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.

Jayamanna Mohottige Dona Asini Dinuka Rasangi
No. 205C/1, Uswetakeiyawa.

CA (Writ) Application No. 839/2025

PETITIONER

Vs.

1. Institute of Charted Accountants of Sri Lanka

2. Lakmali Priyangika
   Secretary / Chief Executive Officer

3. Thasitha Wijesinghe
   Senior manager – Examinations

   1st to 3rd above, ALL OF:
   The Institute of Charted Accountants,
   No. 30A, Malalasekara Mawatha,
   Colombo 07.

4. S. Aloka Bandara
   Secretary – Ministry of Public Administration and Management, Independence Square,
   Colombo 07.

5. W. H. M. M. C. K. Dayarathne
Secretary – Public Service Commission,
No.1200 / 9 , Rajamalwatta Road,
Battaramulla.

RESPONDENTS

Before	**:**	**Hon. Rohantha Abeysuriya PC, J.(P/CA)**
	:	**Hon. K. Priyantha Fernando, J.(CA)**
Counsel	:	Chrishmal Warnasooriya with Ovini Abeyweera for the Petitioner instructed by D. Ginigaddara. Manoj Bandara with Sakuni Jayasinghe for the 1st , 2nd and 3rd Respondents instructed by Thivanka Hettiarachchi. Abigail Jayakody, S.C. for the 4th and 5th Respondents.
Written Submissions on	:	10.04.2026 for the 1st, 2nd and 3rd Respondents. 10.04.2026 for the Petitioner. 20.04.2026 for the 4th and 5th Respondents.
Supported on	:	12.03.2026
Decided on	:	23.07.2026

K. Priyantha Fernando, J. (CA)

1. The Petitioner is a public servant serving as Management Services Officer (Grade III) in the Ministry of Finance. She is a graduate holding a B.Sc. in Business Administration from the

University of Sri Jayewardenepura. In addition to the same, she possesses 'chartered accountancy' qualifications from the Institute of Chartered Accountants of Sri Lanka.

2. The application at hand is in relation to the Petitioner's recruitment to the Sri Lanka Accountant's Service (SLAcS) under both the Limited and Open competitive categories. In relation to the Limited Competitive category, the Petitioner submitted that applications for recruitment to Grade III of SLAcS was called for via the Gazette Notification dated 30.07.2021. She passed both written papers and ranked 9th in Sri Lanka and was subsequently called for an interview headed by the 4th Respondent (Secretary - Ministry of Public Administration and Management) where she was not informed of any issues regarding her eligibility to hold the position, however, she was not among those listed as selected for the role.

3. The Petitioner also faced the exam in the open competitive category and was ranked 13th in the country. Once again, she attended the interview headed by the 4th Respondent, and stated that there were no questions or issues raised as to the eligibility of the Petitioner. However, her name was once again not among those listed on the list detailing those selected candidates.

4. The Petitioner appealed to the 4th and 5th Respondents, amongst other formal representations made by her to the Human Rights Commission. Additionally, the Petitioner submitted that she instituted an RTI application, but contended that it was 'unsuccessful'. As such, the Petitioner then made a formal demand to the 4th and 5th Respondents seeking a clarification on their position as to the qualifications she possesses. The response received by the Petitioner from the Respondents is the purported basis by which she has invoked the jurisdiction of this Court.

5. The issue argued by the Petitioner is with regard to the self-contradictory determination of the 1st Respondent institution in failing to recognize the "Business Level" qualification of the Petitioner, by the document marked P2. The Petitioner stated and was of the view that candidates with identical and lower qualifications were taken into the service, while the Petitioner herself was discriminated against.

6. Thus, the Petitioner argued the following grounds of review;

    i. **<u>Illegality</u>** of the 1st Respondent's determination in relation to the qualifications of the Petitioner due to it being *ex post facto* and long after the process of recruitment: *<u>Dr. C. J. A. Jayawardene v. University of Colombo</u>* CA/WRT/137/2018 decided on 22.06.2020; *<u>Senarathne v. Institute of Chartered Accountants</u>* CA/WRT/203/2021 decided on 21.03.2024; *<u>Jeyaraj Fernandopulle v Premachandra De Silva and others</u>* [1996] 1 Sri L. R. 70.

    ii. **<u>Substantive Legitimate Expectation</u>** of the Petitioner which arose from the Gazette that specified a basic requirement of "business level" and did not specify any other interpretation of that "level" by a private entity (1st Respondent) not related to the public service: *<u>Choolani v People's Bank and others</u>* [2008] 2 Sri L. R 94.

