

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

In the matter of an application under Article 126 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

Muthuwa Sarukkalige Ranjith de Silva
Petitioner

SC/FR 79/2014

Vs

1. Sumith Parakramawansa
Principal, Dharmashoka College, Ambalangoda
2. Ravindra Pushpakumara
3. A.W.Sriyani Chandrika
4. N.H. Eranga Indralal
5. K. Indunil de Silva

**All members of the Interview Board for
Admission to Year 1- 2014
Dharmashoka Vidyalaya, Ambalangoda**

6. K.P. Wijerathne
7. Nuwan dayantha de Silva
8. Dev Rohan
9. K.D. Lalith Ravindra

**All members of the Appeal Board for
Admission to Year 1- 2014
Dharmashoka Vidyalaya, Ambalangoda**

10. Hon. Bandula Gunawardene
Minister of Education.
11. Anura Dissanayake. Secretary,
Ministry of Education.
12. Hon. Attorney General

Respondents

Before : K Sripavan J
Rohini Marasinghe J
Sisira J de Abrew J

Counsel : Radeep Ginige for the Petitioner
Mahen Gopallowa SSC for the Respondents

Argued on : 30.5.2014
Decided on : 1.9.2014

Sisira J de Abrew J.

The petitioner, in his petition, inter alia, seeks a declaration from this court that his fundamental rights guaranteed under Article 12 (1) of the Constitution have been violated by the respondents and a direction on the respondents to admit his child for the academic year 2014 (to year one) to Dharmashoka College Ambalangoda. Leave to proceed was granted on 21.3.2014 for the alleged violation of Article 12(1) of the Constitution.

The petitioner who is a teacher attached to Devananda College Ambalangoda made an application to Dharmashoka College Ambalangoda to get his child admitted to year one for the academic year 2014. The Principal Dharmashoka College Ambalangoda, the 1st respondent, by letter marked P3 requested the petitioner to attend an interview scheduled to be held on 12.9.2013. At the interview the petitioner was granted 33 marks which was admittedly less than the cut off marks. Although the petitioner preferred an appeal against the decision of the interview board, the marks given to him by the interview board were not changed by the Appeals Board. The petitioner has produced a circular issued by the Ministry of Education marked as P2 which sets out the instructions relating to admission of children to year one in Government schools for the year 2014. The petitioner states that under clause 6.4.iii of P2, he is entitled to twelve more marks as he has worked in a difficult school for a period of four years. If in fact he was entitled to twelve more marks, he would have got 45 marks and would

thus be entitled to get his child admitted to Dharmashoka College as the cut off mark was forty three. The petitioner contends that the 1st respondent and members of the Appeals Board have not considered the above matters in deciding the matter and that their decision not to admit his child to Dharmashoka College was arbitrary, illegal and capricious. The petitioner further contends that the respondents, by the said decision, have violated his fundamental rights enshrined and guaranteed under Article 12(1) of the Constitution of the Republic.

The petitioner claims that he has, from 1.2.1991 to 8.2.1995, worked in a difficult school. To prove this point, the petitioner has produced his letter of appointment dated 25.1.1991 marked P4 appointing him as an Assistant Teacher to Madakumbura Maha Vidyalaya. According to clause 22 of the said letter of appointment, the petitioner must, during the first three years, work in a difficult area. The petitioner, on the strength of P8, a letter issued by the Principal Madakumbura Maha Vidyalaya, tried to contend that he had worked in a difficult school. The Principal Madakumbura Maha Vidyalaya, in the said letter, did not state that Madakumbura Maha Vidyalaya had been categorized as a difficult school. What he stated in the said letter was that the area in which the Madakumbura Maha Vidyalaya was located had been named as a difficult area. Further the Zonal Director of Education Elpitiya, by his letter dated 26.3.2014 addressed to the Principal Dharmashoka College Ambalangoda marked 1R10, confirmed that Madakumbura Maha Vidyalaya had not been categorized as a difficult school during the period commencing from 1991 to 1995. When I consider all the above matters, I am unable to agree with the contention of learned counsel for the petitioner that the petitioner had worked in a difficult school during the period commencing from 1.2.1991 to 8.2.1995. I therefore reject the above contention.

According to clause 6:4 iii of P2 (circular issued by the Ministry of Education), for the petitioner to get three marks for each year of service in difficult schools, the Zonal Director of Education must certify that the school in which the petitioner served is a difficult school. Has the Zonal Director of Education certified that Madakumbura Maha Vidyalaya as a difficult school? In order to establish this point, the petitioner relied on letter dated 12.6.2013 issued by the principal of Madakumbura Maha Vidyalaya which was also signed by the Zonal Director of Education Elpitiya with an endorsement 'forwarded'. Learned Counsel for the petitioner contended that the said endorsement by the Zonal Director of Education could be considered as a certification issued by the Zonal Director. This contention is nullified by letter marked 1R10 issued by the same Zonal Director stating that Madakumbura Maha Vidyalaya had not been categorized as a difficult school. Then, the above contention of learned counsel for the petitioner fails.

When I consider all the above matters I am unable to conclude that the fundamental right of the petitioner and his child guaranteed by Article 12(1) of the Constitution of the Republic has been infringed by the respondents.

For the above reasons, I dismiss the petition of the petitioner. I do not order costs.

Judge of the Supreme Court.

K Sripavan J

I agree.

Judge of the Supreme Court.

Rohini Marasinghe J

I agree.

Judge of the Supreme Court.