

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

In the matter of an application made in terms of Article 126 read with Article 17 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC FR No. 281/2022

Dr. Abdul Razak Jawzeek

No. 41/2, Pole's Road,

Puttalam.

PETITIONER

Vs.

1. Dr. R.M.S. Dinusha Fernando
Regional Director of Health Services,
Office of the Regional Health Services
Puttalam,
Hospital Building, Madambe.
2. Dr. Ms. S.A.D.C. Gunaratne
Medical Officer in Charge,
Divisional Hospital, Udappuwa.
3. Dr. M.K. Sampath Indika Kumara
Provincial Director of Health Services
North Western Province,
Health Complex, Negombo Road,
Kurunegala.
4. Ms. Kanthi Wehella,
Ministry of Health,
North-Western Province.

5. Dr. Amal Harsha De Silva
Deputy Director General (Medical Services) II
Ministry of Health,
185, Rev. Beddagama Wimalawansa
Thero Mawatha,
Colombo 10.
6. Dr. Asela Gunawardana
Director General of Health Services
Ministry of Health,
185, Rev. Beddagama Wimalawamsa
Thero Mawatha,
Colombo 10.
7. Mr. S. Janaka Sri Chandraguptha
Secretary,
Ministry of Health.
8. T.B. Wickramasingha
Secretary,
Public Service Commission,
North-Western Province.
9. Hon. Justice Jagath Balapetabandi
Chairman,
Public Service Commission,
North-Western Province.
10. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

BEFORE : **P. PADMAN SURASENA, J**
A. L. SHIRAN GOONERATNE, J
MAHINDA SAMAYAWARDHENA, J

COUNSEL : Rushdie Habeeb with Supun Dissanayake
instructed by Azad Mustafa for the
Petitioner.
V. Hettige, SDSG for the 1st, 2nd, 3rd and 10th
Respondents.

ARGUED &
DECIDED ON : 01st April 2024

P. PADMAN SURASENA, J.

Court heard the submissions of the learned Counsel for the Petitioner as well as the submissions of the learned Deputy Solicitor General for the Respondents.

At the inception, the learned Deputy Solicitor General raised a preliminary objection (time bar) against the maintainability of this Petition before this Court. The Petition has been filed on 24-08-2022 challenging the letter dated 08-02-2022 produced marked **P 15**. Thus, it is clear that the Petitioner has failed to file his Petition within the time period specified in Article 126(2) of the Constitution.

As held by this Court previously in the case of Thilangani Kandambi Vs. State Timber Corporation and others,¹ the Petitioner is required to satisfy Court not only about the fact that he had lodged a complaint to the Human Rights Commission within the permitted time but also about the fact that an inquiry in relation to that complaint is pending before the Human Rights Commission.

The Petitioner has failed to satisfy Court that he is entitled to maintain his Petition on the above basis. Instead, the Petitioner appears to have been content only with the averment in paragraph 38 of his Petition which refers to a copy of the complaint, the Petitioner claims to have made to the Human Rights Commission marked **P 17**.

¹ S.C. F. R. Application No. 452/2019, S.C.M 14-12-2022.

In the above circumstances, we decide to uphold the preliminary objection of time bar raised by the learned Deputy Solicitor General. We proceed to dismiss this Petition without costs.

JUDGE OF THE SUPREME COURT

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE SUPREME COURT

MAHINDA SAMAYAWARDHENA, J.

I agree.

JUDGE OF THE SUPREME COURT

Mhd/-