    iii. **<u>Irrationality</u>** of the decision to deny and disqualify the Petitioner in its defiance of logic due to the Petitioner's suitability for the role evidenced by her high ranking in the written exams and performance in interviews: *<u>Associated Provincial Picture Houses Ltd v. Wednesbury Corporation</u>* [1947] EWCA Civ 1; *<u>Jayawardene v Dharani Wijayathilake</u>* [2001] 1 Sri L. R. 132.

    iv. **<u>Procedural impropriety</u>** in allowing the 1st Respondent to dictate the minimum criteria for admission to the public service: *<u>Jayawardene v Dharani Wijayathilake</u>*; *<u>Dr. Karunananda v The Open University of Sri Lanka</u>* [2006] 3 Sri L. R. 225.

    v. **<u>Violation of Supreme Law</u>** as the decision is in violation of the Constitution of Sri Lanka: *<u>Heather Mundy v Central Environmental Authority and others</u>* SC/APPEAL/0058/2003 decided on 20.01.2004.

7. On the other hand, the 4th and 5th Respondents argued that while the Petitioner had in fact completed the Business Level I and Business Level II Examinations, she had not completed the Business Level or Corporate Level Examination as required by the 2020 curriculum which is stated in page 2 of the document marked P1(c).

8. However, the Respondents primary legal argument is with regard to the judicial ouster clause in Article 61A of the Constitution. The decisions marked R2, R3 and R4 were ones made by the Public Service Commission and as such, the Respondents argued that it is only the Administrative Appeals Tribunal or the Supreme Court who is vested with the power to determine applications of such nature.

9. Furthermore, the Respondents argued that the Petitioner has sought to do indirectly what cannot be done directly as documents sought to be quashed by the Petitioner are not those which detail the decision made by the PSC, and that even if they were to be quashed, the decision of the PSC would still be valid; *A. A. P. Dilrukshi Dias Wickremasinghe vs. Dr. Prathap Ramanujam and others* (SC/APPEAL/89/2024 decided on 04.06.2025)

10. As such, the Respondents argued that the prayers prayed for by the Petitioner are futile as the decision of the PSC would still remain intact even if the relief prayed for by the Petitioner was granted; *Ratnasiri and others v Ellawala and others* [2004] 2 Sri L. R. 180. Moreover, they contended that the Petitioner has failed to pursue the alternative remedies available to an issue with such a subject matter (AAT and the Supreme Court).

11. The Respondents further countered the argument of the Petitioner that other candidates in the same position as the Petitioner have been absorbed into the service. The Respondents submitted that the completion of CAB I and II together is equivalent to the Corporate Level requirement under the 2020 curriculum. Thus, the Respondents contended that such an argument on the Petitioner's part is baseless.

12. The impugned document P2 had been issued in response to the Petitioner's letter dated 09.07.2025 (P24a) merely to provide a clarification. The writ of *certiorari* lies only against a decision or determination which affects the legal rights or obligations of a person. This has been confirmed in the case of *G.P.A. Silva & Others v Sadique & Others* (1978-79-80) 1 Sri L. R. 166, where a Divisional Bench of five judges of the Supreme Court held as follows:

> "*Writ of Certiorari would lie in respect of an order or decision* ***where such order or decision is binding on a person*** *and it either imposes an obligation or involve civil consequences to him or in some way alters his legal position to his disadvantage or*

where such order or decision is step in a statutory process which would have such effect" (emphasis is added)

13. Similarly, in *S. S. A. U. S. A. Udayar and Another v M.S.M.K. Marikkar and Others* – CA/WRT/106/2012 decided on 22.06.2020 it was held that: "*There is a long line of judicial authority which unequivocally states that a writ of certiorari will issue only where the decision-maker has determined questions affecting the rights of the subject and will not issue against recommendations that do not have any force proprio vigore*".

14. The document P2 issued by the 2nd Respondent does not satisfy this requirement since it neither determines nor alters the legal position of the Petitioner. It merely provides clarification sought by the Petitioner herself. Accordingly, the relief sought under prayer b(i) is misconceived.

15. The grievance of the petitioner arises from her alleged non-selection for appointment to Grade III of the Sri Lanka Accountancy Service. The recruitment process has been initiated through the Gazette notification dated 30.07.2021 (P6) which expressly states that it was issued by order of the Public Service Commission. It is seen that the 1st Respondent - Institute of Chartered Accountants of Sri Lanka has no statutory or administrative role in the recruitment process relating to the Sri Lanka Accountancy Service.

HAS THE PETITIONER MISCONSTRUED THE QUALIFICATION REQUIREMENTS?

16. The Petitioner asserts that she has completed the "Business Level" examination of the Institute of Chartered Accountants of Sri Lanka and contends that such qualification satisfies the requirement stipulated under the relevant Gazette notification for recruitment to Grade III of the Sri Lanka Accountancy Service.

