

**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 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC. FR Application No. 584/2008

Munugoa Hewage Muditha Sagarie  
Methsiri Lane, Weraniyawela  
Baddegama.

**Petitioner**

Vs.

1. Secretary  
Ministry of Public Administration and  
Internal Affairs,  
Independence Square, Colombo7.
2. Mrs.Indika Samarasinghe  
Additional Secretary,  
Ministry of Public Administration and  
Internal Affairs,  
Independence Square, Colombo7.
3. G.D.Anura Piyabandu,  
Senior Additional Secretary,  
Ministry of Public Administration and  
Internal Affairs,

Independence Square, Colombo 7.

4. P.B.K Guruge  
Hammaliwala Watte  
Akuratiya, Baddegama
5. S.P. Weerasekara  
“Manel”, Weraniyawala,  
Ampegama
6. H.H.B. Chandani Bemmula Watta,  
Gurusinghegoda.
7. K.H.D.R. de Silva  
“Asiri”, Nabara Atta,  
Athkandura.
8. N.M.B. Kariyawasam,  
“Gamini”, Nugethota, Athkandura.
9. T.G.D.A. Kariyawasam  
“Hishan” Waduwelipitiya North,  
Kahaduwa.
10. Commissioner General of Examinations  
Department of Examinations, Isurupaya,  
Paleewatta.
11. Justice Priyantha Perera  
Chairman, Public Service Commission,  
No.356/B, Karlwil Place, Galle Road,  
Colombo 3.
12. Professor Dayasiri Fernando  
Member, Public Service Commission.
13. Professor M.Rohanadeera,  
Member, Public Service Commission.
14. Palitha Kumarasinghe

- Member, Public Service Commission.
15. W.P.S. Jayawardena  
Member, Public Service Commission.
16. Gunapala Wickramaratne,  
Member, Public Service Commission.
17. S.A.Wijeratne.  
Member, Public Service Commission.
18. Prof.Bernad Soyza.  
Member, Public Service Commission.
19. Secretary,Public Service Commission.
- 11A. Justice Sathyaa Hettige PC  
Chairman,  
Member, Public Service Commission.
- 12A. S.C.Mannapperuma  
Member,Public Service Commission.
- 13A. Ananda Seneviratne  
Member, Public Service Commission.
- 14A. N.H.Pathirana  
Member, Public Service Commission.
- 15A. S.Thillanadarajah  
Member, Public Service Commission.
- 16A. A. Mohamed Nahiya  
Member, Public Service Commission.
- 17A. Mrs. Kanthi Wijetunga  
Member, Public Service Commission.
- 18A. Sunil S. Sirisena  
Member, Public Service Commission.
- 19A. Secretary, Public Service Commission  
All of No.177,Nawala Road,Narahenpita  
Colombo 5.
20. Hon. Attorney General,  
Department of Attorney General,  
Colombo 12.

## **Respondents**

Before : Sisira J de Abrew J  
Murdu Fernando PC, J  
S. Thurairaja PC, J  
Counsel : Saliya Pieris PC with Lisitha Sachindra for the Petitioner  
Rajiv Goonatilake SSC for the Attorney General

Argued on : 25.3.2019

Decided on : 3.4.2019

Sisira J de Abrew J

The Petitioner has filed a petition dated 8.1.2009 in this court alleging that her fundamental rights guaranteed by Article 12(1) of the Constitution have been violated by the Respondents. This court by its order dated 13.1.2009 granted leave to proceed for alleged violation of the fundamental rights of the Petitioner. The Petitioner in her petition states that she made an application to the post of Grama Niladhari in Welivitiya, Divithura Divisional Secretariat Division; that she obtained 132 marks from the competitive examination; that she and four (4) others were called for an interview on 28.1.2008; that she obtained seven (7) marks from the interview; that 5<sup>th</sup> and 6<sup>th</sup> Respondents who were not called for the interview on 29.1.2008 were appointed as Grama Niladharis but she was not appointed; that 5<sup>th</sup> and 6<sup>th</sup> Respondents were interviewed by a board of interview which is different

from the board of interview which interviewed the Petitioner; and that her fundamental rights had been violated by the Respondents.

The main point urged by learned President's Counsel (PC) for the Petitioner was that the 5<sup>th</sup> and 6<sup>th</sup> Respondents were not called for the interview on the same day that the Petitioner was called for the interview and that different boards of interview could give different marks. I now advert to the above contention. The Petitioner was interviewed on 28.1.2008 and the 5<sup>th</sup> and 6<sup>th</sup> Respondents were interviewed on 23.9.2008. Although the Petitioner and the 5<sup>th</sup> and 6<sup>th</sup> Respondents were interviewed by different boards of interview, the chairman of both boards was the same person. It is undisputed that there were three vacancies for the post of Grama Niladhari in Welivitiya, Divithura Divisional Secretariat Division; and that six (6) candidates should be interviewed to fill the said vacancies. Although six candidates were selected for the interview, the 1<sup>st</sup> board of interview could not interview one person from the above six candidates since one candidate is not from Welivitiya, Divithura Divisional Secretariat Division. It is a requirement according to the Gazette (P1) which advertised the post that the candidate should, within the period of last three years from the closing date of acceptance of applications, permanently reside in the relevant Secretariat Division. Therefore the Respondents had to select another person for the interview who had obtained maximum marks at

the competitive examination. The Petitioner had obtained 132 marks at the competitive examination and each of the 5<sup>th</sup> and 6<sup>th</sup> Respondents had obtained 131 marks at the said examination. The above information was sent by the Department of Examination which conducted the competitive examination. Since both 5<sup>th</sup> and 6<sup>th</sup> Respondents had obtained equal marks both had to be called for the interview. Under these circumstances the relevant officers attached to the Ministry of Public Administration and Internal Affairs had to call both 5<sup>th</sup> and 6<sup>th</sup> Respondents for the interview. Although learned PC for the Petitioner contended that different boards of interview could give different marks to candidates, it appears that there is no material to support this contention. The Petitioner had got four (4) marks for the performance at the interview. The 5<sup>th</sup> and 6<sup>th</sup> Respondents too have got four (4) marks for the performance at the interview. At the interview marks had been given under various categories. At the interview the Petitioner had obtained seven (7) marks, the 5<sup>th</sup> Respondent had obtained thirteen (13) marks and the 6<sup>th</sup> Respondent had obtained eleven (11) marks. The above information is found in the document marked 1R5. Thus the total marks that the Petitioner, 5<sup>th</sup> Respondent and 6<sup>th</sup> Respondent had obtained were 139, 144 and 142 respectively. The above information is found in the document marked 1R3. When I consider all the aforementioned matters, I hold that the appointments of the 5<sup>th</sup> and 6<sup>th</sup> Respondents

had been correctly done. Therefore the Petitioner cannot complain that her fundamental rights were violated when the 5<sup>th</sup> and 6<sup>th</sup> Respondents were selected for the post of Grama Niladhari over and above her.

For the above reasons, I hold that the Petitioner's fundamental rights guaranteed by Article 12(1) of the Constitution have not been violated as alleged by the Petitioner. For the aforementioned reasons, I dismiss the petition of the Petitioner with costs.

*Petition dismissed.*

Judge of the Supreme Court

Murdu Fernando PC, J

I agree.

Judge of the Supreme Court

S. Thuraiaraja PC, J

I agree.

Judge of the Supreme Court

