

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

In the matter of an Application for a Writ of Mandamus in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka read with section 20 of the Commission to Investigate Allegations of Bribery or Corruption Act, No. 9 of 2023.

Court of Appeal Case No:
CA/WRIT/623/2026

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PETITIONER

Vs.

1. Hon. Justice W.N.P. Idalawala,
Chairman,
Commission to Investigate into
Allegations of Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
2. Hon. Chethia Gunasekera,
Commissioner,
Commission to Investigate into
Allegations of Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.

3. Hon. Bernard Rajapakse,
Commissioner,
Commission to Investigate into
Allegations of Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
4. Hon. Ranga Dissanayake,
High Court Judge,
Director General and Chief Legal
Officer,
Commission to Investigate into
Allegations of Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
5. Sithambarampillai Thuraiaraja P.C.,
Retired Judge of the Supreme Court,
No. 08, Arthurs Place,
Bambalapitiya,
Colombo 04.
6. Mr. Vengadasalampillai Nadaraja,
No. 116, Layard's Broadway,
Colombo 14.
And also of
No. 06, de vos Lane,
Colombo 04.

PLAINTIFF-RESPONDENT

7. Mr. S.K. Henadheera,
Senior Assistant Secretary to the
President,
For Secretary to the President, & Legal
Advisor to His Excellency the President,
Presidential Secretariat,
Colombo 01.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: The Petitioner appears in person.
Anusha Sammandapperuma, ADL for the 1st to 4th Respondents.

Supported on: 25.08.2026.

Order delivered on: 25.09.2026.

Mayadunne Corea J

The facts of the case briefly are as follows. The Petitioner has made a complaint to the Commission to Investigate Allegations of Bribery or Corruption. He submits that the receipt of his complaint had been acknowledged by the said Commission. It is his complaint that the said Commission although acknowledged, has not conducted an inquiry or informed of the progress of the inquiry to him. Hence, he has filed this Writ application. In this application he has sought the following reliefs;

- “a) Issue a Writ of Mandamus, directing the 1st Respondent to conclude the inquiry pursuant to the complaint dated 24.01.2025, within 14 days, the second complaint made on 16.06.2026.*
- b) Issue such other Writs, directions, as this Honourable Court seems fit.”*

At the commencement, the learned Counsel appearing for the 1st to the 4th Respondents to several preliminary objections pertaining to the maintainability of this application and all parties made submissions.

The Petitioner's contention

The Petitioner contends that he has filed the complaint to the Commission to Investigate Allegations of Bribery or Corruption marked as P12 which had been acknowledged by the document P11. Hence, it is his contention that the Commission has failed to conclude the inquiry.

Objections of the 1st to 4th Respondents

The 1st to 4th Respondents raised the following objections:

- The Respondent objected to the application under section 160 of the Anti-Corruption Act read with the proviso to Article 140 of the constitution.
- The Petitioner's application is futile.

Analysis

The Petitioner appeared in person, while the 1st to 4th Respondents were represented by the Counsel who raised several preliminary objections pertaining to the maintainability of this Writ application before this Court. In view of the preliminary objections raised by the Counsel for the 1st to 4th Respondents pertaining to the jurisdiction of the Court to entertain this application, this Court will first consider the said objection.

The Counsel for the 1st to 4th Respondents specifically submitted that inquiries and investigations pertaining to the complaint have not been concluded and are still in the process of continuity. Hence, she submitted that the Petitioner's application is premature and futile in nature. In response, the Petitioner submitted that pertaining to the preliminary objection raised namely, on futility, he has no submissions to make.

The Petitioner seeks a Writ of Mandamus against the 1st Respondent, who is the Chairman of the Commission to Investigate Allegations of Bribery or Corruption (herein sometimes referred to as 'CIABOC' or 'Commission'), directing him to conclude the inquiry pursuant to the complaint made by the Petitioner. It appears that the relief sought is directed solely

against the 1st Respondent. The Petitioner concedes that the complaint was made to the Commission and contends that the inquiry arising from that complaint ought therefore, to be conducted and concluded by the Commission.

Let me now examine the relevant provisions of the Anti-Corruption Act, No. 9 of 2023.

According to the long title, it is abundantly clear that the power to investigate allegations of bribery and corruption and offences related to the declaration of assets and liabilities and other associated offences are vested with the CIABOC. The Commission is established under section 3 to carry out its objectives stipulated under section 2. The said section 3 states as follows:

“3.

- (1) *There shall be established, for the purpose of this Act, a Commission which shall be called and known as the Commission to Investigate Allegations of Bribery and Corruption or Corruption (herein referred to as the “Commission”).*
- (2) *The Commission shall, by name assigned to it by Subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.”*

The above-mentioned section confers legal personality on the Commission. Hence, the Commission is a creature of a statute with perpetual succession. Subsection (3) empowers the Commission to direct investigations as it is vested with the powers to accomplish the objects of the Anti-Corruption Act. Further, under section 42, it is the Commission that is empowered to commence and conduct a preliminary inquiry.

However, the Petitioner is seeking a Writ against the Commission’s Chairman while conceding that the inquiry has to be conducted by the Commission. His argument is that a Writ of Mandamus should be issued against the 1st Respondent to investigate into the allegation made by the Petitioner to the Commission.