17. The table set out in the document P2(a) demonstrates the Curriculum Transition from 1991 to date of the 1st Respondent Institute. "Note 01" denotes the qualification level as required according to the Gazette No. 2239 dated 30.07.2021. The "Note 03" denotes the level of qualification to be completed/passed by the Petitioner, in order to satisfy the requirement level of qualification denoted by "Note 02" according to the transitional arrangements from 2015-2019 syllabus to 2020-2025 syllabus.

18. A perusal of P4(a) to P4(h) reveals the following:

Under P4(e) - Gazette No. 2070/7 dated **09.05.2018**, under clause 7.2.2.1, the qualification requirement included: "*Should have passed Licentiate II or Intermediate Examination or Certificate II in Accounting and Business or **Business Level Examination** of the Institute of Chartered Accountants of Sri Lanka*" (Emphasis was added)

Subsequently, under Gazette No. 2225 dated 27.04.2021 - P4(g), under clause 7.2.2.1, the said qualification requirement has been amended to read: "s*hould have passed Licentiate II or Intermediate Examination or Certificate II in Accounting and Business or **Business Level Examination OR Business Level II Examination** or a higher examination of the Institute of Chartered Accountants of Sri Lanka*" (emphasis was added)

Thereafter, under Gazette No. 2236/5 dated 12.07.2021 - P4(h), the qualification requirement has been further amended to read: "*should have passed Licentiate II or Intermediate examination or Certificate II in Accounting and Business or **Business Level Examination or Corporate Level Examination** or a higher examination of the Institute of Chartered Accountants of Sri Lanka*" (Emphasis was added)

19. Therefore, the above provisions reveal that the gazette notifications have recognised distinct stages within the qualifications structure of the Institute of Chartered Accountants of Sri Lanka. It is seen that the terminology used in the Gazette notifications reflects the transitional structure of the Institute's curriculum and the corresponding recognition of different levels within that structure under different syllabi. In particular, "P4(g)" distinguishes between the "Business Level Examination" and the "Business Level II Examination", thereby indicating that they constitute separate and distinct stages within the professional qualification structure under two different syllabi. The "Business Level Examination" refers to Level 2 of the 2015-2019 syllabus, whereas the "Business Level II Examination" refers to Level I of the 2020-2025 syllabus introduced under the revised curriculum of the Institute.

20. By the 3rd amendment P4(h), the qualification requirement has been revised so as to require the completion of the next level under the 2020-2025 syllabus, namely the "Corporate Level Examination", in place of the previously recognised "Business Level II Examination". In other words, by the said amendment, the Petitioner would fall short of the required level of

qualification, as she has neither passed the "Corporate Level Examination" under the 2020-2025 syllabus nor the "Business Level Examination" under the 2015-2019 syllabus.

21. The above explanation or the verification shows that the Petitioner has misconstrued qualification requirements.

DOES THE LETTER P3 CONSTITUTE A REPRESENTATION OF ELIGIBILITY?

22. The Petitioner has relied on the letter dated 16.05.2025 (P3) issued by the 3rd Respondent to contend that the Institute confirmed the completion of "Business Level examination". P3 is reproduced as follows:

> "*The Institute of Chartered Accountants of Sri Lanka wishes to confirm that Ms. J.M.D.A.D. Rasangi has completed all the Professional Knowledge and Skills course units in business Level I and II including one year (220 days) of relevant Professional Experience under CA Curriculum 2020. Also please note that with the introduction of the revised CA curriculum in 2020, the mid-level qualification previously known as "Intermediate" (pre-2010). "Certificate in Accounting & Business" - CAB I and II (under Curriculum 2010) and "Executive Level" (under Curriculum 2015) was re-classified as Business Level I & II" under Curriculum 2020. Consequently, the qualifications "intermediate" and "Executive Level" are now equivalent to "Business Level I & II" in the 2020 curriculum*"

23. A plain reading of P3 demonstrates that it merely communicates the level of the Petitioner's qualification under the Institute's 2020 curriculum. It does not state that she is eligible for recruitment to the Sri Lanka Accountancy Service or to any other public office.

24. It is important to note that one of the main objectives of the Institute as provided under section 3A(ii) of the Institute of Chartered Accountants Act No. 23 of 1959 as amended by Institute of Chartered Accountant's (Amendment) Act No. 15 of 1998 is "to enroll, educate and train members who are desirous of learning or improving their skills and knowledge, in disciplines such as auditing, financial management and taxation". in fact, the Institute does not possess the

statutory authority to determine eligibility for recruitment to public service positions. Therefore, the Petitioner's attempt to rely on P3 as giving rise to a legitimate expectation is untenable.

25. In the case of <u>*The Ark Universal (Private) Limited vs The Divisional Secretariat of Marintimepattu and Others*</u> (CA/WRT/0056/2024 decided on 30.01.2025), it was held that:

> *"In the case of Siriwardena v Seneviratne and others (2011) 2 BLR 336, Shirani Bandaranayake, J (as she then was) identified the following requirements for the existence of a legitimate expectation:*
>
> *a) "A careful consideration of the doctrine of legitimate expectation clearly shows that whether an expectation is legitimate or not is a question of fact. This has to be decided not only on the basis of the application made by the aggrieved party before Court, but also taking into consideration whether there has been any arbitrary exercise of power by the administrative authority in question.*
>
> *b) Accordingly, the question that would have to be looked into would be whether there was a promise given to the Petitioner or a regular procedure.*
>
> *c) The applicability of the doctrine of legitimate expectation imposes in essence a duty to act fairly.*
>
> d) ***Mere hope or an expectation cannot be treated as creating a legitimate expectation***."" (the emphasis was added)

26. Furthermore, in the case of <u>*Ariyaratne and others v Inspector General of Police and others*</u> [2019] 1 Sri L. R. 100, the Court has observed that:

> "*In Union of India v. Hindustan Development Corporation [at page 57], Reddy J. observed that a mere "wish, a desire or a hope" cannot found a legitimate expectation which will be protected by a Court.* ***It is clear that the petitioner had at best a "wish, a desire or a hope"*** *that they would be absorbed into the Sri Lanka Police Force as Police Officers. As Reddy J. said, that does not help the petitioners to establish the substantive legitimate expectation they claim in this case. Since* ***the petitioners have failed to establish that there was an assurance or a practice or circumstances on which their alleged "legitimate expectation" can be founded, there is no need to go***

further *with what, in effect, would be a sequential exercise of examining whether the other characteristics of a substantive legitimate expectation which a Court will protect, are present*."

27. In the instant case, the 1st Respondent Institute has not made any representation, promise or assurance regarding the petitioner's eligibility for recruitment. It is seen that P3 merely communicates the level of the Petitioner's qualification under the Institute's 2020 curriculum. Accordingly, no legitimate expectation can arise on P3.

CAN THE DECISIONS OF THE PUBLIC SERVICE COMMISSION BE CHALLENGED IN THE COURT OF APPEAL?

28. The Petitioner is challenging documents marked P18, P23 and P25 issued by the 4th Respondent, Secretary, Ministry of Public Administration and Management. P18 is an undated letter issued by the Ministry of Public Administration informing the Petitioner, through the Secretary, Ministry of Finance, Planning and Economic Development, that the appeal forwarded by the Petitioner to the Public Service Commission (PSC) on 19.05.2025 has been dismissed and the PSC by letter dated 11.06.2025 has informed of same. (vide R2). P23 is a letter dated 23.06.2025 sent to the Petitioner by the 4th Respondent in response to the letter P22(a) stating that the Petitioner cannot be recruited to the impugned post as she does not possess the requisite qualifications. P25 is a letter dated 23.07.2025 sent by the Secretary, Ministry of Finance to the Petitioner indicating that the PSC by letter dated 04.07.2025 had reiterated the fact that as indicated in the letter dated 11.06.2025 (R3) it had dismissed the appeal.

29. It is thus clear that the Petitioner has sought to challenge the letters communicating the decision of the PSC in respect of the appeals of the Petitioner. Granting writs to quash the said letters P18, P23 and P25 will not render the decision of the PSC, as seen at R2, R3 and R4 invalid. The Petitioner is seeking to do indirectly what cannot be done directly. It is an established rule of interpretation that a court cannot do indirectly what is prohibited from doing directly (*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*). In Bandaranayake v Weeraratne and Others [1981] 1 Sri L. R. 10, it was held that: "*There is a general rule in the construction of statutes that what a Court or person is prohibited from doing directly, it may not do indirectly or in a circuitous manner*".

30. By prayer (b) of the petition, the Petitioner has sought writs of Mandamus to re-evaluate the position of the 4th respondent regarding the qualifications whilst the PSC decisions are very much valid. Thus, it is apparent that the petitioner is attempting to obtain writs to further an object of indirectly invalidating the execution of decision of the PSC as seen at R4. The Constitutional Ouster of Article 61A has prevented this Court from making such orders. Accordingly, even if this Court were to grant *certiorari* to quash P2, such an order would not alter the recruitment decision taken by the PSC. It is well established that the writ jurisdiction of this Court is discretionary in nature and the Court will decline to exercise such jurisdiction where granting of relief would serve no useful purpose. In *Siddeek v Jacolyn Seneviratne* [1984] 1 Sri L. R. 83, the Supreme Court has observed that *certiorari* will not be issued where the end result would be futility, frustration or injustice.

31. In the circumstances, the Petitioner has not established a *prima facie* case and issuance of formal notice should be refused. Accordingly, the application is dismissed.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal