

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

*In a matter of an application for an order in
the nature of writs of certiorari under and in
terms of Article 140 of the Constitution of the
Democratic Socialist Republic of Sri Lanka*

CA/Writ/No. /2023

1. Ranjith Madduma Bandara

General Secretary,
Samagi Jana Balawegaya,
No 852,
E W Perera Mawatha,
Sri Jayawardenapura Kotte.

2. Harshana Rajakarana

99/4 Rosemead Place,
Colombo 7

Petitioners

-Vs-

1. K. D. N Ranjith Ashoka

The Secretary,
Ministry of Public Administration,
Home Affairs, Provincial Council
and Local Government

2. Dinesh Gunawardena,

Minister,
Ministry of Public Administration,
Home Affairs, Provincial Council
and Local Government

Respondents

On this 01st day of June 2023,

TO: HIS LORDSHIP THE PRESIDENT AND THE OTHER HONOURABLE JUSTICES OF THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA;

The Petition of the Petitioners above named appearing by Mrs. Dimuthu Kuruppuarachchi their registered Attorney-at-Law, states as follows:

The Petitioners

01. The 1st and 2nd Petitioners (hereinafter referred to as the Petitioners) plead that the 1st Petitioner is the General Secretary of the main opposition of the Democratic Socialist Republic of Sri Lanka, and the Petitioners are members of the parliament.

The Petitioners hereby prefer this application in their personal capacity as affected citizens and in the interest of the public at large against the *illegal and/or unlawful and/or acts of ultra vires* of the 1st and/or 2nd Respondents and/or their servants and/or agents and/or anyone acting under them as hereinafter described.

02. The 1st Respondent is the Secretary to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Governments.

03. The 2nd Respondent is the Minister of Public Administration, Home Affairs, Provincial Councils and Local Governments.

Background

04. The Petitioners plead that, over the years, local governments have played a vital role in facilitating participatory democracy, ensuring effective governance, and addressing the needs and aspirations of local communities.

The establishment and functioning of local governments have been enshrined in the Constitution, The Local Authorities Elections Ordinance No. 53 of 1956 (as amended), Pradeshiya Sabha Act No.15 of 1987 (as amended) Municipal Council Ordinance No. 01 of 1949 (as amended) and Urban Council Ordinance No. 61 of 1939 (as amended) of Sri Lanka.

05. The Petitioners plead that, Local Authorities Elections Ordinance No. 53 of 1956 (as amended), provides for the regular conduct of local government elections in Sri Lanka. These elections have been recognized as an essential mechanism for the democratic representation of the people at the grassroots level. Through these elections, citizens exercise their right to vote and elect their representatives who are entrusted with the responsibility of making decisions pertaining to local governance and development.
06. The Petitioners plead that, elections under and in terms of the Local Authorities Elections Ordinance No.53 of 1946, were last held in Sri Lanka on or about 10th February 2018 in respect of approximately 340 Local Authorities comprised of approximately 24 Municipal Councils, 41 Urban Councils and 275 Pradeshiya Sabhas.
07. The Petitioners plead that, save for the Elpitiya Pradeshiya Sabha in the Galle District, in respect of which a fresh poll was taken in or about October 2019, all the other Local Authorities in the Country were duly constituted in the year 2018, in consequence of the said election held in February 2018.
08. The Petitioners further plead that, under and in terms of Section 05 of the Pradeshiya Sabha Act No.53 of 1956 (as amended), Section 10 of the Municipal Council Ordinance No. 01 of 1949 (as amended) and Urban Council Ordinance No. 61 of 1939 (as amended) of Sri Lanka the term of the Local Governments are forty-eight (48) months.

09. The Petitioners plead that, however, acting in terms of the powers vested in him by the relevant Laws governing such Local Authorities, the predecessor of the 2nd Respondent, by Orders published in Govt. Gazette Extraordinary bearing No.2262/8 dated 10th January 2022, extended the said term until 19th March 2023, and thus the tenure of the Pradeshiya Sabha Members, Municipal and Urban Councilors came to an end on 19th March 2023.

The Petitioners annex a true copy of the Gazette bearing No.2262/8 dated 10th January 2022 marked as 'P1' hereto and pleads the same as part and parcel hereof.

10. The Petitioners further plead that, all entities of the government collectively have *illegally and/or unlawfully and/or unconstitutionally* failed and/or neglected to uphold the democratic right of the Sri Lankan Citizenry to exercise their right to vote and elect their representatives who are entrusted with the responsibility of making decisions pertaining to local governance and development from 19th March 2023.

11. The Petitioners further plead that, by the letter dated 09th May 2023 under the hand of the 1st Respondent, the 1st Respondent is illegally and/or unlawfully and/or in an act of ultra vires has, inter alia, attempting to confer powers of the local authorities to the purported chairmen of the so-called Regional Coordinating Committee (ප්‍රාදේශීය සම්බන්ධීකරණ කමිටුවේ) and/or their servants and/or their agents and/or anyone acting under them consequent to purported meetings said to be held on 29th of March 2023, 03rd of April 2023 at the temple trees and 04th of April 2023 and 26th of April 2023 in the parliament.

The Petitioners annex a true copy of the letter dated 09th May 2023 marked as 'P2' hereto and pleads the same as part and parcel hereof.

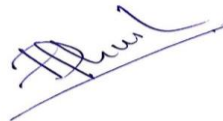
The Petitioners further plead that the Petitioner is not in possession of the circular mentioned as form 20 dated 05th January 2023 in the aforesaid document marked 'P2'

hereto, and specifically reserves the right to annex the same no sooner the Petitioner obtains the same.

12. The Petitioners plead that, the above-mentioned illegal and/or unlawful and/or ultra vires letter **marked 'P2'** hereto is in violation and/or in contradiction to the Pradeshiya Sabha Act No.15 of 1987 (as amended), Urban Council Ordinance No. 61 of 1939 (as amended) and/or Municipal Council Ordinance No. 01 of 1949 (as amended) and/or the Local Authorities Elections Ordinance No. 53 of 1956 (as amended).
13. The Petitioners, therefore, seeks relief from this Lordships' Court to declare that the 1st Respondent's document **marked 'P2'** hereto and inter alia the delegation of powers of the Municipal Council, Pradeshiya Sabha and Urban Council to the committee of District Coordinating Secretaries are illegal and/or unlawful and/or ultra vires and thus null and/or void and therefore has no force and/or avail in law.
14. In the totality of the foregoing circumstances, the Petitioners state that grave and/or irreparable loss and/or damage would be caused to the Petitioners and/or the contestants of the Local authorities and/or to the People of the said Republic unless Your Lordships' Court be pleased to grant the interim and/or final relief as prayed for herein below.
15. The Petitioners most respectfully reserve the right to add further parties and to extend the reliefs sought, to any such further parties or to add further documents or to amend this Petition per se, and also depending upon the disclosures made by the Respondents.
16. The Petitioners state that they have not previously invoked the jurisdiction of Your Lordships' Court, in respect of a similar and/or identical matter.

WHEREFORE THE 1ST AND 2ND PETITIONERS RESPECTFULLY PRAY THAT YOUR LORDSHIPS' COURT BE PLEASED TO :

- a) issue notice on the Respondents;
- b) grant and issue a Mandate in the nature of a Writ of *Certiorari* quashing the letter dated 09th May 2023 sent under the hand of the 1st Respondent **marked 'P2'** hereto;
- c) grant and issue an interim order staying the operation of the letter dated 09th May 2023 sent under the hand of the 1st Respondent **marked 'P2'** hereto;
- d) grant and issue an interim order, *inter alia*, staying the six directions envisaged in the letter dated 09th May 2023 sent under the hand of the 1st Respondent **marked 'P2'** hereto;
- e) for costs; and
- f) for such further and other reliefs that Your Lordship's Court deem meet



Registered Attorney at Law for the Petitioners

Settled By:

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Vinura Kularatne Esq,
Budwin Siriwardena Esq,
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