In response, the learned Counsel for the 1st to 4th Respondents submitted that an investigation has commenced. Let me now consider whether this Court has the power to

issue a Writ of Mandamus as prayed for in view of the preliminary objection raised by the Counsel for the 1st to 4th Respondents.

Jurisdiction to issue Writs

The jurisdiction to issue prerogative Writs is vested with the Court of appeal under article 140 of the Constitution. Article 140 reads as follows;

“Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any Court of First Instance or tribunal or other institution and grant and issue, according to law, orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against the judge of any Court of First Instance or tribunal or other institution or any other person.”

However, this article was amended by the 1st amendment to the constitution (section 2) whereby a proviso was inserted. The said proviso reads as follows;

“[provided that Parliament may by law provide that in any such category of cases as may be specified in such law, the jurisdiction conferred on the Court of Appeal by the preceding provisions of this Article shall be exercised by the Supreme Court and not by the Court of Appeal].”

By the above proviso, the legislature in its wisdom had given the powers vested under this article to be exercised not by the Court of Appeal but, by the Supreme Court. It is clear that if a case falls within the category of cases as may be specified in such law, the jurisdiction conferred on the Court of Appeal by the proceeding provision, is to be exercised by the Supreme Court and not by the Court of Appeal. Hence the pivotal question to be answered is whether this court has jurisdiction to have and maintain this application.

Does the Court of Appeal have jurisdiction to issue Writs against the CIABOC?

Let me now consider section 160 of the Anti-Corruption Act, which reads as follows;

“160.

- (1) *The jurisdiction vested in the Court of Appeal by Article 140 of the Constitution shall, in respect of applications in which relief is sought against the Commission be exercised by the Supreme Court and not by the Court of Appeal.*
- (2) *Subject to the provisions of subsection (1), no injunction or enjoining order shall be granted by any court restraining or staying, or having the effect of restraining or staying, the Commission, from commencing or continuing, the conduct of an investigation under this Act or from exercising any of the powers conferred on it by this Act or from giving any direction under this Act.”*

By section 160(1), jurisdiction vested in the Court of Appeal by Article 140 of the Constitution is to be exercised by the Supreme Court and not by the Court of Appeal. Hence, it is clear that the Writ jurisdiction against the acts of the Commission is vested with the Supreme Court and not with the Court of Appeal. The Petitioner concedes that his complaint was made to the Commission. His allegation is that, the Commission has not informed him about the progress. Hence, the Petitioner is seeking a Writ of Mandamus against the 1st Respondent. Thus, in my view, section 160 of the Anti-Corruption Act read with the proviso to Article 140 of the Constitution clearly removes the jurisdiction of the Court of Appeal to issue Writs against the Commission.

The Petitioner, appearing in person, in reply to the objection, submitted that he relies on the case *Nimalasiri v. CIABOC CA Writ 342/22*. It was his contention that, by virtue of the said case, it has been decided that the Court of Appeal has the power to issue Writs against the Commission to Investigate Allegations of Bribery or Corruption. When this Court inquired from the Petitioner as to the reference to the case upon which he was relying, he stated that he was not in a position to provide such reference. This Court finds that the aforesaid case number has no relevance to the issue before us. Further, this Court finds that there is no reported case bearing the names of the parties cited by the Petitioner.

In her submissions, the learned Counsel for the 1st to 4th Respondents also submitted that, to the best of her knowledge, no such case exists. Accordingly, this Court is unable to accept the Petitioner's contention in this regard. However, contrary to the Petitioner's contention, there is a plethora of judicial authority supporting the objections raised by the Respondents.

The Court of Appeal in ***Sujeewa Arjuna Senasinghe v. P.G.R. Sumendra and another*** CA Writ 40/2020, CA Minutes 29.08.2024, held that:

“... the Writ jurisdiction vested in the Court of Appeal by Article 140 of the Constitution shall, in respect of applications which reliefs are sought against the Commission be exercised by the Supreme Court and not by the Court of Appeal.”

In the case of ***Prassanna Palliya Guruge Roshan and another v. Gunasekara and others*** CA Writ/39/2025, CA Minutes 04.04.2025, this Court had to decide the same issue which is before us, namely the jurisdiction of the Court of Appeal to issue Writs against the CIABOC and this Court held:

“Hence, in our view, any challenge to the acts of the Commission has to be made to the Supreme Court. The Writ jurisdiction of the Court of Appeal is statutorily excluded.”

In my view, if the Petitioner is dissatisfied with the decisions of the Commission or with the conduct of its officers in relation to a particular inquiry, particularly in view of the ouster clause, he ought to have invoked the jurisdiction of the appropriate forum, which is not this Court. Therefore, in the view of this Court, the Petitioner's invocation of the Writ jurisdiction of this Court is fundamentally flawed and legally misconceived.

For completeness, even if I were to consider prayer (b) of the Petition, the said prayer would nevertheless have to fail, as it is vague and lacking in specificity.

Conclusion

I have considered the preliminary objection made by the Counsel for the 1st to 4th Respondents and the submission made by the Petitioner himself. In my view, the objections made by the 1st to 4th Respondents have to succeed for the reasons I have stated above. Accordingly, I uphold the preliminary objection raised by the Counsel for the 1st to 4th Respondents and refuse to issue formal notice and proceed to dismiss this Writ application.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal