

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

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

**SC/FR/27/2021, SC/FR/57/2021, SC/FR/58/2021,
SC/FR/74/2021, SC/FR/80/2021, SC/FR/115/2021,
SC/FR/125/2021, SC/FR/129/2021, SC/FR/132/2021**

SC/FR/27/2021

Padmini Nirmala Ranawaka Gunatilake,
No. 59/1, Galpoota Road, Nawala.

Petitioner

Vs,

1. Hon. Upali Abeyrathne,
Chairman and Member,
Presidential Commission of Inquiry on
Political Victimization,
No. 42/10, Baddegama Road,
Judges Housing Scheme,
Baddegama North, Pita Kotte,
2. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission
of Inquiry on Political Victimization,
Judges Housing Complex, No. 74/21, Jaya
Road, Udahamulla, Nugegoda.
3. Hon. Chandra Fernando,
Member, Presidential Commission
of Inquiry on Political Victimization,
No. 01, Shrubbery Gardens, Colombo 04.

4. Mr. Pearl Weerasinghe,
Secretary, Presidential Commission
of Inquiry on Political Victimization,
C/o. The Secretary to the President,
President Secretariat,
Galle Face Centre Road, Colombo 01.
5. Hon. Mahinda Rajapaksa,
Prime Minister and Minister
of Buddhasasana, Religious and Cultural
Affairs, Urban Development and Housing,
Economic Policies and Plan Implementation,
- 5A. Hon. Susil Premajayantha,
Minister of Education,
6. Hon. Nimal Siripala de Silva,
Minister of Labour,
- 6A. Vidura Wickramanayake,
Minister of Buddhasasana, Religious
and Cultural Affairs,
7. Hon. Prof. G.L.Peiris,
Minister of Foreign Affairs,
- 7A. Hon. Dr. Wijekadasa Rajapakse,
Minister of Justice, Prison Affairs
and Constitutional Reforms,
8. Hon. Pavithra Devi Wanniarachchi,
Minister of Power,
- 8A. Hon. Kanchana Wijesekera,
Minister of Power and Energy,
9. Hon. Dinesh Gunawardena,
Prime Minister and Minister of
Public Administration, Home
Affairs, Provincial Councils and
Local Government,

10. Hon. Douglas Devananda,
Minister of Fisheries,

11. Hon. Gamini Lokuge,
Minister of Energy,

12. Hon. Bandula Gunawardena,
Minister of Trade,

12A. Shehan Semasinghe,
Minister of Trade and
Samurdhi Development,

12B. Hon. Nalin Fernando,
Minister of Trade,
Commerce and Food Security,

13. Hon. C.B. Rathnayake,
Minister of Wildlife and
Forest Conservation,

13A. Wimalaweera Dissanayake,
Minister of Wildlife and
Forest Conservation,

13B. Hon. Mahinda Amaraweera,
Minister of Agriculture, Wildlife,

14. Hon. Janaka Bandara Tennakoon,
Minister of Public Services,
Provincial Councils and Local Government,

15. Hon. Keheliya Rambukwella,
Minister of Health,

15A. Prof. Channa Jayasumana,
Minister of Health,

15B. Hon. Keheliya Rambukwella,
Minister of Health,

16. Hon. Chamal Rajapaksa,
Minister of Irrigation, Sports and
Youth Affairs,
- 16A.Hon. Pavithra Wanniarachchi,
Minister of Wildlife and Forest
Resources Conservation,
17. Hon. Dullas Alahapperuma,
Minister of Mass Media,
- 17A.Dr. Nalaka Godahewa,
Minister of Mass Media,
- 17B.Hon. Bandula Gunawardena,
Minister of Transport and Highways
and Mass Media,
18. Hon. Johnston Fernando,
Minister of Highways,
- 18A.Kanaka Herath,
Minister of Highways,
- 18B. Hon.Roshan Ranaginhe,
Minister of Irrigation, Sports and
Youth Affairs,
19. Hon. Wimal Weerawansa,
Minister of Industries,
- 19A.Hon. S.B. Dissanayake,
Minister of Industries,
- 19B.Manusha Nanayakkara,
Minister of Labour and
Foreign Employment,
20. Hon. Mahinda Amraweera,
Minister of Agriculture, Wildlife and
Foreign Employment,

- 20A. Naseer Ahamed,
Minister of Environment,
21. Hon. S.M. Chandrasena,
Minister of Lands,
22. Hon. Mahindananda Aluthgamage,
Minister of Agriculture,
- 22A. Hon. Janaka Wakkumbura,
Minister of Agriculture, and Irrigation,
- 22B. Hon. Harin Fernando,
Minister of Tourism and lands,
22. Hon. Vasudewa Nanayakkara,
Minister of Water Supply,
- 23A. Hon. Mohan Piyadarshana De Silva,
Minister of Water Supply,
- 23B. Hon. Jeevan Thondaman,
Minister of Water Supply and
Estate Infrastructure Development,
23. Hon. Udaya Prabath Gammanpila,
Minister of Energy,
- 24A. Hon Dilum Amunugama,
Minister of Transport and Industries,
25. Hon. Dr. Ramesh Pathirana,
Minister of Plantation Industries
and Industries,
26. Hon. Prasanna Ranatunga,
Minister of Urban Development
and Housing,
27. Hon. Rohitha Abeygunawardene,
Minister of Ports and Shipping,

27A.Hon. Pramitha Bandara Tennakoon,
Minister of Ports and Shipping,

27B.Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and Aviation,

28. Hon. Namal Rajapaksa,
Minister of Youth and Sports,
and Development Coordination
and Monitoring,

28A. Hon. Thenuka Vidanagamage,
Minister of Sports and Youth Affairs,

28B.Hon. Tiran Alles,
Minister of Public Security,

29. Hon. M. Ali Sabry,
Minister of Foreign Affairs,

30. Hon. Sarath Weerasekara,
Minister of Public Security,

30A. Hon. Basil Rajapaksa,
Minister of Finance,

31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers,
Cabinet Office, Sri Baron J
ayathilaka Mawatha, Colombo 01.

32. Mr. C.D. Wickramaratne,
Inspector General of Police,
Sri Lanka Police Department,
Headquarters, Colombo 01.

33. Mr. P.B. Jayasundera,
Secretary to the President,
Presidential Secretariat,
Galle Face Road, Colombo 01.

- 33A.Mr.Gamini Sedara Senarath,
Secretary to the President,
Presidential Secretariat,
Galle Face Road, Colombo 01.
- 33B.Mr.Saman Ekanayake,
Secretary to the President,
Presidential Secretariat,
Galle Face Road, Colombo 01.
34. Hon. (Rtd.) Justice Eva Wanisundera,
Chairperson and Member,
Commission to Investigate
Allegations of Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
35. Hon. (Rtd.) Justice Deepli Wijesundera PC
Member, Commission to
Investigate Allegations of
Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
36. Mr.Chandra Nimal wakishta,
Member, Commission to
Investigate Allegations of
Bribery or Corruption,
No. 36, Malalasekera Mawatha,
Colombo 07.
37. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
38. Mr. Arumadura Vincent Premalal Silva,
No. 40, Perera Mawatha,
Pelawatte, Battaramulla.

Respondents

SC FR 57/2021

Susith Malinga Bandara Weerasekara

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Commission of Inquiry,
02. Hon. Daya Chandrasiri Jayathilake,
Member, Commission of Inquiry,
03. Mr.Chandra Fernando,
Member, Commission of Inquiry,
04. Mr. Pearl Weerasinghe,
Secretary, Presidential Commission
of Inquiry on Political Victimization,
05. Hon. Mahinda Rajapaksa,
Prime Minister and Minister of
Buddhasasana, Religious and Cultural
Affairs, Urban Development and Housing,
Economic Policies and Plan Implementation,
- 5A. Hon. Dinesh Chandra Rupasingha
Gunawardna, Prime Minister of the
Democratic Socialist Republic of Sri Lanka,
Minister of Public Administration, Home
Affairs,
- 5B. Hon. Vidura Wickramanayake, M.P.,
Minister of Buddhasasana, Religious
and Cultural Affairs,

- 5C. Hon. Prasanna Ranatunga, M.P,
Minister Urban Development and Housing,
06. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour, Ministry of
Ports, Shipping and Aviation,
- 6A. Manusha Nanayakkara,
Minister of Labour and
Foreign Employment,
07. Hon. Prof. G. L. Peiris, M.P.,
Minister of Education, Minister of
Foreign Affairs,
- 7A. Hon. M.U.M. Ali Sabrei, M.P.,
Minister of Foreign Affairs,
08. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Health, Minister of Transport,
- 8A. Hon. Bandula Gunawardena, M.P.,
Minister of Transport and Highways
and Minister of Mass Media,
09. Hon. Dinesh Gunawardena, M.P.,
Minister of Foreign Affairs, Minister
of Education,
- 9A. Hon. A.D. Susil Premajayantha, M.P.,
Minister of Education,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokuge M.P.,
Minister of Power,
- 11A. Hon. Kanchana Wijesekera M.P.,
Minister of Power and Energy,

12. Hon. Bandula Gunawardena,
Minister of Trade,

12A. Hon. Nalin Fernando, M.P.,
Minister of Trade, Commerce and
Food Security,

13. Hon. C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,

13A. Hon. Mahinda Amaraweera, M.P.,
Minister of Wildlife and Forest
Resources Conservation,
Minister of Agriculture, Wildlife,

14. Hon. Janaka Bandara Tennakoon,
Minister of Public Services,
Provincial Councils and Local Government,
(This Ministry comes under the purview of
the 5A Respondent)

15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,

16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,

16A. Hon. Roshan Ranasinghe, M.P.,
Minister of Irrigation, Minister of
Sports and Youth Affairs,

17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,

17A. Hon. Kanchana Wieseekera, M.P.,
Minister of Power and Energy,
(This Ministry has been merged with the
Ministry of 8A Respondent)

18. Hon. Jhonston Fernando M.P.,
Minister of Highways,
- 18A. Hon. (Dr) Bandula Gunawardena, M.P.,
Minister of Transport and Highways,
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
- 19A. Hon. (Dr.) Ramesh Pathirana, M.P.,
Minister of Industries,
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
- 20A. Naseer Ahamed, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
- 21A. Hon. Harin Fernando, M.P.,
Ministry of Tourism and Minister of Lands,
22. Hon. Mahindananda Aluthgamage M.P.,
Minister of Agriculture,
(This Ministry has been merged with
the Ministry of 13A Respondent)
23. Hon. Wasudeva Nanayakkara, M.P.,
Minister of Water Supply and Minister
of Health.
- 23A. Hon. Keheliya Rambukwella, M.P.,
Minister of Water Supply,
Minister of Health,
(This Ministry has been merged with the
Ministry of 13A Respondent)
24. Hon. Udaya Prabath Gammanpila, M.P.,
Minister of Energy,

24A. Hon. Kanchana Wijesekera, M.P.,
Minister of Energy,

25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,

25A. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,

26. Hon. Prasanna Ranatunga ,M.P.,
Minister of Tourism,
(This Ministry has been merged with
the Ministry of 19A Respondent)

27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,

27A.Hon. Nimal Siripala de Silva, M.P.,
Minister of Ports, Shipping and Aviation,

28. Hon. Namal Rajapaksa, M.P.,
Minister of Youth and Sports, and
Development Coordination and Monitoring,

28A.Roshan Ranasinghe, M.P.,
Minister of Sports and Youth Affairs,
(This Ministry has been merged with
the Ministry of 16A Respondent)

29. Hon. M. Ali Sabry, M.P.,
Minister of Justice,

29A. Hon. (Dr.) Wijedasa Rajapaksa, M.P.,
Minister of Justice,

30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,

30A. Mr.Tiran Alles, M.P.,
Minister of Public Security,

31. Mr.W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers,
32. Admiral of the Fleet Wasantha Kumara
Jayasewa Karannagoda,
33. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of Bribery
or Corruption,
34. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,
35. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
36. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
37. Mr. C.D. Wickramaratne,
Inspector General of Police,
38. Mr. P.B. Jayasundera,
Secretary to the President,
- 38A. Mr. Gamini Sedara Senarath,
Secretary to the President,
- 38B.Mr. E.M.S.B. Ekanayake,
Secretary to the President,
39. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

40. Hon. Basil Rajapakse, M.P.,

Respondents

SC FR 58/2021

Ekanayake Mudiyanseelage Somisara Bandara
Ekanayake,

Petitioner

Vs,

1. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
2. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
3. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
4. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

5. Hon. Mahinda Rajapaksa,
Prime Minister, Minister of Finance and
Minister of Buddhasasana, Religious and
Cultural Affairs, Urban Development and
Housing,
- 5A. Hon. Dinesh Chandra Rupasingha
Gunawardena,
Prime Minister, Minister of Public
Administration, Home Affairs, Provincial
Councils and Local Government,
- 5B. Hon. Vidura Wickramanayaka, M.P.,
Minister of Buddhasasana, Religious
and Cultural Affairs,
- 5C. Hon. Prasanna Ranatunga, M.P.,
Minister of Urban Development
and Housing,
6. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
- 6A. Hon. Manusha Nanayakkara, M.P.,
Minister of Labour and
Foreign Employment,
7. Hon. Prof. G. L. Peiris, M.P.,
Minister of Foreign Affairs,
- 7A. Hon. M.U.M. Ali Sabry, M.P.,
Minister of Foreign Affairs,
8. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Transport,
- 8A. Hon. Bandula Gunawardena, M.P.,
Minister of Transport and Highways
and Minister of Mass Media,

9. Hon. Dinesh Gunawardena, M.P.,
Minister of Education,
- 9A. Hon. A.D. Susil Premajayantha, M.P.,
Minister of Education,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokue, M.P.,
Minister of Trade,
(This Ministry comes under 8A Respondent)
12. Hon. Bandula Gunawardena,
Minister of Trade,
- 12A. Hon. Nalin Fernando, M.P.,
Minister of Trade, Commerce and
Food Security,
13. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,
- 13A. Hon. Mahinda Amaraweera, M.P.,
Minister of Wildlife and Forest Resources
Conservation, Minister of Agriculture,
14. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services, Provincial
Councils and Local Government,
(This Ministry comes under 5A Respondent)
15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
(This Ministry comes under 9A Respondent)
16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,

- 16A.Hon. Roshan Ranasinghe, M.P,
Minister of Irrigation, Minister of Sports
and Youth Affairs,
17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
- 17A.Hon. Kanchana Wiesekeera, M.P.,
Minister of Power and Energy,
18. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
(This Ministry comes under 8A Respondent)
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
- 19A. Hon. (Dr.) Ramesh Pathirana, M.P.,
Minister of Industries,
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
- 20A.Hon.Naseer Ahamed, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
- 21A. Hon. Harin Fernando, M.P.,
Ministry of Tourism and Minister of Lands,
22. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
(This Ministry comes under
13A Respondent)
23. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply and Minister
of Health.

- 23A. Hon. Keheliya Rambukwella, M.P.,
Minister of Water Supply, Minister
of Health,
24. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
(This Ministry comes under
17A Respondent)
25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
- 25A. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
26. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
(This Ministry has been merged
21A Respondent)
27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
- 27A.Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and Aviation,
28. Hon. Namal Rajapaksa,
Minister of Youth and Sports,
and Development Coordination
and Monitoring,
- 28A.Roshan Ranasinghe, M.P.,
Minister of Sports and Youth Affairs,
29. Hon. M. U.M. Ali Sabry, M.P.,
Minister of Justice,
- 29A. Hon. (Dr.) Wijedasa Rajapaksa, M.P.,
Minister of Justice,

30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,
- 30A. Hon. Tiran Alles, M.P.,
Minister of Public Security,
31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers,
32. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,
33. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of
Bribery or Corruption,
34. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
35. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of Bribery
or Corruption,
36. Mr. C.D. Wickremaratne,
Inspector General of Police,
37. Mr. Dhammika Priyantha Samarakoon
Jayawardena,
Judge of the Supreme Court, Chairman,
Special Presidential Commission of Inquire
to Inquire into and obtain information
pertaining to alleged incidents of Political
Victimization of Public Officers, Employees
of State Corporations, Members of Armed
Forces and the Police Service,

38. Hon. Khema Kumudini Wickremasinghe,
Judge of the Supreme Court, Member,
Special Presidential Commission of Inquire
to Inquire into and obtain information
pertaining to alleged incidents of Political
Victimization of Public Officers, Employees
of State Corporations, Members of Armed
Forces and the Police Service,

39. Hon. Sobitha Rajakaruna,
Judge of the Court of Appeal, Member,
Special Presidential Commission of Inquire
to Inquire into and obtain information
pertaining to alleged incidents of Political
Victimization of Public Officers, Employees
of State Corporations, Members of Armed
Forces and the Police Service,

39A. Hon. Sasi Mahendra,
Judge of the Court of Appeal, Member,
Special Presidential Commission of Inquire
to Inquire into and obtain information
pertaining to alleged incidents of Political
Victimization of Public Officers, Employees
of State Corporations, Members of Armed
Forces and the Police Service,

40. Mr. P.B. Jayasundera,
Secretary to the President,

40A. Mr. Gamini Senerath,
Secretary to the President,

40B. Mr. E.M.S.B. Ekanayake,
Secretary to the President,

41. Mr. Sajith Attygale,
Secretary to the Ministry of Finance,

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

Respondents

SC FR 74/2021

Dukganna Walawuwe Ravindra Bandara
Seneviratne,
No. 748, Mirisgoniyawa, Dambulla.

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
02. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
03. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,
04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

05. Hon. Mahinda Rajapaksa,
Prime Minister, Minister of Finance and
Minister of Buddhasasana, Religious and
Cultural Affairs, Urban Development and
Housing,
- 5A. Hon. Dinesh Chandra Rupasingha
Gunawardena,
Prime Minister, Minister of Public
Administration, Home Affairs, Provincial
Councils and Local Government,
- 5B. Hon. Vidura Wickramanayaka, M.P.,
Minister of Buddhasasana, Religious
and Cultural Affairs,
- 5C. Hon. Prasanna Ranatunga, M.P.,
Minister of Urban Development
and Housing,
06. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
- 6A. Hon. Manusha Nanayakkara, M.P.,
Minister of Labour and
Foreign Employment,
07. Hon. Prof. G. L. Peiris, M.P.,
Minister of Foreign Affairs,
- 7A. Hon. M.U.M. Ali Sabry, M.P.,
Minister of Foreign Affairs,
08. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Transport,
- 8A. Hon. Bandula Gunawardena, M.P.,
Minister of Transport and Highways
and Minister of Mass Media,

09. Hon. Dinesh Gunawardena, M.P.,
Minister of Education,
- 9A. Hon. A.D. Susil Premajayantha, M.P.,
Minister of Education,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokue, M.P.,
Minister of Trade,
(This Ministry comes under 8A Respondent)
12. Hon. Bandula Gunawardena,
Minister of Trade,
- 12A. Hon. Nalin Fernando, M.P.,
Minister of Trade, Commerce and
Food Security,
13. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,
- 13A. Hon. Mahinda Amaraweera, M.P.,
Minister of Wildlife and Forest Resources
Conservation, Minister of Agriculture,
14. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services, Provincial
Councils and Local Government,
(This Ministry comes under 5A Respondent)
15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
(This Ministry comes under 9A Respondent)
16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,

- 16A.Hon. Roshan Ranasinghe, M.P,
Minister of Irrigation, Minister of Sports
and Youth Affairs,
17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
- 17A.Hon. Kanchana Wiesekeera, M.P.,
Minister of Power and Energy,
18. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
(This Ministry comes under 8A Respondent)
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
- 19A. Hon. (Dr.) Ramesh Pathirana, M.P.,
Minister of Industries,
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
- 20A.Hon.Naseer Ahamed, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
- 21A. Hon. Harin Fernando, M.P.,
Ministry of Tourism and Minister of Lands,
22. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
(This Ministry comes under
13A Respondent)
23. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply and Minister
of Health.

- 23A. Hon. Keheliya Rambukwella, M.P.,
Minister of Water Supply, Minister
of Health,
24. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
(This Ministry comes under
17A Respondent)
25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
- 25A. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
27. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
(This Ministry has been merged
21A Respondent)
27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
- 27A.Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and Aviation,
28. Hon. Namal Rajapaksa,
Minister of Youth and Sports,
and Development Coordination
and Monitoring,
- 28A.Roshan Ranasinghe, M.P.,
Minister of Sports and Youth Affairs,
29. Hon. M. U.M. Ali Sabry, M.P.,
Minister of Justice,
- 29A. Hon. (Dr.) Wijedasa Rajapaksa, M.P.,
Minister of Justice,

30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,
- 30A. Hon. Tiran Alles, M.P.,
Minister of Public Security,
31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers,
32. Mr. Wasantha Kumara Jayadeva
Karannagoda,
33. Mr. Dissanayake Kathonamilage Piyaethne
Disanayake,
34. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,
35. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
36. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
37. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of Bribery
or Corruption,
38. Mr. C.D. Wickramaratne,
Inspector General of Police,
43. Mr. P.B. Jayasundera,
Secretary to the President,

39B.Mr. E.M.S.B. Ekanayake,
Secretary to the President,

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

Respondents

SC FR 80/2021

Kurukulasooriya Mudiyansele Ananda
Wijepala,
278/24, Nagahakotuwa Road, Sanghinda
Mawatha, Imbulgoda.

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

02. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

03. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of Inquiry to Inquire and obtaining information pertaining to the alleged incidents of Political Victimization of Public Officers,
05. Hon. Mahinda Rajapaksa,
Prime Minister, Minister of Economic Policies and Plan Implementation and Minister of Buddhasasana, Religious and Cultural Affairs, Urban Development and Housing,
- 5A. Hon. Basil Rohana Rajapakse, M.P.,
Minister of Finance,
- 5B. Hon. Dinesh Chandra Rupasinghe
Gunawardena, M.P.,
Prime Minister, Minister of Public Administration, Home Affairs, Provincial Councils and Local Government,
06. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
- 6A. Hon. Manusha Nanayakkara, M.P.,
Minister of Labour and
Foreign Employment,
07. Hon. Prof. G. L. Peiris, M.P.,
Minister of Education,
- 7A. Hon. Susil Premajayantha, M.P.,
Minister of Education,
08. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Health,
- 8A. Hon. Ramesh Pathirana, M.P.,
Minister of Health, Minister of Industries,

09. Hon. Dinesh Gunawardena, M.P.,
Minister of Foreign Affairs,
- 9A. Hon. M.U.M. Ali Sabry, M.P.,
Minister of Foreign Affairs,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokue, M.P.,
Minister of Transport,
- 11A. Hon. Bandula Gunawardena, M.P.,
Minister of Transport, Highways and
Mass Media,
12. Hon. Bandula Gunawardena, M.P.,
Minister of Trade,
- 12A. Hon. Nalin Fernando, M.P.,
Minister of Trade, Commerce and Food
Security,
13. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,
- 13A. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Wildlife and Forest Resources
Conservation, Minister of Irrigation,
14. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services,
Provincial Councils and Local Government,
(This Ministry comes under 5A Respondent)
15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
(This Ministry comes under
11A Respondent)

16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,
(This Ministry comes under
13A Respondent)
17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
- 17A.Hon. Kanchana Wieseekera, M.P.,
Minister of Power and Energy,
18. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
(This Ministry comes under
11A Respondent)
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
- 19A. Hon. (Dr.) Ramesh Pathirana, M.P.,
Minister of Industries,
(This Ministry comes under 8A Respondent)
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
- 20A.Hon.Keheliya Rambukwella, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
- 21A. Hon. Harin Fernando, M.P.,
Ministry of Tourism and Lands, Minister of
Youth and Sports,
22. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
- 22A. Hon. Mahinda Amaraweera, M.P.,
Minister of Agriculture and Plantation
Industries,

23. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply,
- 23A. Hon. Jeevan Thondaman, M.P.,
Minister of Water Supply,
24. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
(This Ministry comes under
17A Respondent)
25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
(This Ministry comes under
13A Respondent)
28. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
(This Ministry has been merged
21A Respondent)
27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
- 27A.Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and Aviation,
28. Hon. Namal Rajapaksa,
Minister of Youth and Sports,
(This Ministry comes under
21A Respondent)
29. Hon. M.U.M.Ali Sabry, M.P.,
Minister of Justice,
- 29A. Hon. (Dr.) Wijedasa Rajapaksa, M.P.,
Minister of Justice, Prison Affairs and
Constitutional Reforms,
30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,

- 30A.Hon. Tiran Allas, M.P.,
Minister of Public Security,
31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet,
32. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,
33. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of
Bribery or Corruption,
34. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of
Bribery or Corruption,
35. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of
Bribery or Corruption,
36. Mr. C.D. Wickramaratne,
Inspector General of Police,
- 36A. Mr. Deshabandu Thennakoon,
Acting Inspector General of Police,
37. Mr. P.B. Jayasundera,
Secretary to the President,
- 37A. Mr. Gamini Sedara Senarath,
Secretary to the President,
- 37B. Mr. E.M.S.B. Ekanayake,
Secretary to the President,

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

Respondents

SC FR 115/2021

Upul Jayasuriya,
No. 53/2, Pahalawela Road,
Battaramulla.

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Former Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

02. Hon. Daya Chandrasiri Jayathilake,
Former Member, Presidential Commission
of Inquiry to Inquire and obtaining
information pertaining to the alleged
incidents of Political Victimization of Public
Officers,

03. Hon. Chandra Fernando,
Former Member, Presidential Commission
of Inquiry to Inquire and obtaining
information pertaining to the alleged
incidents of Political Victimization of Public
Officers,

04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

05. Mr. Rohantha Abeysuriya, PC
Additional Solicitor General,
Attorney General's Department,

06. Mr. Vikum De Abrew, PC
Additional Solicitor General,
Attorney General's Department,

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

Respondents

SC FR 125/2021

Travis Jeramy Liyanduru Sinniah, (Retired)
No. 17, Tallwatte, Tennakumbura, Kandy.

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

02. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

03. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of Inquiry to Inquire and obtaining information pertaining to the alleged incidents of Political Victimization of Public Officers,
05. Mr. Wasantha Kumara Jayadewa
Karannagoda,
No. 93/3, Beddagana North Road,
Beddegana, Pitakotte.
06. Hon. Mahinda Rajapaksa,
Prime Minister, Minister of Economic Policies and Plan Implementation and Minister of Buddhasasana, Religious and Cultural Affairs, Urban Development and Housing,
07. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
08. Hon. Prof. G. L. Peiris, M.P.,
Minister of Education,
09. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Health,
10. Hon. Dinesh Gunawardena, M.P.,
Minister of Foreign Affairs,
11. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
12. Hon. Gamini Lokue, M.P.,
Minister of Transport,
13. Hon. Bandula Gunawardena, M.P.,
Minister of Trade,

14. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,
15. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services,
Provincial Councils and Local Government,
16. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
17. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,
18. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
19. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
20. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
21. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
22. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
23. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
24. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply,
25. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
26. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,

27. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
28. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
29. Hon. Namal Rajapaksa,
Minister of Youth and Sports,
30. Hon. M.U.M.Ali Sabry, M.P.,
Minister of Justice,
31. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,
32. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet,
33. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of Bribery
or Corruption,
34. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,
35. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of
Bribery or Corruption,
36. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of
Bribery or Corruption,
37. Mr. P.B. Jayasundera,
Secretary to the President,

38. Vice Admiral Nishantha Ulugetenne,
Commander of the Sri Lanka Navy,

39. Mr. C.D. Wickramaratne,
Inspector General of Police,

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

Respondents

SC FR 126/2021

Kamalgoda Mudalige Sandya
Priyangani Ekneligoda,
136/2, Suhada Mawatha,
Hiripitiya, Pannipitiya.

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

02. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

03. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of Inquiry to Inquire and obtaining information pertaining to the alleged incidents of Political Victimization of Public Officers,
05. Hon. Mahinda Rajapaksa,
Prime Minister, Minister Finance and Buddhasasana, Religious and Cultural Affairs, Urban Development and Housing,
06. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
07. Hon. Prof. G. L. Peiris, M.P.,
Minister of Education,
08. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Health,
09. Hon. Dinesh Gunawardena, M.P.,
Minister of Foreign Affairs,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokue, M.P.,
Minister of Transport,
12. Hon. Bandula Gunawardena, M.P.,
Minister of Trade,
13. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and Forest Conservation,
14. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services,
Provincial Councils and Local Government,

15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,
17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
18. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
22. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
23. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply,
24. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
26. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
28. Hon. Namal Rajapaksa,
Minister of Youth and Sports Affairs,

29. Hon. M.U.M.Ali Sabry, M.P.,
Minister of Justice,
30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,
31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet,
32. Mr. Shammi Arjuna Kumararathna,
33. Rajapaakse Mudiyanseelage Priyantha
Kumara Rajapakse, alias “Nadhan”
34. Wadugedara Vini Priyantha Dilanjan
Upasena, alias “Suresh”
35. Senevirathna Mudiyanseelage Ravindra
Rupasena,
36. Yapa Mudiyanseelage Chaminda Kumara
Abeyrathne,
37. Senevirathna Mudiyanseelage Kanishaka
Gunaratne,
38. Iyyasami Balasubramaniam,
39. Dangaha Gamaralage Tharanga
Prasad Gamage,
40. Thelge Erantha Radeesh Peiris,
41. Senadheera Arachchige Hemachandra
Perera,
42. Thanthulage Toshinath Prabodha
Siriwardane,
43. Meragal Pedigedara Wasantha Sudesh
Kumara Ulugedara,

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

Respondents

SC FR 132/2021

Gnanendra Shani Abysekera,
No. L/1/1, Elvitigala Flats, Colombo 08,

Petitioner

Vs,

01. Hon. Upali Abeyrathne,
Chairman,
Presidential Commission of Inquiry to
Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

02. Hon. Daya Chandrasiri Jayathilake,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

03. Hon. Chandra Fernando,
Member, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

04. Mr. Pearl Weerasinghe,
The Secretary, Presidential Commission of
Inquiry to Inquire and obtaining information
pertaining to the alleged incidents of
Political Victimization of Public Officers,

05. Hon. Mahinda Rajapaksa,
Prime Minister, Minister of Finance and
Minister of Buddhasasana, Religious and
Cultural Affairs, Urban Development and
Housing,
- 5A. Hon. Dinesh Chandra Rupasingha
Gunawardena,
Prime Minister, Minister of Public
Administration, Home Affairs, Provincial
Councils and Local Government,
- 5B. Hon. Vidura Wickramanayaka, M.P.,
Minister of Buddhasasana, Religious and
Cultural Affairs,
- 5C. Hon. Prasanna Ranatunga, M.P.,
Minister of Urban Development and
Housing,
06. Hon. Nimal Siripala de Silva, M.P.,
Minister of Labour,
- 6A. Hon. Manusha Nanayakkara, M.P.,
Minister of Labour and
Foreign Employment,
07. Hon. Prof. G. L. Peiris, M.P.,
Minister of Foreign Affairs,
- 7A. Hon. M.U.M. Ali Sabry, M.P.,
Minister of Foreign Affairs,
08. Hon. Pavithra Devi Wanniarachchi, M.P.,
Minister of Transport,
- 8A. Hon. Bandula Gunawardena, M.P.,
Minister of Transport and Highways
and Minister of Mass Media,
09. Hon. Dinesh Gunawardena, M.P.,
Minister of Education,

- 9A. Hon. A.D. Susil Premajayantha, M.P.,
Minister of Education,
10. Hon. Douglas Devananda, M.P.,
Minister of Fisheries,
11. Hon. Gamini Lokue, M.P.,
Minister of Trade,
(This Ministry comes under 8A Respondent)
12. Hon. Bandula Gunawardena,
Minister of Trade,
- 12A. Hon. Nalin Fernando, M.P.,
Minister of Trade, Commerce and
Food Security,
13. Hon. R.M.C.B. Rathnayake, M.P.,
Minister of Wildlife and
Forest Conservation,
- 13A. Hon. Mahinda Amaraweera, M.P.,
Minister of Wildlife and Forest Resources
Conservation, Minister of Agriculture,
14. Hon. Janaka Bandara Thennakoon, M.P.,
Minister of Public Services, Provincial
Councils and Local Government,
(This Ministry comes under 5A Respondent)
15. Hon. Keheliya Rambukwella, M.P.,
Minister of Mass Media,
(This Ministry comes under 9A Respondent)
16. Hon. Chamal Rajapaksa, M.P.,
Minister of Irrigation,
- 16A. Hon. Roshan Ranasinghe, M.P.,
Minister of Irrigation, Minister of Sports
and Youth Affairs,

17. Hon. Dullas Alahapperuma, M.P.,
Minister of Power,
- 17A. Hon. Kanchana Wieseekera, M.P.,
Minister of Power and Energy,
18. Hon. Jhonston Fernando, M.p.,
Minister of Highways,
(This Ministry comes under 8A Respondent)
19. Hon. Wimal Weerawansa, M.P.,
Minister of Industries,
- 19A. Hon. (Dr.) Ramesh Pathirana, M.P.,
Minister of Industries,
20. Hon. Mahinda Amraweera, M.P.,
Minister of Environment,
- 20A. Hon. Naseer Ahamed, M.P.,
Minister of Environment,
21. Hon. S.M. Chandrasena, M.P.,
Minister of Lands,
- 21A. Hon. Harin Fernando, M.P.,
Ministry of Tourism and Minister of Lands,
22. Hon. Mahindananda Aluthgamage, M.P.,
Minister of Agriculture,
(This Ministry comes under
13A Respondent)
23. Hon. Vasudeva Nanayakkara, M.P.,
Minister of Water Supply and Minister
of Health.
- 23A. Hon. Keheliya Rambukwella, M.P.,
Minister of Water Supply, Minister
of Health,

24. Hon. Udaya Prabhath Gammanila, M.P.,
Minister of Energy,
(This Ministry comes under
17A Respondent)
25. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
- 25A. Hon. Dr. Ramesh Pathirana, M.P.,
Minister of Plantation,
26. Hon. Prasanna Ranatunga, .M.P.,
Minister of Tourism,
(This Ministry has been merged
21A Respondent)
27. Hon. Rohitha Abeygunawardene, M.P.,
Minister of Ports and Shipping,
- 27A.Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and Aviation,
28. Hon. Namal Rajapaksa,
Minister of Youth and Sports, and
Development Coordination and Monitoring,
- 28A.Roshan Ranasinghe, M.P.,
Minister of Sports and Youth Affairs,
29. Hon. M. U.M. Ali Sabry, M.P.,
Minister of Justice,
- 29A. Hon. (Dr.) Wijedasa Rajapaksa, M.P.,
Minister of Justice,
30. Hon. Sarath Weerasekara, M.P.,
Minister of Public Security,
- 30A. Hon. Tiran Alles, M.P.,
Minister of Public Security,

31. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers,
32. Hon. Wijedasa Rajapaksa,
33. Mr. Wasantha Kumara Jayadeva
Karannagoda,
34. Mr. Dissanayake Kathonamilage Piyaethne
Disanayake,
35. Sumith Ranasinghe,
36. Prasad Chandana Kumara Hettiarachchi,
37. Gamini Seneviretne,
38. K.P. Chaminda,
39. M.M.D.A. Mapa,
40. A.W.P. Silva,
41. Lalith Anurudha Jayasinghe,
42. D.M.S. Disanayake,
43. D.M. Sujitha Damayanthi Jayaratne,
44. Nissanka Yapa Senadipathi,
45. Vicotr Samaraweera,
46. M.S.P. Mallawage,
47. W.A.S. Prasanna Nanayakkara,
48. Shammi Arjuna Kumararatne,
49. R.M.P. Kumara Rajapaksa alias "Nathan"
50. W.W.P. Dilanjan Upasena alias Suresh,
51. S.M.R. Rupasena alias Ranji,

52. Y.M. Chaminda Kumara Aberatne,
53. S.M. Kanishka Gunaratna,
54. Aiyasamy Balasubramaniam,
55. D.G. Tharanga Prasad Gamage ,
56. Thelge Erantha Radeesh Peiris,
57. S.A. Hemachandra Perera,
58. T.T. Prabodha Siriwardhana,
59. M.P.W. Sudesh Kumara Ulugedara,
60. W.A. Jayalath,
61. Thuan Nazar Muthalif,
62. K.A.D.A. Karunasekara,
63. B.D. Bulathwatta,
64. H.M. Nishantha Jayathilake,
65. G.A. Chamika Sumith,
66. M.C. Jayasuriya,
67. U.P.D. Weeraratne,
68. P. Nishantha Kumara,
69. A.H.A. Lasantha Wimalaweera,
70. S.A.H. Perera,
71. R. Lalith Rajapaksa,
72. G.A.P.K. Somasuriya,
73. Hon. Justice Eva Wanisundera (Rtd)
Chairperson and Member of
the Commission to Investigate
Allegations of Bribery or Corruption,

74. Hon. Justice Deepali Wijesundera,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
75. Mr. Chandra Nimal Wakishta,
Member of the Commission
to Investigate Allegations of Bribery
or Corruption,
76. Hon. Kanishka Wijeratne,
The Director General, Commission
to Investigate Allegations of Bribery
or Corruption,
77. Mr. C.D. Wickramaratne,
Inspector General of Police,
78. Mr. Jagath Balapatabendi,
Chairman, Public Service Commission,
79. Mrs. Indrani Sugathadasa,
Member, Public Service Commission,
80. Mr. V. Shivagnanasothy,
Member, Public Service Commission,
81. Dr. T.R.C. Ruberu,
Member, Public Service Commission,
82. Mrs. A.L.M. Saleem,
Member, Public Service Commission,
83. Mr. Leelasena Liyanage,
Member, Public Service Commission,
84. Mr. Dilan Gomes,
Member, Public Service Commission,
85. Mr. Dalith Jayaweera,
Member, Public Service Commission,

86. Mr. W.H. Piyadasa,
Member, Public Service Commission,

87. Mr. M.A.B. Daya Senerath,
Member, Public Service Commission,

88. Mr. P.B. Jayasundera,
Secretary to the President,

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

90. Hon. Basil Rohana Rajapakse, M.P.,
Minister of Finance,

Respondents

Before: **Justice Vijith K. Malalgoda PC,**
 Justice Achala Wengappuli,
 Justice Arjuna Obeyesekere,

Counsel: Nilshantha Sirimanna with Deshara Goonatilleke for the Petitioner in SC/FR 27/2021
 Upul Kumarapperuma PC with Sudarshana Gunawardena, R. Kuruwitabandara, D. Godagama and L. Ranaweera for the Petitioner in SC/FR 58/2021
 Upul Kumarapperuma PC with R. Kuruwitabandara, D. Godagama and L. Ranaweera for the Petitioners in SC/FR 57/2021, 74/2021, 80/2021, 125/2021, 126/2021 and SC/FR 132/2021
 Shaheeda Barrie with Nisala Seniya Fernando and Pramod Perera for the Petitioners in SC/FR 115/2021
 Anuja Premaratna PC with Nayana Dissanayake, Senal Matugama, Ramith Dunusinghe and Natadha De Alwis for the 38th Respondent in SC/FR 27/2021 and 40th Respondent in SC/FR 132/2021

Ikram Mohamed PC with Roshan Hettarachchi and Harish Balakrishnan instructed by Dissanayake Associates for the 1st Respondent and instructed by Shalini Fernando for the 2nd and 3rd Respondents in all these matters

Dr. Romesh De Silva PC with Wasantha Kumara Niles instructed by A. Wijewardana for the 32nd Respondent in SC/FR 132/2021

M. Gopallawa, S/DSG for the 5th to 31st and 34th to 40th Respondents in SC/FR 74/2021 and 5th to 31st and 33rd to 39th Respondents in SC/FR 57/2021

Viveka Siriwardena PC, ASG R. Gooneratne, SC for the 1st to 5th and 89th Respondents in SC/FR 132/2021

Parinda Ranasinghe PC, S/ASG, with Rajitha Perera, Dr. Avanti Perera, DSG for the 5th to 36th and 42nd Respondents in SC/FR 58/2021

Milinda Gunathilaka, PC, ASG with Dr. Avanti Perera DSG for the 5th to 36th and 42nd Respondents in SC/FR 125/2021

Nerin Pulle, PC, ASG for the Hon. A.G. in SC/FR 27/2021

Argued on: 14.02.2024, 15.02.2024, 26.02.2024, 15.03.2024

Judgment on: 09.08.2024

Vijith K. Malalgoda PC J

Several Petitioners have come before this Court challenging the recommendations of the Commission of Inquiry appointed by His Excellency the President under the Commission of Inquiry Act No. 17 of 1948 (as amended) and warrant published in the Government Gazette Extraordinary 2157/44 dated 09.01.2020 and Government Gazette Extraordinary 2159/16 dated 22.01.2020. As per warrant published in the Government Gazette Extraordinary 2157/44 dated 09.01.2020, His Excellency the President had appointed;

1. Hon. Upaly Abeyrathne
2. Hon. Daya Chandrasiri Jayathilaka and
3. Chandra Fernando

as Commissioners to inquire into the incidents of Political Victimization that comes within the purview identified in the said warrant during the period commencing from the 8th January 2015 and ending on the 16th December 2019.

With the handing over of the findings and recommendations of the said Commission, several Petitions were filed before this Court challenging the recommendations made with regard to the Petitioners who had complained before this Court, about the alleged violation and/or imminent violations of their fundamental rights by submitting recommendations and/or by taking steps to implement such recommendations.

Since the grievance complained by the several Petitioners and the relief claimed were almost identical, His Lordship the Chief Justice had nominated the present bench in the first instance to consider the merits of each application in order to grant leave to proceed and to hear and determine the applications if the merits of the applications warrant granting leave to proceed.

As revealed before this Court, the following Petitioners have come before this Court challenging the recommendations of the said Commission of Inquiry.

1. Padmini Nirmala Ranawaka Gunathilake SC FRA 27/2021
2. Susith Malinga Bandara Weerasekara SC FRA 57/2021
3. Ekanayake Mudiyansele Somisara Bandara Ekanayake SC FRA 58/2021
4. Dukganna Walawwe Ravindra Bandara Senevirathne SC FRA 74/2021
5. Kurukulasuriya Mudiyansele Ananda Wijayapala SC FRA 80/2021
6. Upul Jayasuriya SC FRA 115/2021
7. Travis Jeramy Liyanduru Sinniah SC FRA 125/2021
8. Kamalagoda Mudalige Sandya Priyangani Ekaneligoda SC FRA 126/2021
9. Gnanendra Shani Abysekera SC FR 132/2021

When these matters were supported for granting of leave to proceed, Mr. Ikram Mohamed PC who represented the 1-3rd Respondents, the three Commissioners of the Commission of Inquiry, raised a preliminary objection with regard to the maintainability of these applications based on the ground that there was no Executive or Administrative decision taken by the three Commissioners and therefore this Court will have no jurisdiction to entertain the instant applications filed under

Article 17 read with Article 126 (2) for the alleged violation of the fundamental rights of the Petitioners.

This Court after giving due consideration to the preliminary objection raised and the submissions made on behalf of the Petitioners, had decided to grant leave to proceed for the alleged violation under Article 12(1) of the Constitution, and had also decided to consider the preliminary objection when the main matters are decided by this Court and I will be dealing with the said objection now.

The 1st to 3rd Respondents have raised a preliminary objection to the jurisdiction of this court on the ground that the Petitioners cannot maintain the present fundamental right applications as the actions/ decisions and recommendations of the 1st- 3rd Respondents do not constitute ‘executive or administrative actions’ within the meaning of Article 126(1) read with Article 17 of the Constitution.

Article 17 and 126(1) of the Constitution provide as follows:

Article 17: Every person shall entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this chapter

Art 126(1): The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by chapter III or IV.

Whilst Article 17 of the Constitution empowers every person to apply to Supreme Court as provided by Article 126, in respect of infringement or imminent infringement of fundamental right to which such person is entitled under the provisions of Chapter III, Article 126 of the Constitution confers on the Supreme Court the exclusive jurisdiction to entertain and dispose all fundamental rights applications.

However as ‘executive or administrative action’ has not been defined in the Constitution, the Courts have sought to define and interpret what is meant by ‘executive or administrative action’.

In ***Perera vs University Grant Commission***¹ Sharvananda J. noted that

Fundamental rights operate only between individuals and the state. In the context of fundamental rights, the 'state' includes every repository of state power. The expression 'executive or administrative action' embraces executive action for the state or its agencies or instrumentalities exercising governmental functions. It refers to exertion of governmental powers in all forms.

Even though the reference in the above case was to state power 'in all its forms' and 'instrumentalities', our Courts have adopted a conservative approach in the early stages of the development of the fundamental right jurisdiction.

In the case of ***Wijethunga vs Insurance Corporation***² it was contended that,

The term 'executive action' comprehends official actions of all Government Officers. Difficult problems arise when the label is sought to be affixed to the conduct of private individuals with whom Government is somehow "involved", who allegedly exercise Government authority. Delegation of a State function to a party may make the party's action/the action of the Government and thus make the State responsible for such action. The decisive question is, what is the involvement of the State, in the activity of the party concerned. When private individuals or groups are endowed by the State with power or functions, governmental in nature, they become agencies or instrumentalities, of the State subject to the constitutional inhibitions of the State.

In the said case the test for 'executive or administrative action' was held not to have satisfied as the insurance corporation which engaged in the insurance business was not seen as engaging in functions of 'governmental nature'.

Over the years our Courts have moved firmly towards adopting a test that focused on the element of overall level of governmental control, control based test, in order to determine whether the entity whose conduct was impugned was an instrumentality of the government.

Thus, in ***Rajaratne vs Air Lanka***³ the Supreme Court pronounced that the expression 'executive or administrative action' should be given a 'broad construction and not restrictive meaning'. Here

¹ [1978-79-80] 1 Sri LR 128 at 137-138

² [1982] 1 Sri LR at 5-6.

Court held that although the functions of Air Lanka was not governmental, it was considered to be engaged in executive or administrative actions.

Here Atukorale J. observed

*But by resorting to this device of the corporate entity, the government cannot be permitted to liberate itself from its constitutional obligations in respect of fundamental rights which it and its organs are enjoined to respect, secure and advance. In the circumstances I am of the opinion that the expression 'executive or administrative action' in Articles 17 and 126 of the Constitution should be given a broad and not a restrictive construction.*⁴

In **Leo Samson vs Sri Lanka Air Lines LTD and Others**,⁵ the Court emphasized that the appropriate test was the 'deep and pervasive control test' to determine whether the acts complained fall within the ambit of executive or administrative actions. However, it is important to note that existence of 'deep and pervasive control' is only one of several factors to be considered. This was made clear by Bhagawati J. in **Ramana vs International Airport Authority of India** ⁶and **Ajay Hasia vs Khalid Mujib**⁷. In **Ramana vs International Airport Authority of India** (supra) Bhagawati J. emphasized that

*No one single factor will yield a satisfactory answer to the question and the court will have to consider cumulative effect of these various factors and arrive at its decision on the basis of a particularized inquiry into the facts and circumstances of each case.*⁸

In **Jayakody vs. Sri Lanka Insurance and Robinson Hotel Company Ltd**⁹, Fernando J. held that, a duly incorporated limited liability Company which carried on a solely commercial enterprise was an agency or instrumentality of the State if the State had effective ownership and control of that Company. In the said case His Lordship made the following observation;

The chain of ownership and control may extend indefinitely: e.g. the State may set up a corporation which it (in substance) owns and controls; that corporation may set up a limited

³ [1987] 2 Sri LR 128.

⁴ Ibid 146.

⁵ [2001] 1 Sri LR 94.

⁶ AIR 1979 SC 1628.

⁷ AIR 1981 SC 487 at 496.

⁸ AIR 1979 SC 1628 at 1642.

⁹ [2001] 1 Sri LR 365.

liability company which it (in substance) owns and controls; and that company in turn may set up another company or other entity . . . and so on. But however long the chain may be, if ultimately it is the State which has effective ownership and control, all those entities - every link in that chain - are State agencies. I hold that the 2nd Respondent is a State agency. Even if it was performing purely commercial functions, it would nevertheless be a State agency, albeit a State agency performing commercial functions.¹⁰

In **Jayasinghe vs Attorney General**¹¹ the Court held that,

The co-operative employees' commission established by parliament consists of members appointed by the executive; in regard to appointment, dismissal and disciplinary control. It has powers which are in some way comparable to public service commission, though certainly not as extensive. The Co-operative Employees' Commission Act No 12 of 1972 was enacted to 'make special provisions in respect of employees of co-operative societies; and the commission has the powers under sec 11 to determine all the matters with regarding recruitment and promotion (including qualifications, examinations, salary scales and terms and conditions of service) and the procedure in regard to disciplinary actions

The powers of a co-operative society in relation to its employees are thus subject to the statute, the regulations made thereunder, and the directions of the commission, disciplinary action and dismissal are subject to appeal or review by the commission. Employees of co-operative society thus enjoy a status, in relevant respects similar to that of public officers; their position is significantly different to that of private sector employees. Disciplinary action is governed by statutory provisions rather than by contracts.

I hold that disciplinary action by a co-operative society-interdiction, framing charges, holding inquiries and dismissal is 'administrative' action within the meaning of art 126.
 [Emphasis added]

In the case of **Captain Channa D.L. Abeygunawardene vs Sri Lanka Ports Authority and Others**¹²

Prasanna Jayawardene J. having analyzed the development of the interpretation of 'executive and administrative action' held as follows;

¹⁰ Ibid 373.

¹¹ [1994] 2 Sri LR 74 at 81.

Drawing from the aforesaid decisions of this Court and Indian decisions, some of the identifying characteristics which show a corporate body to be an agency or instrumentality of the State, may be collated as follows:

- (i) The State, either directly or indirectly, having ownership of the corporate body or a substantial stake in the ownership of the corporate body;*
- (ii) The corporate body performing functions of public importance which are closely related to Governmental functions;*
- (iii) The corporate body having taken over the functions of a Department of the State;*
- (iv) The State having deep and pervasive control of the corporate body;*
- (v) The State having the power to appoint Directors and Officers of the corporate body;*
- (vi) The State providing a substantial amount of financial assistance to the corporate body;*
- (vii) The corporate body transferring its profits to the State;*
- (viii) The State deriving benefits from the operation of the corporate body;*
- (ix) The State providing benefits, concessions or assistance to the corporate body which are usually granted to organs of the State ;*
- (x) The Accounts of the corporate body being subject to audit by the Auditor General or having to be submitted to the State or an official of the State;*
- (xi) The State having conferred a monopoly or near monopoly in its field of business to the corporate body or the State protecting such a monopoly or near monopoly;*
- (xii) Officers of the corporate body enjoying immunity from suit for acts done in their official capacity.*

Having laid out the above characteristics, Prasanna Jayawardene J. proceeds to state as follows;

Although I have, for purposes of easy reference, set out the above list of some of the identifying characteristics of a corporate body which is an agency or instrumentality of the

¹² (SC/FR/57/2016 SC Minutes of 20th January 2017).

State, it is important to keep in mind that, this list is by no means exhaustive. Further, it must be stressed that, the presence of one or more of these identifying characteristics does not, necessarily, lead to the conclusion that a corporate body is an agency or instrumentality of the State. Instead, it is, usually, the cumulative effect of some of these identifying characteristics being found in a corporate body, which leads to the conclusion that it is an agency or instrumentality of the State.

In situations of ambiguity, a clear fallback solution is provided in the following cases is that acts under the colour of office, would be administrative actions.

