

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

In the matter of an Application under and
in terms of Article 126 read with Article
17 of the Constitution of the Democratic
Socialist Republic of Sri Lanka.

Aruna Laksiri Unawatuna,
No. 02,
Buddhist Cultural Centre,
Colombo 10.

Petitioner

SC (FR) Application No. 357/2018

Vs.

1. Hon. Maithripala Sirisena,
H.E. the President of the Democratic
Socialist Republic of Sri Lanka,
Presidential Secretariat,
Colombo 10.

In his place

Hon. Attorney-General,
Attorney-General's Department,
Colombo 12.

2. Chairman and the members of the
Election Commission,
Election Secretariat,
Rajagiriya.
3. Hon. Attorney-General,

Attorney-General's Department,
Colombo 12.

Respondents

Before: Priyantha Jayawardena, PC, J
Vijith K. Malalgoda, PC, J
Murdu N. B. Fernando, PC, J

Counsel: Aruna Laksiri Unawatuna for the Petitioner appears in person
Nerin Pulle DSG for the Attorney-General

Argued On: 10th January, 2019

Decided On: 14th October ,2020

Priyantha Jayawardena, PC, J

The petitioner filed the instant fundamental rights application alleging that the Proclamation issued by the former President, by Gazette No. 2096/70, dated 9th November, 2018 dissolving the Parliament and calling for election of the Members of Parliament, is contrary to Articles 10, 12(1), 12(2), 14(1)(a), 14(1)(c) and 14(1)(f) of the Constitution.

The petitioner stated in his petition that he is an Attorney-at-Law and that the instant application has been filed in the interest of the public.

The instant application was filed against the Attorney-General in terms of Article 35 of the Constitution on the basis that the aforementioned Gazette was issued by the former President. Both the former President and the Attorney-General were cited as the 1st respondent. The Chairman and the Members of the Election Commission have been cited as the 2nd respondent.

In his petition, the petitioner prayed *inter alia*;

- (i) to suspend the operation of the Proclamation issued by the President dissolving the Parliament and calling for General Elections in the Gazette No. 2096/70 dated 9th November, 2018 until the conclusion of this application,
- (ii) to stay the holding of Parliamentary Elections by the 2nd respondent until the conclusion of this application,
- (iii) to declare that the 1st respondent has violated the petitioner's fundamental rights guaranteed under Articles 10, 12(1), 12(2), 14(1)(a), 14(1)(c) and 14(1)(f) of the Constitution, and
- (iv) to quash the said Proclamation dissolving Parliament contained in the Gazette No. 2096/70 dated 9th November, 2018.

Before the instant application was supported for leave to proceed, the petitioner filed a motion stating that the fundamental rights application bearing No. SC/FR/351/2018 was similar to the instant application, and that the judgment of the said application had been delivered on 13th December, 2018.

Thereafter, the petitioner appeared in person and supported the said motion. The petitioner submitted that he had sent a letter by registered post to the former President, requesting a Sinhala translation of the judgment delivered in the said application No. SC/FR/351/2018 on 13th December, 2018. However, as the petitioner did not receive a response to the aforementioned letter, he filed the instant motion requesting the court to issue a Sinhala translation of the said judgment delivered in the said fundamental rights application.

Article 24(3) of the Constitution makes provision for a person to obtain translations of the records maintained in courts.

Article 24(3) of the English text of the Constitution states as follows:

“Any judge, juror, party or applicant or any person legally entitled to represent such party or applicant, who is not conversant with the language used in court, shall be entitled to interpretation and to translation into Sinhala or Tamil provided by the State, to enable him to understand and participate in the proceedings before such court and shall also be entitled to obtain in such language any such part of the record or a translation thereof, as the case may be as he may be entitled to obtain according to law.” [Emphasis added]

The word “record” in the aforesaid Article is defined in Article 24(5) of the English text of the Constitution as follows:

“Record includes Pleadings, Judgments, Orders and Other judicial and Ministerial acts.”

Article 24(3) of the Sinhala text of the Constitution states:

"අධිකරණයක භාවිත වන භාෂාව නොදන්නා යම් කිසි විනිශ්චයකාරවරයකුට, ජූරි සහිතයුක්කට, යම්කිසි පර්ශ්වයකට හෝ අයදුම්කරුවකුට නැතහොත් ඒ පාර්ශ්වය හෝ අයදුම්කරු නියෝජනය කිරීමට නීතියෙන් බලය ලබා ඇති යම්කිසි තැනැත්තකුට එම අධිකරණයක සිදුවන කටයුතු වටහා ගැනීමටත් ඒ කටයුතුවලට සහභාගී වීමටත් හැකිවන සේ රජය විසින් සිංහල භාෂාවෙන් හෝ දෙමළ භාෂාවෙන් සපයනු ලබන භාෂණ පරිවර්තන සහ පරිවර්තන ලබා ගැනීමටත්, නඩු වාර්තාවකින් නීතිය අනුව ලබා ගැනීමට හිමිකම් ඇති කවර වූ හෝ කොටසක් නැතහොත් එහි පරිවර්තනයක් එම භාෂාවෙන් ලබා ගැනීමට හිමිකම් ඇත්තේ ය."

[Emphasis added]

The word "වාර්තාව" in Article 24(3) is defined in Article 24(5) of the Sinhala text of the Constitution as follows:

""වාර්තාව" යන්නට උත්තරවාද, නඩු තීන්දු, ආඥා සහ වෙනත් අධිකරණ හා විදායක කාර්යය ඇතුළත් වේ."

Accordingly, the legislator has restricted the application of the said Article 24(3) to a judge, juror, party or applicant or any person legally entitled to represent such party or applicant *in the proceedings of a case*, to obtain translations of the proceedings maintained in a court, *if he is not conversant with the language used in court*. Thus, the restrictions imposed in the said Article shall not be interpreted in such a way that it will result in the delay or abuse of process in the administration of justice.

The petition of the said fundamental rights application No. SC/FR/351/2018 in which the judgment was delivered, was filed by Rajavarothiam Sampanthan citing the Attorney-General, the Chairman and the members of the Election Commission as respondents.

Subsequently, Prof. Gamini Lakshman Peiris, Udaya Prabath Gammanpila, Wellawattage Jagath Sisira Sena de Silva, Mallika Arachchige Channa Sudath Jayasumana and Premnath Chaminda Dolawatte were permitted by the court to intervene in the said application.

Thus, the petitioner was neither a party nor an Attorney-at-Law who represented any of the parties in the said application No. SC/FR/351/2018. Thus, the petitioner is not entitled under Article 24(3) of the Constitution to obtain a translation of the judgment delivered in the said application.

Accordingly, the motion dated 31st December, 2018 is rejected.

Judge of the Supreme Court

Vijith K. Malalgoda, PC, J

I Agree

Judge of the Supreme Court

Murdu N.B. Fernando, PC, J

I Agree

Judge of the Supreme Court