

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

In the matter of an Application for mandate in the nature of a Writ of *Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Reborn Medicom Company (Pvt) Ltd,
No. 325B, Dostharawatte, Mudukatuwa,
Marawila.

PETITIONER

Vs.

Court of Appeal Case No:
CA/WRIT/211/2024

1. National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
2. Dr. Ananda Wijewickrama,
Chairman,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
3. Dr. Saveen Semage,
Director General/Chief Executive
Officer,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.

4. Dr. Kosala Karunaratne,
Board Member,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
5. Dr. Asela Gunawardana,
Board Member,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
6. Dr. Pradeep Kumarasinghe De Silva,
Board Member,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
7. Dr. Banukie Jayasuriya,
Board Member,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
8. Dr. Duminda Ariyaratne,
Board Member,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.

9. Asantha Abeywikrama,
Head,
Medical Device Regulatory Division,
National Medicines Regulatory
Authority,
National Medicines Regulatory
Authority,
No. 120, Norris Canal Road,
Colombo 10.
10. S.P. Adikaram,
Chief Superintendent (Operations),
Logistics Division,
Canal Yard,
Sri Lanka Ports Authority.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Keerthi Tillekaratne with Chanuka Ekanayake for the Petitioner.
Ishara Madarasinghe, S.C. for all Respondents.

Supported on: 30.10.2025

Decided on: 03.12.2025

Mayadunne Corea J

The Petitioner in this Application sought, *inter alia*, the following reliefs:

- “c) *Issue a mandate in the nature of a writ of mandamus directing the 1st to 9th Respondents to issue the petitioner with a certificate of registration of medicine (i.e., Dental equipment);*
- d) *Issue a mandate in the nature of a writ of mandamus directing the 1st to 9th Respondents to issue to the Petitioner an import license authorizing the import of dental chairs/equipment (i.e., letter authorizing to undertake the transaction of importing dental equipment)”*

The facts of the case briefly are as follows. The Petitioner company is engaged in the business of importing and distributing medical, dental and healthcare products and equipment into Sri Lanka. The Petitioner received orders from dental surgeons for the purchase of dental chairs. Therefore, the Petitioner applied to the 1st Respondent for registration as an importer of medical devices/dental equipment and an import license authorizing the import of dental devices from the manufacturer “Foshan Voten Medical Technology Co Ltd”. Firstly, the Petitioner requested for registration of the manufacturer and for an import sale license from the 1st Respondent. The 1st Respondent accepted Foshan Voten Medical Technology Co, as a registered manufacturer and recognized the Petitioner as the manufacturer’s local agent.

Thereafter, the 1st Respondent issued a license permitting the Petitioner to import a sample of the dental chairs to be examined by the 1st Respondent. It was contended by the Petitioner, without offering any material evidence to support his contention, that the manufacturer had informed the Petitioner that an order should consist of a minimum of 5 dental chairs. Upon inquiry by the Court, the learned Counsel for the Petitioner also conceded that this fact had not been brought to the attention of the licensing authority. Be it as it may, it is observed by this Court that the Petitioner had imported a total of 5 dental chairs, out of which only 1 was released as a sample, and the other 4 chairs remained at the Colombo Port until the 1st Respondent authorizes the import of the same. The Petitioner states that the 1st Respondent had failed and neglected to evaluate the said product and to authorize the Petitioner to import the other dental chairs. Hence, this Writ Application.

The Petitioner's contention

The Petitioner contends that the Respondents' refusal to grant the import license is *ultra vires*, illegal, unfair, arbitrary, unreasonable, in breach of the legitimate expectations of the Petitioner, malicious and capricious, and in breach of the legal duties imposed on the Respondents by law.

The Respondents' contention

The Respondents' objected to this Application on the basis of futility.

Analysis

It is common ground that the goods the Petitioner imported namely, the dental chairs, fall under medical devices that require a license to import and registration. It is also common ground that the Petitioner had ordered a sample dental chair together with 4 other dental chairs and the said chairs had landed at the Port of Colombo on or about 19.01.2024. It is also common ground that the Petitioner has cleared the sample chair, and the other 4 chairs are held at the Customs.

The arrival of the Petitioner's goods

The Petitioner by way of a motion has tendered to Court the document marked as Y2, which is the warrant copy of the Cusdec, and also the document marked as Y5 dated 26.01.2024, which is the delivery order. It is not disputed that the Petitioner had requested to obtain license and for registration to import dental chairs by P8. In pursuance to the said request the Petitioner had been granted a license to import a dental chair as a sample by the document marked P14. The said permission is given to import the medical device for test as a sample. The dental chair unit which is permitted for import is of model T20 and the validity period of the license to import a sample is for a period of one year from 03.10.2023 to 02.10.2024. However, the Petitioner has placed an order not only to import a sample chair but has ordered 4 other chairs as well. It is not disputed that at the time of placing the

order to import the 5 chairs of model T20, the Petitioner had not obtained the import license nor the registration.

Upon submitting the sample chair, the Respondents have approved and granted the Petitioner the license to import the registered medical device namely, the model T20 medical chair. The said license is marked as X2 and the said medical device had been issued with the certificate of registration marked as X1. These facts are not disputed by either party.

Can the Petitioner maintain this Application?

This Court considered the Petition that has been filed before this Court dated 28.03.2024. The Petitioner's main grievance as per the prayers pleaded is for a Writ of *Mandamus* to direct the 1st to 9th Respondents to issue the Petitioner with a certificate of registration of medicine (i.e., dental equipment) and for a Writ of *Mandamus* to direct the 1st to 9th Respondents to issue the Petitioner with an import license authorizing the import of dental chairs. In view of the above-mentioned documents marked as X1 and X2, both parties are not in dispute that the Petitioner has now been granted with the certificate of registration of medicine and the import license. Hence, this Court observes that the Petitioner's two main prayers have been answered. Accordingly, this Application, in my view, becomes futile.

The Petitioner, however, contends that with the sample chair the Petitioner has imported four more chairs which the Petitioner has not been able to release from the Customs. The Petitioner complains that this was due to a letter issued by the National Medicines Regulatory Authority (herein referred to as 'NMRA') marked as X3 dated 20.08.2024. By the said letter, the NMRA had informed the Director General of Customs that though the Petitioner has been issued with license to import a sample dental chair, in addition had imported four more dental chairs. Therefore, the NMRA has specifically stated that the said 4 chairs have been imported without proper authorization. It is observed that the certificate of registration of medical devices and the license to import registered medical devices had been issued only on 21.08.2024. Hence, it appears the Petitioner has imported 4 chairs prior to obtaining the license. The Petitioner alleges that with the document marked as X3, the Petitioner is unable to have the said chairs released. However, this Court observes in the instant Application before this Court, the Petitioner is not challenging the

document X3, nor is the Petitioner contesting the release of the 4 chairs that are still with the Customs. Hence, the said issue is not canvassed and pleaded before this Court.

The Petitioner's main contention of invoking the jurisdiction of this Court was the Respondent's failure to issue the Petitioner with the certificate of registration and an import license, is bad in law as specifically pleaded in paragraph 29 of the Petition. However, in view of X1 and X2, the said contention has to fail as the Petitioner is now granted with both reliefs under prayers (c) and (d). Hence, this Application becomes futile.

In arriving at this conclusion, I have considered the cases of *Siddeek v. Jacolyn Seneviratne and 3 others* (1984) 1 SLR 83 and *Ratnasiri and others v. Ellawala and others* (2004) 2 SLR 180.

Conclusion

Hence, for the afore-stated reasons, this Court finds the Petitioner has failed to satisfy any ground to establish a *prima facie* case and in any event as the Petitioner has now received the reliefs prayed for, this Petition becomes futile. Accordingly, for the aforesaid reasons I refuse to issue notice and proceed to dismiss this Application.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal