

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

In the matter of an Application under and in
terms of Article 17 and 126 of the Constitution.

SC.FR.NO.413/2017

B.A. Nulara Nethumi

5 ½ , Gomes Path,

De Fonseka Road,

Colombo 05.

Appearing by,

B.A. J. Indrathilaka

5 ½ , Gomes Path,

De Fonseka Road,

Colombo 05.

Petitioner

Vs.

1. S.S.K. Awiruppola
The Principal,
Vishaka Vidyalaya,
Vajira Road,
Colombo 05.

2. Sunil Hettiarachchi
Secretary to the Ministry of Education,
Isurupaya, Pelawatte,
Battaramulla.

3. Attorney General
Attorney General's Department,
Colombo 12.

Respondents

BEFORE : **SISIRA J. DE ABREW, ACTING CJ.**
L.T.B. DEHIDENIYA, J. &
P. PADMAN SURASENA, J.

COUNSEL : Manohara de Silva PC for the Petitioner.
Yuresha de Silva SSC for the Attorney-General.

ARGUED &

DECIDED ON : 24.01.2019.

SISIRA J. DE ABREW, ACTING CJ.

The Petitioner by his petition dated 15.11.2017 has complained to this Court that his fundamental rights guaranteed by Article 12(1) of the Constitution have been violated by the 1st Respondent. This Court by its order dated 28.03.2018 granted Leave to Proceed for the alleged violation of Article 12(1) of the Constitution. Petitioner complains that his child was not admitted to Grade I in Vishaka Vidyalaya, Colombo in the year 2014. We note that the 2nd Respondent the Secretary to the Ministry of Education has made a direction to

the Principal, Vishaka Vidyalaya (the 1st Respondent) by letter dated 22.06.2014 to admit the Petitioner's child to Vishaka Vidyalaya. This document has been produced as P7. However, the Principal of Vishaka Vidyalaya(the 1st Respondent) did not admit the Petitioner's child as directed by the 2nd Respondent. The 1st Respondent has made an endorsement on the letter marked P7 as a suggestion to the 2nd Respondent that she would admit the Petitioner's child to Grade II in Vishaka Vidyalaya in the year 2015, as the child has, at that time, been admitted to Musaeus College. We note that the 1st Respondent has failed to comply with the direction given by the 2nd Respondent who is the Secretary to the Ministry of Education. Although, the 1st Respondent has made an endorsement which is reflected in P7 that she would take the petitioner's child to Grade II in Vishaka Vidyalaya in the year 2015, she has failed to comply with the said endorsement. Although, the 1st Respondent failed to admit the petitioner's child to Grade II in Vishaka Vidyalaya in the year 2015, she has admitted a child named Samaratunga to Grade II in Vishaka Vidyalaya in the year 2015. This is evident by document marked P16a which is a letter addressed to the 1st Respondent by the 2nd Respondent. The date of P16a is 23.04.2015. The date of P7 is 22.06.2014. If the 1st Respondent complied with her own endorsement made on P7, she would have admitted the Petitioner's child in January 2015 itself. But she did not do so. For the above reasons we hold that the 1st Respondent has violated the fundamental rights of the Petitioner guaranteed by Article 12(1) of the Constitution.

For the above reasons, we direct the 1st Respondent to admit the Petitioner's child to Grade VI in Vishaka Vidyalaya, Colombo in the year 2019. The 1st Respondent is directed to comply with this direction within one month from the date of this judgment.

Learned Senior State Counsel who appears for the 1st Respondent undertakes to inform the judgment of this Court to the 1st Respondent.

ACTING CHIEF JUSTICE

L.T.B. DEHIDENIYA, J.

I agree.

JUDGE OF THE SUPREME COURT

P.PADMAN SURASENA, J.

I agree.

JUDGE OF THE SUPREME COURT

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