In ***Faiz vs Attorney General***¹³ the Court stated that,

‘Executive’ is appropriate in a constitution, and sufficient to include the (official) acts of all public officers, high and low and to exclude acts which are plainly legislative or judicial (and of course purely private acts not done under colour of office). The need for including ‘administrative’ is because there are residual acts which do not fit neatly into this three- fold classification. Thus, it may be uncertain whether delegated legislation is ‘legislative’ and therefore outside the scope of Articles 126, however delegated legislation is appropriately termed administrative, although it has both legislative and executive features (cf Ramupillai vs Perera and Jayantha vs AG).....

‘Executive or administrative action’ includes, but is wider than ‘the acts of public’ [i.e. executive or administrative] officer ‘; it includes not only acts done under authority flowing from an employer- employee relationship with the state, but the acts done by virtue of authority conferred in any matter -in writing or orally, expressly or impliedly.

In the case of ***Prameswary Jayathevan vs Attorney General***¹⁴ Mark Fernando J. observed that,

The word ‘administrative is significant and cannot be treated as mere superfluity. The classification of government’s powers is not always easy; there are grey areas of uncertainty, as well as residual and ancillary powers which analytically or historically do not fit neatly into one of the traditional categories (see, for instance, AG vs Liyanage, where an essentially administrative power was held to be ancillary to the judicial power.) Accordingly

¹³ [1995] 1 Sri LR 372 at 381.

¹⁴ [1992] 2 Sri LR 356 at 371.

these powers which cannot appropriately classified as legislative, judicial or executive, but are nevertheless 'administrative' in a public law sense, are also included in the phrase 'executive and administrative.' Thus the question whether an act falls within the ambit of this expression cannot be determined on assumption that it includes all exertions of state powers or the performance of governmental power of function; nor on the basis that if particular institutions, functionaries or officials are 'legislative' or 'judicial' their acts are necessarily excluded. In the scheme of the constitution, as laid out in Articles 3 and 4, one of the powers of the government is the judicial power of the people; the judiciary thus exercises a governmental power of function.....

In my view, therefore the test must always be whether the impugned act was 'executive or administrative', not whether the institution or person concerned can be characterized as 'executive' (or 'governmental' which is often used as if it were equivalent.) of course, reference to the executive character of such institution or person, and the degree of 'executive' control may be justifiable, and necessary, in the borderline cases, but ultimately the decision must depend on whether the act is 'executive or administrative' in character, and not upon the status of the institution or the official.

Our Courts have consistently adopted a liberal approach and afforded a purposive interpretation to the term 'executive or administrative actions' in Article 17 and Article 126 of the Constitution over the time is evident further in cases such as ***Guneratne vs Ceylon Petroleum corporation***¹⁵, ***Wickramatunga vs Anuruddha Ratwatte***¹⁶ and ***Wijenayake vs Air Lanka***.¹⁷

Now I shall turn to discuss whether the Commission of Inquiry established under Act No 17 of 1948 (as amended) carrying on functions that come within the purview of 'executive or administrative action' as contemplated in Article 17 read with Article 126 of the Constitution.

The Respondents claim that the nature and functions of the said Commission of Inquiry were quasi-judicial in nature and that quasi-judicial functions are not amenable to the fundamental rights jurisdiction of the Supreme Court, purportedly as they do not fall within the scope and ambit of 'executive or administrative actions'.

¹⁵ [1996] 1 Sri LR 315.

¹⁶ [1998] 1 Sri LR 201.

¹⁷ [1990] 1 Sri LR 293.

However, this claim is misconceived and erroneous as Commission of Inquiry is investigative or fact finding in nature and is incapable of making any binding decisions that have any effect on the rights of the parties which makes it starkly different from judicial tribunal which is capable of making decisions that are both binding and enforceable subject to appeal.

Any finding or recommendation made by the Commission of Inquiry at the conclusion of the inquiry is wholly dependent on the executive or administrative branch of the government for its implementation. Until the executive implements any findings or recommendations made by a Commission of Inquiry, such findings or recommendations have no force or avail in law. Therefore, it could be said that powers and functions exercised by the said Commission is neither judicial nor quasi-judicial in nature.

The Respondents further claim that Powers, functions, authority vested in the said Commission of Inquiry which the 1st to 3rd Respondents are the chairman and members is not an agency or instrumentality of the state as per the Commission of Inquiry Act No 17 of 1948 and therefore not amenable to judicial review under Article 126 of the Constitution.

However it is important to note that the then Executive President appointed 1st -3rd Respondents as the members of the said Commission of Inquiry to investigate matters of Political Victimization that allegedly occurred during the period 08/01/2015- 16/12/2019 by way of a warrant published in the Government (Extra-ordinary) Gazette notification bearing No 2157/44 dated 09/01/2020 by virtue of powers vested in him qua President of the Republic, under the Commission of Inquiry Act No 17 of 1948 (as amended) read together with Article 33(2) of the Constitution, under the seal of the Republic. The terms of Reference and/or mandate and/or scope of the inquiry of the said Commission was determined and stipulated by the Executive President. Accordingly, the source of power of the said Commission of Inquiry and/or its members was clearly the Executive President.

Since the said Commission of Inquiry was created and/or brought into existence for the purpose of executing the said mandate of the President, the Commission was in fact an instrumentality and/or agent of then President/ government and conducted themselves as such and consequently their actions vis a vis the Petitioners, were executive in nature.

Therefore, the contention that the said Commission of Inquiry is not an instrumentality or agency of the government is untenable.

The said purported report of the Commission of Inquiry had thereafter been handed over to the then President by the 1st to 3rd Respondents on 08/12/2020. Pursuant to the said purported findings and recommendations made by the said Commission of Inquiry against the Petitioners, the then President submitted the report of the Commission containing the same, for approval to the Cabinet of Ministers by way of a Cabinet Memorandum dated 15/01/2021. The Cabinet of Ministers had in pursuance thereof, approved the implementation of the said purported findings and recommendations made by the said Commission of Inquiry against the Petitioners. The said actions of the Cabinet of Ministers in approving the implementation of the purported findings and recommendations made by the Commission of Inquiry against the Petitioners clearly constitute of 'executive actions' within the meaning of Article 17 read with Article 126 of the Constitution.

Moreover, according to the wording of Section 18 of the Commission of Inquiry Act, immunity granted to the members of the Commission is specifically limited to the 'civil and criminal proceedings' and it does not extend to fundamental rights jurisdiction of this Court which is of sui generis nature.

In the case of ***Saman vs Leeladasa***¹⁸ Court held that

However, our court has preferred to treat a violation of fundamental right as something sui generis created by the constitution and not as delict.

Further it does not contain any ouster with regard to the fundamental right jurisdiction vested with this Court. Accordingly, there is no basis whatsoever to exclude the conduct of the Commission from the review of the Court under Article 126 of the Constitution read with Article 17 and therefore the preliminary objection taken by 1st -3rd Respondent pertaining to the jurisdiction of the Court ought to be dismissed.

As revealed before this Court, the warrant issued on the 9th January 2020 under the hand of the Secretary to His Excellency the President, by order of His Excellency the President contained specific directions as to the matters that need to be inquired into by the three Commissioners.

In the said warrant the cause for the Political Victimization and the mandate of the Commission of Inquiry had been identified separately as follows;

¹⁸ [1989] 1 Sri LR 1 at 35.

Cause for the Political Victimization;

- That several persons including public officers who have held or continue to hold office in the institutions that are alleged to have been manipulated in furtherance of the alleged Political Victimization have publicly express that such process of Political Victimization was instigated through a special unit dealing with Anti-Corruption, operating under the purview of the Prime Minister during the aforesaid period of alleged political victimization;
- That the said Anti-Corruption unit first decided on who should be investigated and thereafter referred complaints to the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Investigations Divisions (FCID) of the Sri Lanka Police and/or the Police Special Investigations Unit (SIU) of the Sri Lanka Police, during the aforesaid period;
- That several complaints lodged by the public before the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Investigations Divisions (FCID) of the Sri Lanka Police and/or the Police Special Investigations Unit (SIU) of the Sri Lanka Police have gone unheeded;
- That the alleged process of Political Victimization has created a substantial negative impact on the performance of public officers, employees of public corporations and members of the armed forces and police service, and as a result, such officers, employees and members have shown and show reluctance to take decisions while discharging their duties and prefer to adopt a passive approach towards work, thereby causing a prejudicial impact on the functions of government.

Mandate of the Commission of Inquiry;

- a) Whether there has been malpractice or irregularity, or non-compliance with or disregard of the proper prudence, norms, guidelines, procedures and best practices applicable in relation to the administration of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Crimes Investigations Divisions (FCID) of the Sri Lanka Police and/or the Police Special Investigations Unit (SIU) of the Sri Lanka Police;

- b) Whether any investigations by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Crimes Investigations Divisions (FCID) of the Sri Lanka Police or the Police Special Investigations Unit (SIU) of the Sri Lanka Police had been influenced or obstructed or prevented in any manner, resulting in loss, damage, injury or detriment, either direct or imputed to any person or persons;
- c) Whether any officer entrusted with conduct of investigations by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Crimes Investigations Divisions (FCID) of the Sri Lanka Police and/or the Police Special Investigations Unit (SIU) of the Sri Lanka Police have acted under undue influence by third parties, including the said Anti-Corruption unit;
- d) Whether any person had committed any act of political victimization, misuse or abuse of power, corruption or any fraudulent act in relation to the functions of the said Anti-Corruption unit, Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Financial Crimes Investigations Divisions (FCID) of the Sri Lanka Police or the Police Special Investigations Unit (SIU) of the Sri Lanka Police, or in relation to the administration of any law or the administration of justice;

Subsequent to the appointment of the Commission of Inquiry by Gazette Extraordinary 2157/44 dated 09.01.2020 another Gazette was issued under the hand of the Secretary to His Excellency the President expanding the mandate of the Commission of Inquiry by inserting the following areas as referred to in the warrant published in the Government Gazette Extra Ordinary 2159/16 date 20th January 2020,

“.... insert the term ‘Criminal Investigation Department’ in all relevant places in addition to the agencies referred to at (a) to (d) of the aforesaid warrant and further insert the following in addition to the matters to be inquired into and information obtained in relation there to as referred to at (a) to (d) thereof viz;

- e) Of the complaints made to the said Agencies during the period commencing 8th January 2015 and ending on 16th November 2019.

To ascertain all complaints the investigation of which was first allegedly decided upon by the Investigation unit referred to in the warrant and thereafter investigation initiated and those complaints made in relation to officers of the Tri-forces and Sri Lanka Police

that affect the national security and in the case of inquiries, investigations and legal proceedings held causing prejudice to some person in the administration of laws or administration of Justice due to pressure being exerted by a third party and in the case of inquiries, investigations and legal proceedings held in relation to the Tri-forces and Sri Lanka Police and the Public Service affecting the National Security and/or where prejudice was deemed to have been caused in any manner whatsoever and take immediate necessary measures to prevent prejudice being caused and National Security and Public Services being adversely affected.”

As revealed before us the term of the said Commission of Inquiry was initially for a period of six months but it was extended by four months on 09.07.2020 and once again from 09.11.2020 for a period of sixteen days until 25th November 2020. The Commission of Inquiry had its public sitting after receiving complaints and its recommendations were handed over to His Excellency the President somewhere in December 2020.

Making the complaints by ways of filing the instant applications before this Court, the Petitioners have taken different positions in challenging the recommendations said to have been made by the Commission of Inquiry. As submitted on behalf of the Petitioners, some Petitioners were totally unaware of the proceedings conducted against them and some were noticed but no opportunity was given for them to answer the allegations. None of the parties represented before this Court were able to submit the complete recommendations of the Commission of Inquiry but the individual Petitioners were able to submit portions of the said report with recommendation made against them. However, the learned President’s Counsel who represented the three Commissioners did not challenge the material tendered in individual Petitions but took up the position that his clients do not have copies of their report since the reports had been already submitted to His Excellency the President.

Based on the material placed before this Court I will now proceed to identify the complaints made by the individual Petitioners in their respective applications filed before this Court.

SC FR 27/2021

The Petitioner Padmini Nirmala Ranawaka Gunathilake is a retired High Court Judge who had come before this Court alleging that her fundamental rights guaranteed under Articles 11, 12 (1), 13 (1)

(2) (3) and (4) violated by the recommendations of the Commission of Inquiry comprising of the 1st to 3rd Respondents.

As submitted by the Petitioner, His Lordship the Chief Justice had nominated her along with two High Court Judges as members of a Trial at Bar, concerning the Indictment forwarded by the Hon. Attorney General for the murder of a political figure Baratha Lakshman Premachandra and four others. The trial proceeded before the Trial at Bar and by the majority judgment of the Trial at Bar where the Petitioner and another judge concurring, five accused including the former Member of Parliament Duminda Silva were found guilty and were sentenced to death. The five accused who were found guilty by the Trial at Bar had appealed to the Supreme Court against the said Judgment and as the Petitioner was informed, the Supreme Court had dismissed the appeals preferred by the said accused and affirmed the conviction and sentence imposed by the Trial at Bar.

Even after the appeals preferred by the said accused were dismissed, and long after the retirement of the Petitioner from her service, somewhere around January 2020 several audio recordings were released and/or leaked to the electronic and social media where Mr. Ranjan Ramanayake, another political figure and an actor said to have involved in conversation with some officials including the Petitioner.

With regard to the said conversations the Petitioner has submitted in paragraph 47 of her affidavit the following;

47. In the aforesaid circumstances, I state that, to the best of my recollection and belief, I had no dealings, conversations or exchanges with Mr. Ranjan Ramanayake, other than those described hereinabove, and I specially reiterate that:
 - a) I had not personally met or associated with Mr. Ranjan Ramanayake prior to 13/05/2016, which too was on the said solitary occasion of the said wedding reception hosted by the then Minister of Justice, Dr. Wijedasa Rajapakshe to celebrate the marriage of his son. (On 13/05/2016)
 - b) Mr. Ranjan Ramanayake had contacted me via telephone on only one (01) occasion before the said Judgment in the said High Court Trial-at-Bar case bearing No. H.C. 7781/2015 was delivered;

- c) The said telephone call was very brief, in view of the fact that I terminated the said call prematurely, even though Mr. Ranjan Ramanayake did not attempt to influence me in respect of any matters relevant to the said Trial-at-Bar case.
- d) Except on the said date of 13/05/2016, I have neither met, nor associated with Mr. Ranjan Ramanayake in person;
- e) Any telephone conversations that the Petitioner had with Mr. Ranjan Ramanayake, in respect of being elevated to the Hon. Court of Appeal and the expression of her personal views, grievances and frustrations relating thereto, occurred (to best of the Petitioner's recollection) more towards the latter part of 2017 and/or from or around April to end 2017, which is over at least 07 months after the said Judgment in the said High Court Trial-at-Bar case bearing No. H.C. 7781/2015, was delivered by her;
- f) The Petitioner was totally unaware that Mr. Ranjan Ramanayake was recording the said telephone calls he made to the Petitioner.

In January 2020 the Petitioner was summoned before the Colombo Crime Division (CCD) and a statement was recorded on the 20th January 2020 with regard to the alleged telephone conversations said to have taken place between the Petitioner and Mr. Ranjan Ramanayake. The Petitioner was not informed of any criminal proceedings with regard to the statement recorded from her up to date.

The Petitioner was aware of the appointment of a Commission of Inquiry by His Excellency the President somewhere in January 2020 but was unaware of any proceedings taken place before the said Commission of Inquiry until a media statement issued by the President's media division on or around 8th December 2020 announcing that the said Commission had submitted its final report to His Excellency the President.

On 11th January 2021 the Petitioner got to know of some news items said to have published against her had browsed through relatively unknown news website calling itself "THE LEADER" which published a news report on 01st January 2022 titled "Relief for Duminda Silva- Allegations against Ranjan, Shani and Padmini- Presidential Commission makes recommendations.

The said news published in the said website contained portion of the alleged final report of the said Commission consist of five pages of the final report including the decision and recommendations made against the Petitioner in respect of a complaint said to have made by the 38th Respondent to the Commission of Inquiry.

Among the five pages of the final report published in the website, the inquiry said to have proceeded against the Petitioner was referred to as follows;

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පැමිණිලි අංක 1969/2020

පැමිණිලිකරු අරුමාදුර වින්සන්ට් ප්‍රේමලාල් සිල්වා

ලිපිනය අංක 40/ පෙරේරා මාවත, පැලවත්ත, බත්තරමුල්ල

පැමිණිලිකරු දේශපාලන පළිගැනීමකට ලක් කළ පහත නම් සඳහන් පුද්ගලයින්, වගදායක කරුවන් ලෙසට නම් කර ඇත.

එනම්,

1. රංජන් රාමනායක
2. පද්මිනී රණවක මහත්මිය
3. ශානි අබේසේකර

තීරණය

- 1 මෙම නඩුවේ ඉදිරිපත් වී ඇති සාක්ෂි පරීක්ෂාකාරී ලෙස විශ්ලේෂණය කිරීමෙන් අනතුරුව, පැමිණිලිකරු අරුමාදුර ලෝරන්ස් රෙමෙලෝ දුමින්ද සිල්වා සාවද්‍ය මානුෂ්‍ය සාකච්ඡා කිරීමේ වරදට හසු කරලීම සඳහා අසත්‍ය සාක්ෂි නිර්මාණය කරමින් ඔහුට මරණ දඬුවම සහ සිර දඩුවම් පැනවීමට කටයුතු කිරීමටත් එයට ආධාර සහ අනුබල දීමටත් ඉහත නම් සඳහන් පුද්ගලයින් ක්‍රියා කර ඇති බවට ප්‍රබල සාක්ෂි මගින් ඔප්පුකර ඇති බවට කොමිෂන් සභාව ඒකමතිකව තීරණය කර ඇත.
- 2 එබැවින්, එකී අරුමාදුර ලෝරන්ස් රෙමෙලෝ දුමින්ද සිල්වා මහතාට එරෙහිව කොළඹ මහාධිකරණයෙහි ගොනු කරන ලද HC 7781/15 දරණ නඩුවේ අධි වෝදනා පත්‍රයෙහි දැක්වෙන සියලුම වෝදනාවලින් එකී අරුමාදුර ලෝරන්ස් රෙමෙලෝ දුමින්ද සිල්වා නිදොස් කොට නිදහස් කළ යුතුව තිබූ බවට කොමිෂන් සභාව ඒකමතිකව තීරණය කර ඇත.

- 3 එසේ වුවත්, එකී අරුමාදුර ලෝරන්ස් රෙමෙලෝ දුමින්ද සිල්වාට එරෙහිව කොළඹ මහාධිකරණයේ ගොනු කරන ලද HC 8331/16 දරණ නඩුවේ අධි වෝදනා පත්‍රයේ සඳහන් වරදවලට එකී දුමින්ද සිල්වා වරදකරු කර මහාධිකරණය විසින් මරණ දඬුවම සහ සිර දඬුවම් නියම කර, එකී දඬුවම් ශ්‍රේෂ්ඨාධිකරණය විසින් අනුමත කරනු ලැබූ අවස්ථාවේ දී, මෙම කොමිෂන් සභාව ඉදිරියේ ඉදිරිපත් කෙරුණු නව සාක්ෂි මහාධිකරණයේ සහ ශ්‍රේෂ්ඨාධිකරණයේ සලකා බැලීම සඳහා ඉදිරිපත් නොකිරීමෙන් යුක්තිය අවගමනය වී ඇති හෙයින්, 11 වන විත්තිකාර අරුමාදුර ලෝරන්ස් රෙමෙලෝ දුමින්ද සිල්වා වරදකරු කිරීම පිළිබඳ නඩු තීන්දුව, පුළුල් විනිශ්චය මණ්ඩලයක් මගින් අධිකරණ සමාලෝචනයක් සඳහා (Judicial Review) නීතිපතිවරයා විසින් ශ්‍රේෂ්ඨාධිකරණය වෙත ඉල්ලීමක් කළ යුතු බවට කොමිෂන් සභාව ඒකමතිකව නිර්දේශ කර ඇත.

නිර්දේශ

- 1 මේ අනුව ඉහත සඳහන් වගඋත්තරකරුවන් විසින් දණ්ඩ නීති සංග්‍රහයේ 189 වගන්තිය සමඟ කියවිය යුතු 191 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු බොරු සාක්ෂි සැදීමේ වරද සිදුකර ඇති බැවින්ද,
- 2 එසේම, එකී වරද සිදුකිරීම සඳහා අනුබල දීමෙන් දණ්ඩ නීති සංග්‍රහයේ 100 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු අනුබල දීමේ වරද සිදු කර ඇති බැවින්ද,
- 3 එසේම, අල්ලස් පනතේ 70 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු දූෂණය නැමැති වරද සිදු කර ඇති බැවින්ද,

නිසි අධිකරණ බලය ඇති අධිකරණයේ ඉහත නම් සඳහන් වගඋත්තරකරුවන්ට එරෙහිව නඩු පැවරීම.

- 4 පොලිස් නිලධාරීන් විසින් නීති විරෝධී අයුරින් ත්‍රස්තවාදය වැළැක්වීමේ පනත උපයෝගී කරගනිමින් පැමිණිලිකරු රැඳවුම් නියෝග යටතේ අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවේ සිරකුඩුවල රඳවාගෙන සිටීමෙන් දණ්ඩ නීති සංග්‍රහයේ 335 වන වගන්තිය යටතේ දඬුවම් ලැබිය යුතු වරදක් සිදු කර ඇති බැවින් ඔවුනට එරෙහිව නඩු පැවරීම.
 - 5 වගඋත්තරකරුවන්ට එරෙහිව නිසි අධිකරණ බලය ඇති අධිකරණය ඉදිරියේ වෝදනා පත්‍ර ගොනු කිරීම සඳහා මෙම නඩුවට අදාළ සාක්ෂි සහ ලේඛන ගොනු නීතිපතිවරයා වෙත සහ අල්ලස් හෝ දූෂණ විමර්ශන කොමිෂන් සභාව වෙත යැවීමට කොමිෂන් සභාව නිර්දේශ කර සිටී.
 - 6 එසේම වැඩිදුරටත්, දේශපාලන පළි ගැනීමේ ක්‍රියාවලියක ගොදුරක් වූ පැමිණිලිකරු රක්ෂිත බන්ධනාගාරයේ තබා ගැනීම කරන කොටගෙන ඔහුට සිදුවූ හානි සඳහා පැමිණිලිකරුට යම් සහනයක් ලබාදීම යෝග්‍ය බවට කොමිෂන් සභාව නිර්දේශ කරයි.
- එසේම පොලිස් නිලධාරීන්ට එරෙහිව ඇත්ත බොරු කිරීම සහ බොරුව ඇත්ත කිරීම යන වැරද සහ පොලිස් සේවය අපකීර්තියට පත් කිරීමේ වරදට පොලිස් විනය රීති යටතේ වෝදනා පත්‍රයක් ගොනු කර පරීක්ෂණ පවත්වා දඬුවම් පැමිණවීම.

However all her efforts to obtain a copy of the recommendation made against her by the said Commission of Inquiry was failed but she had reasons to believe that, what was published in the

said website was in fact a copy of the recommendation of the Commission of Inquiry submitted to his Excellency the President.

As submitted by the Petitioner, the Commission of Inquiry had not afforded any opportunity for the Petitioner to defend herself before the said Commission of Inquiry before making any recommendation against herself even though the Commission of Inquiry is under a duty to act fairly and to adhere to the principles of natural justice.

SC FR 57/ 2021

The Petitioner Susith Maliya Bandara Weerasekara who is a retired Vice Admiral of Sri Lanka Navy had complained of the violation of his fundamental rights guaranteed under Article 12 (1) of the Constitution by making recommendations to the effect that,

- i. To institute legal proceedings and disciplinary actions.
- ii. To remove and withdraw the perks, privileges, titles, ranks, and designations entitled to the Petitioner based on his official rank.

by the Commission of Inquiry consisted of the 1st to 3rd Respondents.

As submitted by the Petitioner, he retired from the Sri Lanka Navy in the year 2012 at the age of 53 when he was not offered the Post of Commander of the Sri Lanka Navy since he was the most senior, most qualified, and the officer with most operational experiences at that time. However, in the year 2015 he submitted an appeal to a Political Victimization Committee appointed by the then President and the said Committee decided that the Petitioner had been subjected to Political Victimization by the previous government and was promoted to the rank of Vice Admiral in October 2015 backdating to August 2014.

After the change of the Government in the year 2019 His Excellency the President appointed a Commission of Inquiry presided by the 1st Respondent to look into the allegations of Political Victimization during the previous regime, but the Petitioner was neither informed of a complaint received against him by the said Commission of Inquiry nor was given any communication of transpiring his name during an inquiry proceeded before the said Commission.

As revealed before this Court, the Commission of Inquiry appointed by His Excellency had submitted its final report to His Excellency the President somewhere around 8th December 2020

but the said report did not carry any recommendation against the Petitioner. However as submitted by the Petitioner before this Court, subsequent to the handing over of the final report of the Commission of Inquiry, an undated document was circulated as the Addendum to the final report.

The Petitioner was able to obtain a copy of the said Addendum which is produced marked P-7 (ii) by him before this Court.

In the said Addendum, reasons for the publication of the Addendum were explained in the introduction to the Addendum as follows;

“අවසන් වාර්තාව පරිගණකය ආධාරයෙන් මුද්‍රනය කිරීමේදී අක්ෂර දෝෂ සිදුවී ඇති බවට පෙනී ගොස් ඇත. දේශීය අක්ෂර වර්ග ආශ්‍රයෙන් පරිගණකයක් මගින් සිදුකරන මෙවැනි මුද්‍රිත කටයුතු වලදී පරිගණකයේ සිදුවන තාක්ෂණික දෝෂ හේතුවෙන් මෙම අක්ෂර දෝෂ සහ මගහැරීම් සිදුව ඇත.

එබැවින් මෙකී මුද්‍රණ දෝෂ, මගහැරීම් නිවැරදි කිරීම සඳහා මෙම ඌණ පූර්ණ එළිදැක්වීමට තීරණය කර ඇත.”

From the above explanation provided by the Commission of Inquiry it is clear that the undated Addendum was not available at the time the final report was prepared and it is a subsequent publication by the Commission of Inquiry. It is also observed that the reason for the publication of the Addendum was to rectify printing mistakes and omissions.

However as found in the addendum the Commission of Inquiry has recommended to remove four names from the Respondents list in the complaint Nos. 01-05 made by Admiral of the Fleet Wasantha J. Karannagoda and re-arrange the list of 7 Respondents and thereafter add five more persons as Respondents Nos. 8-12 which including the Petitioners in SC FR 57/2021 and SC FR 125/2021 namely. Retired Vice Admiral S.M.B. Weerasekera and Retired Admiral T.J.L Sinnaihan respectively.

It was also recommended in the Addendum, to include as the 6th recommendation in the main recommendation, several findings against the 5 persons added by the Addendum including the following recommendation against the Petitioner,

විශ්‍රාමික වයිස් අද්මිරාල් සුසිත් බණ්ඩාර වීරසේකර තම පෞද්ගලික වාසි උදෙසා අවස්ථා 2කදී පරස්පර විරෝධී හා අසත්‍ය ප්‍රකාශ ලබා දී ඇති බැවින් ද,

.....

අසත්‍ය හා පරස්පර විරෝධී ප්‍රකාශ ලබා දෙමින් 2015 ජනවාරි 08 වන දින සිදු වූ රාජ්‍ය මාරු අවස්ථාවේ දී වරදාන හා වරප්‍රසාද ලබා ගැනීම වෙනුවෙන් රජයේ ඉහළ නිලධාරීන්ට මෙන්ම ආරක්‍ෂක හමුදා ප්‍රධානීන්ටද විරුද්ධ අසත්‍ය හා පරස්පර විරෝධී ප්‍රකාශ ලබා දීම මගින් නිලධාරීන්ට විරුද්ධව විනය ක්‍රියා මාර්ග සහ නීතිමය ක්‍රියා මාර්ග ගැනීමටත් ඔවුනට හිමිව ඇති වරදාන හා වරප්‍රසාද නම්බුනාම සහ අනෙකුත් නිලනාමයන් ඉවත් කිරීමටත් කොමිෂන්සභාව නිර්දේශ කර සිටී.

as submitted by the Petitioner when making the said recommendation to institute legal and disciplinary actions against the Petitioner and to remove and withdraw the perks, privileges, titles, rank, and designation entitled to the Petitioner, the Commission of Inquiry had neither notified the Petitioner of the allegations against him nor afforded an opportunity to explain his position before the Commission of Inquiry. On behalf of the Petitioner, it was further submitted that the Petitioner being a Retired Military Officer is duty bound to assist in any investigation, had made a statement to the Criminal Investigation Department with regard to the investigation into the disappearance of some youths but had, denied creating contradictions causing damage to carry out justice.

FRA/58/2021

The Petitioner, Ekanayake Mudiyanseelage Somisara Bandara Ekanayake is a Retired Officer of the Sri Lanka Administrative Service. He was working as the Secretary to the Prime Minister, at the time he resigned from his post with effect from 21st November 2019.

The Petitioner states that on 23rd January 2021, Dinamina, Sinhala daily newspaper published by the Associated Newspapers of Ceylon Co Ltd carried a news item with the photograph of the Petitioner with the headline titled “අගමැති කාර්යාලය කොට් 3කට වැඩියෙන් දූෂණ මර්දනයට වියදම් කරලා හිටපු ලේකම් සමන්ට එරෙහිව නීති පියවර ගන්න”

As pointed out by the Petitioner, the said news item alleged that the Presidential Commission of Inquiry which was appointed by His Excellency the President to inquire into alleged incidents of Political Victimization, upon an inquiry on a complainant lodged by Wijedasa Rajapaksha MP on the abuse of public property by the Anti-Corruption Committee and the Anti-Corruption Secretariat, recommended that action to be taken against the Petitioner for committing criminal breach of trust by authorizing to spend more than 33.7 million for the expenses of the office of Anti-Corruption Secretariat from the vote of the Office of the Prime Minister.

It was further stated in the said news item that,

“යහපාලන ආණ්ඩුව අග්‍රාමාත්‍ය කාර්යාලයේ වැය ශීර්ෂයෙන් රුපියල් කෝටි 3.37 ඉක්මවූ මුදලක් දූෂණ මර්දන කමිටු කාර්යාලයේ වියදම් සඳහා ලබා දීම මඟින් සාපරාධී විශ්වාසය කඩකිරීම සම්බන්ධයෙන් හිටපු අග්‍රාමාත්‍ය ලේකම් සමන් ඒකනායක මහතාට එරෙහිව ක්‍රියාමාර්ග ගතයුතු බව දේශපාලන පළිගැනීම් පිළිබඳ සොයා බැලීමට පත් කළ ජනාධිපති කොමිෂන් සභාව නිර්දේශ කර තිබේ. මෙමඟින් පොදු දේපල පනත යටතේ 05 වැනි වගන්තිය සමඟ කියවිය යුතු දණ්ඩනීති සංග්‍රහයේ 389 වැනි වගන්තිය යටතේ දඩුවම් ලැබිය යුතු වරදක් සමන් ඒකනායක මහතා කර ඇති බවත් එම කොමිෂමේ නිර්දේශවල සඳහන් කර ඇත. දූෂණ විරෝධී කමිටුව සහ එහි ලේකම් කාර්යාලය විසින් කරන ලද පොදු දේපල අවහා විතාව සම්බන්ධයෙන් පාර්ලිමේන්තු මන්ත්‍රී විජයදාස රාජපක්ෂ මහතා විසින් කරනලද පැමිණිල්ල විභාග කිරීමෙන් පසු ජනාධිපති කොමිෂම මෙසේ නිර්දේශ කර ඇත. දේශපාලන පළිගැනීම් පිළිබඳ සොයා බැලීමට පත්කරන ලද ජනාධිපති කොමිෂමේ අවසන් වාර්තාව ජනාධිපති ගෝඨාභය රාජපක්ෂ මහතා පසුගිය 18 වැනිදා කැබිනට් මණ්ඩලයට ඉදිරිපත් කළ අතර එහි තීරණ හා නිර්දේශ ක්‍රියාත්මක කිරීමට කැබිනට් අනුමැතිය හිමි විය. දූෂණ විරෝධී කමිටුව නියෝජනය කළ හිටපු අග්‍රාමාත්‍ය රනිල් වික්‍රමසිංහ මහතා ඇතුළු සාමාජිකයින් 12 දෙනෙකුද දූෂණ මර්ධන කමිටු ලේකම් කාර්යාලයේ 11 දෙනෙකු ඇතුළුව 22 දෙනෙකුට එරෙහිව නීතිමය ක්‍රියාමාර්ග ගතයුතු බව කොමිෂම වැඩිදුරටත් නිර්දේශ කර ඇත.”

The Petitioner further states that on 24th January 2021, the Sunday Times newspaper carried a news item titled ‘Call for a special presidential com: Col on political victimization.

The said news item carried the purported findings of the said Commission of Inquiry implicating several individuals including the Petitioner,

- a) For violation of the Constitution
- b) For committing the Breach of trust
- c) For committing offenses under the Public Property Act

The Petitioner had made several attempts to obtain an official copy of the said final report of the Commission of Inquiry, but he was informed that no such report has yet been published for the consumption of the general public. Petitioner contends that despite him being denied of an official version of the said final report, a document purporting to be the final report of the said Commission of Inquiry was in public circulation.

With regard to the allegation of spending 33.7 million for the Anti-Corruption Committee Secretariat, the Petitioner states that His Excellency President Maithripala Sirisena who was elected

with the mandate to fight against corruption had submitted a Cabinet Memorandum bearing no 15/0005/602/002 dated 21/01/2015 titled 'Appointment of unit to investigate corruption'. And the Cabinet of Ministers had decided to establish an Anti-Corruption Commission to investigate the large-scale fraudulent activities.

The Petitioner was directed to take action by the Secretary to the Cabinet of Ministers by letter dated 07th March 2015 bearing No 5/0168/602/002-II as approved by the Cabinet of Ministers for the recruitment of staff and payments to be made to them which was implemented by the Petitioner.

The Petitioner whilst categorically denying the allegations against him relating to misappropriation of funds, contends that he has acted within the legally sanctioned framework and had followed the established procedure.

