 at 170.

*"Review by the Courts of an act or decision of an administrative agency has always been based on an allegation that the agency has exceeded or abused its powers and has acted ultra vires. When a power is exceeded or abused any acts done in such excess or abuse of the power is done without authority.*

*.....*

*Administrative power derives from a statute and is circumscribed by it. The Courts will intervene not only to prevent powers being exceeded, but also to prevent their being abused by the application of the ultra vires doctrine. If the repository of a power exceeds or abuses its authority, the purported exercise is a nullity. For the proper or lawful exercise of a statutory power, there should not only be a compliance with the substantive formal and procedural conditions laid down for its performance but also with implied requirements governing the exercise of discretion. A power is generally associated with the exercise of a discretion. All statutory powers must be exercised in good faith and for the purpose for which they were granted. The repository of power must act fairly and have regard to relevant considerations and not allow itself to be influenced by irrelevant considerations.*

*..................*

*Thus abuse of power or discretion constitutes a ground of invalidity independent of excess of power. An Act or thing done in abuse of power is ultra vires that authority and thus becomes in law a nullity. The power is in effect regarded as not having been exercised."*

In the document marked 1R3, the 1st Respondent, purportedly acting in terms of Section 16(c) of the said Act, directed the 2nd Respondent to conduct an inquiry as to whether the Petitioner had committed any violation of the said Act or any rules or regulations in connection with the matters relating to the complaint made by the 3rd Respondent.

Section 16(c) of the said Act empowers the 1st Respondent to issue general or specific directives or instructions to the persons specified therein. However, that provision does not confer upon the 1st Respondent any appellate jurisdiction or power of judicial review over a decision of the DRC, nor does it empower the 1st Respondent to direct a fresh inquiry into the complaint made by the 3rd Respondent. Specific rules have been established for the resolution of such disputes, and any action concerning the merits of a decision must be taken in accordance with those prescribed procedures. Accordingly, I hold that the decision of the 1st Respondent was *ultra vires.*

Further, I note that the allegations made by the 3rd Respondent against the Petitioner had already been finally considered and determined by the DRC, which is final. Accordingly, I hold that the 3rd Respondent is precluded by the Doctrine of issue estoppel from re-agitating the same issue.

I am also mindful that the original decision of the DRC was made on 20th February 2023, whereas the 3rd Respondent made the appeal to the 1st Respondent only on 9th June 2023. No explanation has been offered by the 3rd Respondent for this delay in his objections.

For the foregoing reasons, I grant the reliefs prayed for in paragraphs (e) and (f) of the Petition dated 11.12.2024.

**JUDGE OF THE COURT OF APPEAL**

**Adithya Patabendige, J.**
**I AGREE.**

**JUDGE OF THE COURT OF APPEAL**