The Petitioner further states that he was neither summoned as a Witness nor a Respondent by the said Presidential Commission of Inquiry either to record statements or to give evidence and he was never even given an opportunity to defend himself or to present his version of the role he played in the establishment and functioning of the Anti-Corruption Committee Secretariat, which the Petitioner was accused of misusing public property.

Hence the Petitioner submits that the said inquiry conducted by the Presidential Commission of Inquiry to inquire into alleged incidents of Political Victimization has offended rules of natural justice by depriving due process rights of the petitioner in conducting the said inquiry and submitting the purported report.

FRA/74/2021

The Petitioner, Duganna Walawwe Ravindra Bandara Senevirathne was serving as the head of the Criminal Investigation Department at the time he retired in 2019. The Petitioner states that two complaints bearing No PCI/PV/01/COM/1-2020 & 5- 2020 PCI/PV/01 COM. 2/2020 have been lodged by 32nd and 33rd Respondents who were serving as the Commander of the Sri Lanka Navy and the Navy Spokes Person during the period of civil war respectively stating that they were subjected to Political Victimization during the period commencing 8th January 2015 and ending 16th November 2019 before Presidential Commission of Inquiry to inquire into alleged incidents of

Political Victimization of public officers, employees of state corporations, members of armed forces and police service against the Petitioner which resulted in an inquiry to be initiated by the said Commission of Inquiry against the Petitioner. However, until the Petitioner received a notice directing him to appear before the Commission with regard to a complaint said to have made by the 33rd Respondents, he was unaware of such complaint. As learnt by him the complaints made by the said Respondents connect to the investigations and legal proceedings carried out by the Criminal Investigation Department and the Attorney Generals Department in respect of the alleged incident of the disappearance of 11 young men during the period of Civil War in 2008 and 2009. The Petitioner states that he had assumed duties as the Senior Deputy Inspector General of Police in Charge of the Criminal Investigation Department in 2012 when the investigations against the said Respondents had already commenced. The Petitioner further alleges that the 32nd and 33rd Respondents were also named as suspects in the Magistrate Court of Colombo case No B/732/09 and as accused in the High Court of Colombo Special Trial at Bar case No HC (TAB) 1448/2020.

The Petitioner states that under item no 9.1 in volume 1 of the final report, the Petitioner has been named as the 10th Respondent in the complaint made by the 32nd Respondent, bearing complaint no PCI/PV/01/COM./1-2020&5-2020. As per the complaint, allegations that had been considered in the purported report was that the issuance of an order by the Petitioner to Inspector of Police Mr. Nishantha Silva of the Criminal Investigation Department to record a statement from the 32nd Respondent.

However, the Petitioner denying the accusations against him, maintains the position that the said order was made by him within the parameters of the law, as well as in accordance with the departmental orders and as a part of his duty.

The Petitioner further states that it was recorded at page 69-70 of the purported report as follows;

“2016 සැප්තැම්බර් 30 වන දින දී පමණ පොලිස් පරීක්ෂක නිශාන්ත ද සිල්වා දුරකථනයෙන් සාක්ෂිකරු අමතමින් 2009 වසරේ දී සාක්ෂිකරු විසින් මෙම සිද්ධියට අදාලව යවන ලද ලිපියක් සම්බන්ධයෙන් ප්‍රකාශයක් ලබා ගැනීමට අවශ්‍ය බවට දැනුම් දී ඇත. එවිට, තමාට ජනාධිපතිවරයාගේ අවසර නොමැතිව පැමිණීමට නොහැකි බව පොලිස් පරීක්ෂක නිශාන්ත ද සිල්වා මහතාට පවසා ඇත. ඉන් දින දෙකකට පසු පොලිස් පරීක්ෂක නිශාන්ත ද සිල්වා, ජේෂ්ඨ පොලිස් අධිකාරී රවී සෙනෙවිරත්න විසින් අත්සන් කරන ලද ලිපියක් රැගෙන, සාක්ෂිකරුගේ නිවසට පැමිණ, ප්‍රකාශයක් ලබා ගැනීමට අවශ්‍ය බවත් ඒ පිළිබඳව ජනාධිපතිතුමා දැනුවත් කර ඇති බවත්, ප්‍රකාශ කර ඇත. ඒ අනුව ඔක්තෝම්බර් මස 05 වන දින ප්‍රකාශයක් ලබා දීමට අපරාධ

පරීක්ෂණ දෙපාර්තමේන්තුවට පැමිණි අවස්ථාවේ දී සාක්ෂිකරු විසින් යවන ලද ලිපියක සිංහල පරිවර්ථනයක් ඔහුගේ ප්‍රකාශ ලෙසට සටහන් කරගෙන ඇත.

The Petitioner states that at the conclusion of the said investigation in respect of the complaint bearing no PCI/PV/01/COM./1-2020&5-2020, the Final Report provided the following recommendations;

“නිර්දේශ

1. මේ අනුව ඉහත සඳහන් වගඋත්තරකරුවන් විසින් දණ්ඩ නීති සංග්‍රහයේ 189 වගන්තිය සමඟ කියවිය යුතු 191 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු බොරු සාක්ෂි සැදීමේ වරද සිදුකර ඇති බැවින්ද,
2. එසේම, එකී වරද සිදුකිරීම සඳහා අනුබල දීමෙන් දණ්ඩ නීති සංග්‍රහයේ 100 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු අනුබල දීමේ වරද සිදු කර ඇති බැවින්ද,
3. එසේම, අල්ලස් පනතේ 70 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු දූෂණය නැමැති වරද සිදු කර ඇති බැවින්ද,
නිසි අධිකරණ බලය ඇති අධිකරණයේ ඉහත නම් සඳහන් වගඋත්තරකරුවන්ට එරෙහිව නඩු පැවරීම.
4. ඉහත නම් සඳහන් වගඋත්තරකරුවන්ට එරෙහිව නිසි අධිකරණ බලය ඇති අධිකරණය ඉදිරියේ චෝදනා පත්‍ර ගොනු කිරීම සඳහා මෙම නඩුවට අදාළ සාක්ෂි සහ ලේඛන ගොනු නීතිපතිවරයා වෙත සහ අල්ලස් හෝ දූෂණ විමර්ශන කොමිෂන් සභාව වෙත යැවීමට කොමිෂන් සභාව නිර්දේශ කර සිටී.
5. එසේම පොලිස් නිලධාරීන්ට එරෙහිව ඇත්ත බොරු කිරීම සහ බොරුව ඇත්ත කිරීම යන වරද සහ පොලිස් සේවය අපකීර්තියට පත් කිරීමේ වරදට පොලිස් විනය රීති යටතේ චෝදනා පත්‍රයක් ගොනු කර පරීක්ෂණ පවත්වා දඬුවම් පැමිණවීම.

The Petitioner contends that although the Commission of Inquiry made the aforesaid recommendations upon adverse findings against the Petitioner after an inquiry, he was neither served with the summons to appear before the said Presidential Commission of Inquiry to inquire into alleged incidents of Political Victimization with regard to the complaint made by the 32nd Respondent nor he had been served with the purported complaint or the purported allegation.

The Petitioner further states that under item no 9.1 in volume 1 of the final report, the Petitioner has been named as the 10th Respondent in the complaint made by the 33rd Respondent, bearing complaint no PCI/PV/01/COM./2-2020.

At page 106 of the purported final report provides the following recommendations;

“නිර්දේශ

- 1 මේ අනුව ඉහත සඳහන් වගඋත්තරකරුවන් විසින් දණ්ඩ නීති සංග්‍රහයේ 189 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු බොරු සාක්ෂි සැදීමේ වරද සිදුකර ඇත.
- 2 එසේම, අල්ලස් පනතේ දඬුවම් ලැබිය යුතු දූෂණය නැමැති වරද සිදු කර ඇත.
- 3 එසේම, එකී වරද සිදුකිරීම සඳහා අනුබල දීමෙන් දණ්ඩ නීති සංග්‍රහයේ 100 වගන්තිය යටතේ දඬුවම් ලැබිය යුතු අනුබල දීමේ වරද සිදු කර ඇත.
- 4 එබැවින් ඉහත නම් සඳහන් වගඋත්තරකරුවන්ට එරෙහිව නිසි අධිකරණ බලය ඇති අධිකරණය ඉදිරියේ චෝදනා පත්‍ර ගොනු කිරීම සඳහා මෙම නඩුවට අදාළ සාක්ෂි සහ ලේඛන ගොනු නීතිපතිවරයා වෙත සහ අල්ලස් හෝ දූෂණ විමර්ශන කොමිෂන් සභාව වෙත යැවීමට කොමිෂන් සභාව නිර්දේශ කර සිටී.
- 5 එසේම වැඩිදුරටත්, දේශපාලන පළි ගැනීමේ ක්‍රියාවලියක ගොදුරක් වූ පැමිණිලිකරු රක්ෂිත බන්ධනාගාරයේ තබා ගැනීම කරන කොටගෙන ඔහුට සිදුවූ බරපතල හානි පූරනය කළ යුතු බවට කොමිෂන් සභාව ඒකමතිකව තීරණය කරයි. ඒ අනුව රක්ෂිත බන්ධනාගාරගත කිරීමේ ප්‍රථිපලයක් වශයෙන් පැමිණිලිකරුට අහිමි වූ ඔහුගේ රැකියාවේ සියලුම උසස්වීම් වරප්‍රසාද විදේශ පුහුණුවීම් හිඟ වැටුප් සියල්ලම ඔහුට ලබා දීමත් ඔහු එවැනි රක්ෂිත බන්ධනාගාර ගත කිරීමට පත් නොවූයේ නම් ඔහුට ඔහුගේ රැකියාවේ හිමිවන ස්ථානයට ඔහු පත් කිරීමත් මගින් පැමිණිලිකරුට යම් සහනයක් ලබා ගිය හැකි බවට කොමිෂන් සභාව ඒකමතිකව තීරණය කරන අතරම එම සහනයන් ලබා දීම කොමිෂන් සභාව නිර්දේශ කරයි.

The Petitioner states that although he had received the summons and notice informing him to appear before the commission with regard to the said complaint lodged by 33rd Respondent, the Petitioner was not served with him the purported complaint or the purported allegations against him.

The Petitioner states that on 19th August 2020, he appeared before the Commission of Inquiry through an Attorney at Law but during the said inquiry he was only questioned about a meeting to which the Petitioner participated in his official capacity as the head of the CID upon an invitation by then Secretary to Ministry of Law and Order, Public Administration and Disaster Management Mr. Padmasiri Jayamanna to discuss complications and impediments faced by CID officers in relation to

the investigation of the disappearance of 11 young men during the civil war but not a single question was directed to him with regard to any Political Victimization of 33rd Respondent.

The Petitioner further alleges that he was summoned to the Commission only after the conclusion of the evidence of the 33rd Respondent and therefore he was not aware of the evidence placed against him by the 33rd Respondent.

On these grounds petitioner contends that the 1st-3rd Respondents have acted in a prejudicial manner towards him in conducting the inquiry and making the Petitioner a Respondent in a pre-determined manner in the said proceedings.

Hence Petitioner submits that the investigations carried out by the Presidential Commission of Inquiry are in violation of principles of natural justice.

FRA/80/2021

The Petitioner, Kurukulasooriya Mudiyanseelage Ananda Wijepala states that after the Presidential Election - 2019 the Prime Minister had submitted several cabinet papers to give effect to the undertakings given during the election to fight against corruption. The Cabinet of Ministers after considering two Cabinet Memorandums Nos 15/0005/602/002 dated 21.01.2015 and 15.003/615/002 dated 21.01.2015 the Cabinet of Ministers had decided,

- i. To establish an Anti-Corruption Committee to investigate the large scale corrupt and fraudulent activities
- ii. To appoint sub- committees and a Rapid Response Committee and
- iii. To grant approval in order to assign responsibilities to the respective persons therein.

It was further decided by the Cabinet of Ministers to give effect to the Cabinet Memorandum No 15/0066/602/002-1 and establish the Financial Crimes Investigation Unit under the direct supervision of the Inspector General of Police and to establish a Secretariat for the Anti-Corruption Committee established by the previous cabinet decision.

The Petitioner had received a letter of appointment dated 13.02.2015 referring to the cabinet decision no CP 15/0066/602/002 I appointing him as the director of the Secretariat of the Anti-

Corruption Committee as a temporary attachment. This letter was directed to the petitioner by the office of the Prime Minister.

With the establishment of a Commission of Inquiry to inquire and obtain information pertaining to the alleged incidents of Political Victimization by His Excellency the President Gotabaya Rajapaksha, Petitioner received the summons to submit evidence before the said Presidential Commission of Inquiry on several complaints and the particulars of complaints are as follows;

	Complainant No.	Name of Complainant	Date
1	PCI/PV/01/Com./205/2020	Dr. Nihal Jayathilake	09.09.2020
2	PCI/ PV/Com./88/2020	D.S. Jayaweera	11.06.2020
3	PCI/PV/01/Com./289/2020	R.A.A.K. Ranawaka	11.09.2020
	PCI/PV/01/Com./290/2020		
4	PCI/PV/01/Com./414/2020	Piyadasa Kudubalage	01.10.2020
5	PCI/PV/01/Com./319/2020	W. Wimalasena	05.10.2020
6	PCI/PV/01/Com./432/2020	Dr. Nalakaa Harshajeewa Godahewa	06.10.2020
7	PCI/PV/01/Com./316/2020	R.G.Bandula Thilakasiri	13.10.2020
8	PCI/PV/01/Com./1941/2020	Athuluwage Chaminda Pushpakumara	20.10.2020
9	PCI/PV/01/Com./352/2020	Neel Bandara Hapuhinna	24.09.2020

According to the Petitioner he appeared before the said Presidential Commission of Inquiry with the summons received under complaint No PCI/PV/01/Com./205/2020, defended by an Attorney at Law, and gave evidence. The Petitioner contends that the nature in which the quarries were put forward by the chairman of the Presidential Commission of Inquiry was interruptive, disturbing, and traumatizing throughout the course of the proceedings.

He further submitted that the nature of the proceedings of the Commission of Inquiry was prima facie prejudicial and in his opinion the said investigations have been conducted on a pre-determined and bias perception, but the Petitioner was not given an opportunity to listen to the complaints made against him by the complainants. The Petitioner contends that it is only through media reports that he became aware of the fact that the said Commission had completed the mandated inquiry and handed over their report to His Excellency the President on 18.01.2021.

The Petitioner states that he had made several attempts to obtain an official copy of the said final report but was informed that no such report has yet been published for consumption of the general public. The Petitioner states that although the Petitioner had been unable to receive an official version of the final report, a document purporting to be the final report of the said commission of inquiry was in public circulation at the time of filing the instant application. However, the Petitioner contends that a soft copy of the final Report was later made available to him.

The Petitioner states that on perusal of the said final report, the Petitioner came to be aware that apart from the 9 inquiries to which the Petitioner was summoned, the name of the Petitioner was included in the findings and recommendations of several other inquiries conducted by the commission of inquiry without Petitioner being notified or heard.

As further submitted by the Petitioner that the said Commission of Inquiry has purportedly named the Petitioner as having violated the Constitution along with Mangala Samaraweera, Patali Champika Ranawaka, Rauff Hakeem, Sarath Fonseka, R. Sampanthan, M.A. Sumanthiran, Anura Kumara Dissanayake, J.C. Weliamuna, Malik Samarawickrama, Dr. Jayampathy Wickramaratne, and that the said Commission of Inquiry has purportedly found that in addition to violations of the Constitution, the above mentioned individuals including the Petitioner had also misused public property through the Anti- Corruption Committee and the Anti-Corruption Committee Secretariat.

The Petitioner contends that he has not been given any opportunity to be present before the Commission of Inquiry in trying several complaints against him for which he was not even notified, and therefore has not been able to know the complaints against him, upon which the said Commission of Inquiry subsequently determined the Petitioner to be guilty and made such recommendations against the Petitioner.

Hence the Petitioner submits that by the conduct and the actions of the 1st- 3rd Respondents who were members of the said Commission of Inquiry, the Petitioner has been denied of

- a. notice of allegations against the Petitioner
- b. A fair hearing
- c. A fair and reasonable opportunity to present his defense

d. A hearing before an impartial tribunal and

e. A reasonable consideration of the defense of the Petitioner

Which are central for upholding basic principles of natural justice.

FRA 115/2021

The Petitioner of the instant application, Upul Jayasuriya PC former President of the Bar Association of Sri Lanka had alleged the violation of his fundamental rights by the Presidential Commission of Inquiry comprising of the 1st to 3rd Respondents making vexatious allegation and recommendation against the Petitioner.

The basis for the inquiry initiated by the Presidential Commission of Inquiry against the Petitioner was two complaints received by the said Commission; one was made by Nissanka Senadhipathy who was indicted before the Trial-at-Bar in case number TAB/751/2019 and the other was made by Jaliya Wickramasuriya who was produced before Fort Magistrates Court and remanded based on B-reports submitted by officers of Financial Crimes Investigations Unit.

The Complainant Nissanka Senadhipathy has based his complaint on a press interview given by former Solicitor General Mr. Suhada Gamlath PC where he had stated that Petitioner at the time when he was the President of the Bar Association of Sri Lanka had come to see him every day to his office to inquire about the case against suspects in the Avant Guard case. However, denying these allegations, the Petitioner contends that these discussions were ordinary as they were friends and there was no pressure brought on former Solicitor General Mr. Suhada Gamlath PC by the Petitioner.

When looking at the complaint made by Jaliya Wickramasuriya on the ground that the Petitioner had given false or fabricated evidence, the Petitioner states that he is unable to recollect that he has made any complaint with this inquiry or initiated any prosecution or made any complaint or send any letter to FCID in connection with the said complainant. The Petitioner further asserts that it is not an offense to initiate any investigation into a matter of public concern particularly a matter of this serious nature where the allegations were relating to defrauding of US \$ 325,000 by a person representing the country as a diplomat in the United States. The Petitioner further points

out that the complainant Jaliya Wickramasuriya had previously pleaded guilty to the charges levied against him in the Court of United States of America on the same allegation refuting the allegation of fabrication of evidence.

The Petitioner contends that he became aware of an inquiry by the said Commission through newspapers and subsequently he became aware that summons had been sent through the Bar Association of Sri Lanka. The Petitioner further submits that he had only received the summons with regard to the complaint made by Nissanka Senadhipathy but not with regard to the purported complaint made by Jaliya Wickramasuriya. Therefore, Petitioner contends that he was unaware of the said complaint made by Jaliya Wickramasuriya.

The Petitioner states that he attended the said inquiry on 23.06.2020 and raised preliminary objections to the jurisdiction and the *locus standi* of the complainants. Nonetheless the 1st-3rd Respondent proceeded to hear the matter on the ground that an order has already been issued on that matter though such an order has not been made available to the Petitioner.

Despite the objections raised by the Petitioner the commission proceeded to recommend inter alia that,

- I. the Petitioner should be punished in accordance with Section 189 read with Section 191 of the Penal Code
- II. the Petitioner had committed the offense of abetting as per Section 100 of the Penal Code
- III. the Petitioner had committed the offense under Section 70 of the Bribery Act
- IV. Action should be instituted against the Petitioner under Section 335 of the Penal Code

The Petitioner alleges that though he has made an endeavor to obtain a copy of the impugned report by writing to the three Commissioners under registered cover seeking a copy of the report, but he has not received any response.

For the foregoing reasons, the Petitioner submits that the entire procedure adopted by the said Commission of Inquiry and the purported recommendations made are grossly indefensible, unreasonable capricious, and violates principles of legitimate expectation and natural justice.

FRA 125/2021

The Petitioner, Travis Jeremy Liyanduru Sinnaiah was the 21st Commander of the Sri Lanka Navy and retired from his tenure on 27th October 2017. The Petitioner states that the Commission of Inquiry to inquire and obtain information pertaining to the alleged incidents of Political Victimization appointed by His Excellency the President Gotabaya Rajapaksha, which compiled a final report dated 24th November 2020 did not contain any decision or recommendation to be implemented against the Petitioner.

The Petitioner contends that subsequent to the Commission of Inquiry compiling the impugned final report, the Commission further compiled an undated Addendum with the intention of rectifying certain clerical and typographical errors in the final report which contained a brand new recommendations to be implemented against the Petitioner together with several other Petitioners which was also discussed in detail under SC/FR/57/2021.

The basis for the recommendations made against the Petitioner was the complaint made by the 5th Respondent to the said Commission of Inquiry that the Petitioner had given fabricated evidence against the 5th Respondent and as a result CID has falsely instituted criminal proceedings against him at the Magistrate Court of Colombo under the B report bearing No B 732/09 as well as the Hon. Attorney General has indicted him at the Special Trial at Bar held in Colombo under case No HC/1448/2020.

The Petitioner states that the 5th Respondent has made the said complaint to the said Commission of Inquiry in relation to the allegation against him (5th Respondent) in respect of an unlawful abduction of 11 individuals, illegally detaining them at Trincomalee Navy Base, demanding ransom for their release and subsequently murdering the said individuals.

Denying these allegations, Petitioner states that CID questioned the Petitioner about the disappearance of 11 individuals, and Petitioner merely assisted CID by providing them with the information he possessed which he was duty bound to do.

Thus Petitioner submits that despite the impugned Addendum naming Petitioner as Respondent in the complaint made by the 5th Respondent, the Petitioner has not been served with summons to appear before said Commission of Inquiry and thereby denying the Petitioner a fair hearing, a

hearing before fair and impartial tribunal as well as fair and reasonable opportunity to present a defense.

FRA 126/2021

According to the Petitioner, Kamalgoda Mudalige Sandya Priyangani Eknaligoda, complaints made by 32nd to 43rd Respondents arose from their involvement as accused in cases no B 7417/2010 Magistrate Court of Homagama, HC (TAB) 725/2019 High Court of Colombo and HC 209/2019 at the High Court of Homagama.

The Petitioner states that her husband who was a well-known journalist was abducted and murdered two days before the presidential election in 2010. The Petitioner states that she made a complaint to the Human Rights Commission and further filed a habeas corpus application before the Court of Appeal which was referred to the Magistrate Court of Homagama to hold an inquiry. Accordingly, a case was instituted bearing No AR 3170/2011 in the Magistrate Court of Homagama. It was the position of the Petitioner that, the investigation into the abduction and the death of her husband continued during the period from 2010- 2015 but there wasn't any progress regarding the complaints and investigations, and the investigators have failed to arrest and/ or produced any perpetrators for the abduction. The Petitioner states that due to the above reasons, in 2015 the CID was directed to re-investigate the abduction and/or kidnapping of Prageeth Eknaligoda. The Petitioner states that from the investigation it transpired that the 32nd and 40th Respondents as the perpetrators for the abduction and kidnapping of Prageeth Eknaligoda, thereby accordingly they were named accused and produced to Magistrate Court of Homagama under the case bearing No B7417/2010.

The Petitioner states that, subsequent to the inquiry held at Magistrate Court of Homagama, the 44th Respondent decided to indict the 32nd to 40th Respondents, before a Trial at Bar in the case bearing no HC(TAB)725/2019 for the abduction and the murder of Prageeth Eknaligoda.

Whilst the aforesaid actions against 32nd to 43rd Respondents were pending before Trial at Bar and High Court of Homagama, the 32nd to 43rd Respondents has made complaints to the Commission bearing Nos PCI/PV/01/Com.24/2020, 200/2020, 198/2020, 196/2020, 194/2020, 197/2020, 199/2020, 195/2020, 104/2020, 239/2020, 31/2020 and 231/2020 respectively.

The Petitioner, alleges that complaints have been made by 32nd and 43rd Respondents to the Commission of Inquiry stating that,

- i. The CID has wrongfully accused the said Respondent regarding the abduction and/ or kidnapping and the murder of Prageeth Ekmaligoda
- ii. The CID has fabricated false evidence against the Respondent and as a result, the CID has falsely instituted criminal proceedings against them
- iii. The CID has wrongfully intimidated and forced the witnesses to give false evidence against the Respondents, implicating them for the offense of abduction and/or kidnapping and the murder of Prageeth Ekmaligoda
- iv. They were named as accused wrongfully in the case bearing B 7417/2010 and thereby the Hon. Attorney General has wrongfully indicted the 32nd and 43rd Respondents.

The Petitioner further states that it was revealed to the Petitioner that the Commission of Inquiry comprising 1st-3rd Respondents has commenced inquiries pertaining to the aforesaid investigation based on the complaints made by the 32nd to 43rd Respondents. However, Petitioner states that she being the aggrieved party to the said complaints, she never received the summons or was never notified officially regarding the said inquiries.

The Petitioner states that after conducting inquiries, the said Commission of Inquiry compiled a final report dated 24th November 2020 comprising the decisions of 1st -3rd Respondents, whereby the impugned final report does not contain decisions and recommendations to be implemented against the petitioner with regard to the complaints made by 32nd to the 43rd Respondents.

However, after the Commission of Inquiry compiling the impugned final report, the Commission further compiled an undated Addendum which contained brand new recommendations to be implemented.

The Petitioner further states that upon perusing the impugned final report it was made aware that the 1st to 3rd Respondents had inter alia decided following after conducting inquiries for the complaints made by the 32nd to 43rd Respondents;

- I. The Respondents named in the complaint had fabricated and made false evidence against the complainants (32nd -43rd Respondents) to implicate and frame them for the abduction and/or kidnapping and the murder of Prageeth Ekmaligoda.

- II. The complaints (32nd -43rd Respondents) should be acquitted and discharged from all the charges levied against them in the Homagama Magistrate Court case bearing no B 7417/2010
- III. The indictment served on 1st-9th Complainants (32nd -43rd Respondents) in the Trial at Bar case bearing No HC(TAB) 725/2019, should be withdrawn by the Attorney General, and the accused persons should be acquitted and discharge from all the counts against them
- IV. The indictment served on the 32nd to 40th Respondent in the Homagama High Court case bearing No HC 209/2019, should be withdrawn by the Attorney General and thereby should acquit and discharge them from all the counts against them.

The Petitioner further contends that she has been unable to obtain an official version of the impugned final report and the impugned Addendum, however a document purported to be the impugned final report and the impugned Addendum of the Commission of Inquiry was in public circulation.

The Petitioner submits that in the backdrop of transparent and prolonged inquiries which re-affirmed the procedural fairness in the institution of criminal proceedings against 32nd to 43rd Respondents, and therefore, the Petitioner contends that the subsequent recommendations of the 1st -3rd Respondents made after conducting inquiries pertaining to complaints lodged by 32nd to 43rd Respondents are arrived solely relying on the false and unreliable facts presented by the 32nd to 43rd Respondents before the Commission of Inquiry without looking into the evidence and other investigations which are vital to the case.

For the foregoing reasons the Petitioner submits that by the actions of the Commission of Inquiry consisting of the 1st – 3rd Respondents, the Petitioner has been inter alia denied of;

- i. Reasonable and adequate notice
- ii. Fair hearing
- iii. A fair and reasonable opportunity to present herself
- iv. A hearing before an impartial tribunal
- v. A reasonable consideration of the evidence of the Petitioner

FRA 132/2021

The Petitioner Gnanendra Shani Abeysekera states that he had held the rank of Senior Superintendent of Police, and prior to his transfer in November 2019, as the Personal Assistant to the DIG of Police, Galle Range had held, the post of Director of the Criminal Investigations Department (CID).

The Petitioner had further submitted that, on 31st July 2020 the Petitioner was arrested and on the 18th of July 2021 he was granted bail. According to the Petitioner, he was summoned by the Commission of Inquiry through the prison authority, and he has been produced before the proceedings of the Presidential Commission of Inquiry.

It was the position taken up by the Petitioner before this Court that the final report which was compiled based on the purported inquiries said to have hold relating to the complaints made by 32nd to 72nd Respondents stating that they were subjected to Political Victimization during the period commencing 8th January 2015 and ending 16th November 2019 which consequently resulted in allegedly naming the Petitioner as the 'Respondent' in respect of the said complaints.

According to the findings and recommendations under item 8 in the said final report the 1st -3rd Respondent have decided the following;

- That the Petitioner has violated oath or affirmation made by public officers more fully described in the 4th Schedule of the Constitution read with Article 125 of the Constitution;
- That the Petitioner has committed the offence of corruption describe in Section 70 of the Bribery Act as amended;
- That the Petitioner earned a salary from public funds by performing in a non-governmental organization which is an offence under sec 5 of the offences against Public property Act read with Section 386 of the Penal Code;
- That using the premises of Temple Trees for the purpose of holding meetings of Anti-Corruption Committees which is an NGO has committed the offense of Section 70 of the Bribery Act as amended;

Denying these allegations the Petitioner contends that his role was purely ministerial and/or administrative in his capacity as the director of CID in which the investigations are purely conducted by the investigation officers and that the Petitioner has no involvement with the

discovery of the investigation materials or handling or managing the evidence revealed in the investigation process.

The Petitioner was not summoned to appear before the Presidential Commission of Inquiry to inquire into Political Victimization with regard to the complaints made by 32nd, 33rd, 40th, 41st, 47th, 57th, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, and 72nd Respondents claiming they were subjected to Political Victimization during the period commencing from 08th January 2015 and ending 16th November 2019, and he was summoned only for the following complaints made before the 1st-3rd Respondents to render evidence as a witness before the Presidential Commission of Inquiry into political victimization

	Complaint No	Complainant
1	PCI/PV/01/Com./2-2020	D.K.P. Dissanayake
2	PCI/PV/01/Com./3-2020	Sumith Ranasinghe
3	PCI/PV/01/Com./80-2020	Prasad Chandana Kumara Hettiarachchi
4	PCI/PV/01/Com./55-2020	Gamini Seneviratne
5	PCI/PV/01/Com./107-2020	K.P. Chaminda
6	PCI/PV/01/Com./344-2020	M.M. D.A. Mapa
7	PCI/PV/01/Com./115-2020	Lalith Anurudha Jayasinghe
8	PCI/PV/01/Com./402-2020	D.M.S. Disanayake
9	PCI/PV/01/Com./50-2020	Nissanka Yapa Senadipathi
10	PCI/PV/01/Com./431-2020	Victor Samaweera
11	PCI/PV/01/Com./893-2020	M.S.P. Mallawage
12	Item 9. LX	
	PCI/PV/01/Com./24-2020	Shammi Arjuna Kumararatne
	PCI/PV/01/Com./200-2020	R.M.P. KumaraRajapakse alias Nathan
	PCI/PV/01/Com./198-2020	W.W.P. Dilanjan Upasena alias Suresh
	PCI/PV/01/Com./196-2020	S.M.R. Rupasena alias Ranji
	PCI/PV/01/Com./197-2020	Y.M Chaminda Kumara Abeyratne
	PCI/PV/01/Com./199-2020	S.M. Kanishka Gunaratne
	PCI/PV/01/Com./195-2020	Aiyasamy Balasubramaniam
	PCI/PV/01/Com./104-2020	D.G. Tharanga Prasad Gamage

	PCI/PV/01/Com./31-2020 PCI/PV/01/Com./231-2020 PCI/PV/01/Com./1052-2020 PCI/PV/01/Com./347-2020	Thelge Erantha Radeesh Pieris T.T. Prabodha Siriwardene M.P.W.Sudesh Kumara Ulugedara W.A.Jayalath Thuan Nazar Muthalif
13	Item LXI PCI/PV/01/Com./232-2020	K.A.DA. Karunasekara

According to the Petitioner, the complaints of 33rd, 34th, 35th, 36th, 38th and 40th Respondents connects to the proceedings carried out in 2009 before the Fort Magistrate Court by CID in respect of an incident of disappearance and killing of 11 young men during the period of civil war in 2008 and 2009. The Petitioner states that he was assigned to the CID on the 1st of April 2009, as the ASP at CID and that he was assigned with the supervision of the special investigation branch of CID. Moreover, the Petitioner states that the investigation of the said investigation of disappearance and killing of 11 young men was assigned to the Petitioner for supervision. The Petitioner further contends that the investigations were carried out by Inspector of Police Mr. Nishantha Silva and that the Petitioner's duty was merely to supervise the investigation as the said branch was also under his supervision.

When it comes to the complaint made by the 44th Respondent bearing complaint No PCI/PV/01/Com./50-2020, the Petitioner filed a writ application before the Court of Appeal bearing case No. 167/2020 impugning the jurisdiction of the mandate given to the said Commission to conduct an inquiry and issue summons in respect of the complaint of 44th Respondent.

The Petitioner states that the said case was supported and thereafter an undertaking was given by the 1st to 3rd Respondents through their counsel that the Petitioner will only be dispensed in his presence but the Petitioner states that regardless of the said undertaking, the Petitioner became aware that certain recommendations have been made against him as a Respondent in respect of the said complaint in the impugned final report.

The Petitioner further states that the investigation relating to the allegation made by 42nd, 43rd and 45th Respondents were also connected to the allegations made by 44th Respondent and were conducted by Chief Inspector of Police Lasantha Rathnayake and that the Petitioner had no

involvement to the said investigation other than supervising the investigation. Denying the findings of the 1st -3rd Respondent in respect of the Petitioner in the final report in respect of the complaint made by 47th Respondent, the Petitioner states that in these investigations also he had only played a supervisory role and that he did not work and/or participated and/or involved to the Anti-Corruption Committee.

Hence the Petitioner submits that the purported findings and decisions and the recommendations are adverse and prejudicial to the rights of the Petitioner.

In respect of the complaint made by the 41st Respondent, the Petitioner states that he was represented by an Attorney at Law at the Commission of Inquiry through whom it was informed that the Petitioner did not have any direct involvement with the alleged investigation of the murder of Sivaloganathan Vidya. The Petitioner further contends that the said investigations was conducted by ASP Mr. Thisera upon an order made by then director of CID, Mr. Nagahamulla. On a request made by ASP Thisera, the Petitioner has granted approval to engage IP Nishantha Silva in the said investigation. According to the Petitioner, the arrest of Lalith Jayasinghe was made only after receiving instruction from the Attorney General who had studied the material forwarded to him after the completion of the investigation by the CID.

The Petitioner further states that the evidence given by ASP Thisera before the Commission of Inquiry made it clear that the Petitioner was not involved with the alleged investigation.

The Petitioner states that he was shocked to find his name as a Respondent in respect of the complaint made by the 39th Respondent in the purported final report as it was recorded in the proceedings that Petitioner has no involvement in the alleged investigation.

With regard to the abduction and/or kidnapping and the murder of Prageeth Eknaligoda, the Petitioner had submitted that he only acted in a supervisory capacity as the director of CID, and all the complainants were indicted before the High Court of Colombo in HC(TAB) 725/19 for the abduction and/or kidnapping and the murder of Prageeth Eknaligoda and High Court Homagama 209/19 regarding the abduction of Prageeth Eknaligoda on the 27th April 2009.

The Petitioner states that investigation of the incident of kidnapping and/or assault and/or causing grievous hurt of journalist Keith Nooyahr was investigated by ASP Thisera and IP Nishantha Silva and the Petitioner's involvement to the said investigation was limited to the supervision of the said

investigation as the Superintendent of Police and thereafter overall supervision of the investigation in his capacity as the director of CID. The Petitioner states that all the evidence discovered by the investigation officers was submitted to the Hon. Attorney General and thereafter with the recommendations of the Hon. Attorney General facts were reported to Mount Lavinia Magistrate Court in case No 1535/ 08 and that the said case is currently pending before High Court of Gampaha.

Hence the Petitioner vehemently denies the accusation made against him in the impugned final report or the impugned undated Addendum, and further states that the allegations of the complainants were explicitly absurd and bias and that the findings and recommendations of the Commission were flawed due to the following reasons;

- i. the Petitioner was not served with the summons to appear before the Commission of Inquiry into the list of complaints made before the Commission claiming they were subjected to political victimization
- ii. the Petitioner was not served with the purported complaints made against him by the Commission
- iii. the Petitioner was not aware of the evidence given by the complainants before the Commission and whether the complaints have established a prima facie case with credible evidence in support of any of the allegations before the Commission
- iv. the Petitioner was not heard by the Commission before making any recommendation

The two main questions to be adjudicated in all fundamental rights petitions presented before us are whether the principles of natural justice have been violated in the purported investigation/ inquiry carried out by 1st-3rd Respondents and the impugned final report produced, which contains adverse findings and recommendations against the Petitioners to the Petitions in question and if so, whether the said violation of the principles of natural justice amounts to the violation of fundamental rights of the Petitioners guaranteed under the Constitution.

Unlike the constricted approach adopted towards principles of natural justice during the period of World War 2, presently principles of natural justice have a wider application where it is recognized that adherence to natural justice is important in bodies exercising judicial, quasi-judicial, and administrative powers. There are two main principles of natural justice which every public

authority should follow whether or not these are specifically provided in the relevant Acts or rules. They are right to be heard and rule against bias.

The principles of natural Justice are expressly built into and firmly entrenched under Section 16 as well as proviso to Section 23 of the **Commission of Inquiry Act No 17 of 1948**.

The proviso to Section 23 stipulates that,

Provided however, the commission shall not arrive at any conclusion on such matter or incident investigated into, unless the commission has examined the material collected in the course of investigation and inquired into such matter or incident, observing the rules of natural justice.

Hence in making a decision as to the procedure of an inquiry, or in making a finding that is adverse to any person by a Commission of Inquiry established under the said Act, the inquiry must comply with the principles of natural justice. The principle of natural justice ensures that people subject to investigation have a proper opportunity to respond to ensure that the Inquiry's reports are fair and accurate. If a proposed finding may adversely affect the interests of any person, the Inquiry must be satisfied that the person is aware of the matters on which the proposed finding is based and has had an opportunity, at any time during the course of the Inquiry, to respond on those matters.

In SC/FR/Application No 27/2021, the Petitioner Padmini Nirmala Ranawaka specifically alleges that she was not summoned or noticed to appear before the said Commission of Inquiry or that she was afforded any form of hearing by the said Commission. Though the 1st Respondent claims that necessary inquiries were held by the said Commission of Inquiry in respect of 'all parties' summoned, the 1st Respondent had failed to demonstrate summons were served on her and she was afforded a hearing.

One of the most important rules of natural justice is the right to be heard which is referred to by the Latin term *audi alterem partem*. It means that each party must be given adequate notice of the case and thereby afforded a fair opportunity of stating his own case and of correcting or contradicting any relevant statement prejudicial to him.¹⁹

¹⁹ JAL Cooray, Constitutional and Administrative law of Sri Lanka (1st edn, Hansa Publishers, 1973) at 330.

In the celebrated case of **Cooper vs Wandsworth Board of Works**²⁰ the Court emphasized the importance of *audi alteram partem* rule as follows;

Even God did not pass a sentence upon Adam before he was called upon to make his defence. "Adam" says God, "where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat.

In **Abeyrathne vs Jayantha Fertilizer Enterprise Ltd**²¹ it was held that

Natural justice is now built into our law and provides fair administration procedure.

It encompasses the right to be heard by an unbiased tribunal, right to have notice of charges of misconduct and the right to be heard in answer to those charges. The audi alteram partem rule means that a man has a right to be heard. This rule is so fundamental and vital in regard to the manner in which justice has to be administered. It constitutes one of the basic principles of fair procedure.

Therefore each party must have reasonable notice of the case he has to meet and he must be given an opportunity of putting forward his case. In other words, a person should not be condemned without being first given a fair chance of exculpation.

In **B. Sirisena Cooray vs Tissa Dias Bandaranayake and two Others**²² it was held that

the determinations and recommendations of the commission are flawed firstly as being unreasonable in that commissioner did not call attention to the relevant matter, secondly as they are not based on evidence of any probative value and thirdly because recommendations have been reached without giving the petitioner a right to hearing in breach of principles of natural justice

Here it could be said that the failure to furnish the purported complaint made by 38th Respondent against the Petitioner constitutes a clear breach of principles of natural justice, particularly *audi alteram Parteram* rule, in that without knowing the complaint made against a person, such person is unable to duly or properly defend himself/herself and/or to respond to the same.

²⁰ (1863) 143 ER 414

²¹ [2003] 1 Sri LR 391 at 395

²² [1991] 1 Sri LR 1

In SC/FR/Application No 57/2021, the Petitioner, Retired Vice Admiral Susith Maliya Bandara Weerasekara contends that he has never been summoned before the Commission of Inquiry nor made any communication asking the Petitioner to be presented at the said Commission in order to present his version to any claims raised against him. Similarly in SC/FR/Application No 58/2021 the Petitioner, Somisara Ekanayake submits that he had neither been summoned nor made aware that there have been complaints made against the Petitioner to the said Commission and the Petitioner had come to the knowledge of such findings and/or recommendations against him only upon some news articles that were published. In SC/FR/Application No 80/2021 the Petitioner, Ananda Wijepala also states that he was not given an opportunity to present before the Commission when considering several complaints against him and he was neither given notice of such complaints nor their nature which then had led the Commission of Inquiry to determine that Petitioner is guilty of offenses as alleged to have committed as found in the impugned final report. The Petitioner therefore submits that Commission of Inquiry therein had denied him of notices of allegation, a fair and transparent hearing, fair, and reasonable opportunity to present his defense, and a reasonable consideration of the defense.

In SC/FR/Application No 125/2021, the Petitioner Travis Sinniah also seeks to set aside the findings of the impugned report for breach of principles of natural justice on the basis that he was never been summoned before the said Commission of Inquiry nor made any communication whatsoever asking the Petitioner to be present at the said Inquiry. When it comes to SC/FR/Application No 126/2021, the Petitioner Sandya Ekmaligoda, claims that despite Section 11 of the Commission of Inquiry Act has required the Commission to issue summons to relevant parties to an inquiry, the Petitioner neither received summons nor was notified officially regarding the complaints made against her. She further contends that she was not given an opportunity to be present before the said Commission of Inquiry despite the Petitioner being the prosecution witness No 1 in both the cases HC (TAB) 725/2019 and HC 209/2019 which were relating to the abduction and/ or kidnapping and the murder of Petitioner's husband Prageeth Ekmaligoda that subsequently led the Commission of Inquiry to determine and make recommendations against the interests of the Petitioner.

The right to notice is an essential component of *audi alteram partem* rule. This was discussed in detail by Gunawardene J. in ***Gunadasa vs Attorney General and Others***²³ citing Lord Denning in the case of ***Kanda vs Government of Malaya***²⁴ and stated that

If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is to be made against him. He must know what evidence has been given and what statements have been made affecting him and then he must be given a fair opportunity to correct or contradict them.

In the case of ***Ganeshanatham vs Vivien Goonewardene***²⁵ it was held that

The right to be heard and defend oneself will be illusory and meaningless without knowledge of the case to be met, of the charge or the subject matter of dispute to be decided by the court or tribunal, and also without an adequate opportunity of placing that which has to be put forward in defense either in person or through counsel of One's own choice.

In the case of ***Gregory Fernando and Others vs Stanley Perera***,²⁶ Sripavan J. observed that,

It is fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done. The law is concerned with public confidence in the administration of justice, hence it is of paramount importance to ensure that individuals that they have been given a fair hearing before a decision is taken.

In the case of ***Mendis, Fowzie and Others vs Goonewardene***,²⁷ which deals with Commissions of Inquiry appointed by the President by warrant under the Commissions of Inquiry Act to inquire into and report the twelve municipalities specified in the schedule to the warrant, there had been incompetence, mismanagement, abuse of power, corruption, irregularities in the making of appointments of persons, or contraventions of any provisions of any written law and the extent of their responsibility, it was noted that,

²³ [1989] 2 SLR 130 at 133-134

²⁴ [1962] AC 322

²⁵ (1984) 1 Sri LR 319 (at page 363)

²⁶ [2004] 1 Sri LR 346 at 349

²⁷ (1978-79) 2 Sri L. R

In making their Report in this case the Commissioners had to come to findings and make determinations and any adverse decision would undoubtedly affect the character of the persons concerned and their reputation and integrity and ruin their careers in addition to making them suffer civic disabilities under the two laws. The determinations of the two Commissioners would grievously affect these persons of their own force, proprio vigor. The conclusions would therefore have to be arrived at by a process consistent with the rules of natural justice after informing the party of the case against him and affording him an opportunity to defend himself.

In **University of Ceylon vs Fernando**²⁸ the Privy Council held that the Plaintiff should be adequately informed of the case he has to meet, and should be given an adequate opportunity to meet it.

In **Nanayakkara vs University of Peradeniya**²⁹ where the university suspended the Petitioner after the appointment of a Committee of Inquiry which found the Petitioner guilty of participating in acts which caused damages to university property, the Court of Appeal found that the Petitioner appeared before the Committee of Inquiry unexpectedly and without any prior notice. When he appeared before the Committee he appeared as an accused or Respondent party and not as a witness since there were already allegations made against him. Therefore, the Court held that the Committee was bound to inform him of the allegations and give him every opportunity to make his defense.

The petitioner having been taken before the Committee of Inquiry on 7.3.1983 without prior notice and given time till 2.00 p.m. that day for his defence, it Cannot be said that he had been given a fair hearing as he had not been informed of the allegations against him and their nature prior to his appearance before the Committee nor given a fair opportunity of making his defence properly.

Moreover, notice which is given of one charge is not sufficient for proceeding under another charge even though both charges arise out of the same circumstances.³⁰ In **Annamunthodo vs Oilfield Workers' Trade Union**³¹ it was held that expulsion of the applicant under a rule of the

²⁸ (1960) 61 NLR 505 at 515

²⁹ [1985] 1 Sri LR 174

³⁰ JAL Cooray, Constitutional and Administrative law of Sri Lanka at 335.

³¹ (1961) AC 945.

union which was invoked without giving him notice of it was void despite the fact that he had attended a hearing earlier in respect of a charge of breaking four other rules.

In SC/FR/Application No 115/2021, the Petitioner Upul Jaysuriya contends that he had only received summons with regard to the complaint made by Nissanka Senadhipathy but did not receive any summons pertaining to the purported complaint made by Jaliya Wickramasuriya based on which the Commission of Inquiry had made adverse recommendations against him. The Petitioner has further submitted that even in the case he was summoned to appear before the Commission of Inquiry, he was not given a proper hearing by the Commissioners. Hence the Petitioner seeks to set aside the said findings on the ground of breach of principles of natural justice.

In SC/FR/Application No 132/2021 the Petitioner, Gnanendra Shani Abeysekara states that he had only been summoned to some of the complaints made against him and not for the other. According to the Petitioner, he had not given evidence before the Commission for which he was summoned to appear as he was of the opinion that giving evidence at Col would interfere with the several cases pending before the High Court as well before the Magistrate Courts.

In SC/FR/Application No 74/2021 the Petitioner, Ravindra Bandara Senevirathne challenging the adverse findings made in the impugned report against him based on 2 complaints made by Admiral of Fleet Wasantha Karannagoda and D.S.P. Dassanayake contends that he was neither served with summons to appear before the Commission nor the purported complaint made by Admiral of Fleet Wasantha Karathnagoda against him had been served to the Petitioner. The Petitioner further states that even though he had received summons and notice from the 4th Respondent under the order of 1st to 3rd Respondent informing the Petitioner to appear before the Commission with regard to the complaint made by D.S.P. Dassanayake, neither the purported complaint nor the purported allegation against the Petitioner had been served to the Petitioner. When it comes to the proceedings marked as P-10, the Petitioner was summoned to the Commission only after the conclusion of the evidence of the 33rd Respondent and therefore the Petitioner was not aware of the evidence placed against him by the 33rd Respondent.

In **Amerasinghe vs Daluwatte and Others**³² where Petitioner sought to quash the proceedings of the Army Court of Inquiry, the Court noted that,

The principle that no man should be condemned unheard is one regarded with reverence and ought not to be lightly disregarded. There is no point in hearing the other side if the "other side" does not know what the side beginning had said, and unless "the other side" is afforded a reasonable and genuine opportunity to meet and repel the allegations.

When considering all the said factors it is clear that there are clear violations of different aspects of rules of natural justice in Inquiries conducted against each Petitioner.

Now I shall turn to the question whether the breach of principles of natural justice referred to above amounts to violation of fundamental rights of the Petitioners guaranteed under the Constitution. The Respondents contend that the violation of principles of natural justice alone is not sufficient to constitute a breach of one's fundamental rights citing Justice Sharvananda in the case of **Elmore Perera vs Major Montegue Jayawickrama**³³ where his Lordship stated that *Rules of natural justice cannot be elevated to the status of fundamental rights. Natural justice is not a fundamental right in our country where the architects of our constitution deliberately eschewed the 'due process' found in the American constitution.* This was cited with approval in the case of **Roberts vs Ratnayake**.³⁴

The first petitioner's next complaint is about rudeness, incivility, and the failure to reply his letters by the Respondent regarding the official matters. But they do not constitute a violation of any statutory obligation on the part of the respondent and consequently no legal right, far from a fundamental right is infringed. The first petitioner's application therefore must fail'

However, our Courts over the time have departed from this stringent approach and has viewed violations of principles of natural justice as a violation of equal protection of law which is a fundamental right guaranteed under the Constitution of Sri Lanka. In cases such as **Jayawardene vs Wijethilake**,³⁵ **Amerasinghe vs Board of Directors, CWE**³⁶ and **Hapuarachchi vs Commissioner of**

³² [2001] 3 Sri LR at 265

³³ [1985 1 Sri Lr 285] at page 323

³⁴ [1986] 2 Sri LR 36

³⁵ [2001] 1 Sri LR

Election³⁷ our Courts have interpreted the breach of principles of natural justice as an infringement of the right to equal protection of law guaranteed under Article 12 (1) of the Constitution. The modern view of the Court with regard to Article 12(1) of the Constitution is clearly evident in the case of **R. Samapanthan vs AG**³⁸ where it was observed that,

Art 12(1) which perhaps has the most dynamic jurisprudence in our constitutional law, offers all person's protection against arbitrary and mala-fide exercise of power and guarantees principles of natural justice and legitimate expectation.

For the foregoing reasons it could be concluded that the proceedings against the Petitioners and the impugned report produced consequent to such proceedings are unlawful and are in violation of fundamental rights guaranteed under Article 12 (1) of the Constitution.

We therefore make order quashing the findings/ recommendation made by the Commission of Inquiry appointed by His Excellency the then President Gotabaya Rajapakse by warrant published in the Government Gazette Extraordinary 2157/44 dated 09.01.2020 and Government Gazette Extraordinary 2159/16 dated 22.01.2020 as against the Petitioners before this Court namely,

01. Padmini Nirmala Ranawaka Gunathilake SC FRA 27/2021
02. Susith Malinga Bandara Weerasekara SC FRA 57/2021
03. Ekanayake Mudiyanseelage Somisara Bandara Ekanayake SC FRA 58/2021
04. Dugganna Walawwe Ravindra Bandara Senevirathne SC FRA 74/2021
05. Kurukulasuriya Mudiyanseelage Ananda Wijayapala SC FRA 80/2021
06. Upul Jayasuriya SC FRA 115/2021
07. Travis Jeramy Liyanduru Sinniah SC FRA 125/2021
08. Kamalagoda Mudalige Sandya Priyangani Ekaneligoda SC FRA 126/2021
09. Gnanendra Shani Abysekera SC FR 132/2021

We further order the state to pay each Petitioner a sum of Rs. 150,000/- as cost.

³⁶ [1998] 1 Sri LR

³⁷ [2009] 1 Sri LR

³⁸ SC/F/R/Application nos 351 to 361/2018 decided on 13/12/2018

Justice Achala Wengappuli,

I agree,

Judge of the Supreme Court

Justice Arjuna Obeyesekere,

I agree,

Judge of the Supreme Court

Judge of the Supreme Court