

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

In the matter of an application under and in terms of Articles 17 and 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

K.P.K.L.P. Maduwanthi,  
No. 75/A, MC Road,  
Matale.

Presently at:  
Quarters of Divisional Secretary,  
No. 107/3, Scout Land,  
Matale

**Petitioner**

**S.C.(F.R.) Application No: 23/2021**

**Vs.**

1. S.M.G.K. Perera,  
District Secretary,  
District Secretariat,  
Matale.
2. Hon. Justice Jagath Balapatabendi,  
Chairman
3. Mrs. Indrani Sugathadasa,  
Member
4. Mr. V. Shivagnanasothy,  
Member
5. Dr. T.R.C. Ruberu,  
Member
6. Mr. Ahamod Lebbe Mohamed Saleem,  
Member
7. Mr. Leelasena Liyanagama,  
Member

8. Mr. Dian Gomes,  
Member
9. Mr. Dilith Jayaweera,  
Member
10. Mr. W.H. Piyadasa,  
Member

2<sup>nd</sup> to 10<sup>th</sup> Respondents:

All of:

Public Service Commission,  
No. 1200/9, Rajamalwatta Road,  
Battaramulla.

11. The Secretary,  
Public Service Commission,  
No. 1200/9, Rajamalwatta Road,  
Battaramulla.
12. General Kamal Guneratne,  
Secretary to the Ministry of Defense, Home  
Affairs and Disaster Management,  
Nilamedura, Elvitigala Mawatha,  
Colombo 05.
- 12(A). Hon. N.H.M. Chithrananda,  
Secretary to the State Ministry of Home  
Affairs,  
Nilamedura, Elvitigala Mawatha,  
Colombo 05.
13. J.J. Rathnasiri,  
Secretary,  
Ministry of Public Services, Provincial  
Councils and Local Government,  
Independence Square,  
Colombo 07.

14. Additional Secretary (Internal Administration),  
Ministry of Public Services, Provincial Councils and Local Government,  
Independence Square,  
Colombo 07.

15. Piyal Jayasuriya,  
Divisional Secretary (Attending to Duties),  
Divisional Secretariat,  
Dambulla.

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

**Respondents**

**Before: E.A.G.R. Amarasekara, J.  
K.K. Wickremasinghe, J.  
Janak De Silva, J.**

**Counsel:**

Dr. Romesh De Silva P.C. with Shantha Jayawardena and Charaka Jayaratne for the Petitioner

Ms. Nayomi Kahawita State Counsel for the 1<sup>st</sup> to 3<sup>rd</sup>, 5<sup>th</sup> to 12A and 16<sup>th</sup> Respondents

**Written Submissions tendered on:**

27.08.2021 and 28.06.2021 by the Petitioner

21.04.2021 by the Respondents

**Argued on: 20.07.2021**

**Decided on: 18.11.2022**

**Janak De Silva, J.**

The Petitioner is impugning the transfer order dated 05.01.2021 (P27) by which she was transferred to the Internal Administration Section of the Ministry of Public Services, Provincial Councils and Local Government. Furthermore, she seeks a direction on the 1<sup>st</sup> to 14<sup>th</sup> Respondents to appoint her as the Divisional Secretary of Dambulla or as the Divisional Secretary of any other area within the Central Province. Court has granted leave to proceed under Articles 12(1) and 14(1)(g) of the Constitution.

The Petitioner joined the public service on 02.10.2006 as a Grade III officer of the Sri Lanka Administrative Service (SLAS) after successfully passing an open competitive examination. She was promoted to SLAS Grade II effective 02.10.2016 and thereafter to SLAS Grade I effective 03.10.2016. Whilst the Petitioner was serving as the Assistant Divisional Secretary of Akurana, she was appointed to “attend to duties” in the post of Divisional Secretary of Matale with effect from 01.01.2014. Thereafter, consequent to her being promoted to Grade 1 of SLAS, the Public Service Commission (PSC) by letter dated 11.07.2017 (P7) appointed the Petitioner to the Post of Divisional Secretary of Matale, with effect from 03.10.2016.

By January 1, 2020, the Petitioner had completed six years as Divisional Secretary of Matale. According to the Transfer Scheme of SLAS contained in Public Administration Circular No. 18/2019 dated 08.07.2019 (P11), the maximum period an officer can serve in one Divisional Secretariat division is 6 years. Therefore, by transfer request dated 05.08.2019 (P12), the Petitioner requested an annual transfer for the year 2020, indicating her preferences as Divisional Secretarial divisions of Dambulla, Ukuwela and

Gangawatakorale. The Petitioner's application for an annual transfer had been recommended by the 1<sup>st</sup> Respondent, the District Secretary of Matale, to the Secretary to the Ministry of Public Administration and Secretary to the Ministry of Home Affairs.

The PSC has delegated the power vested with it regarding Annual Transfers of Divisional Secretaries to the Secretary to the Ministry of the Minister in charge of the subject of Home Affairs (11R1). On 30 November 2019, the Secretary of the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government had issued Annual Transfer Orders of 2020 (P13). According to item No.051 of the said Transfer Order, the then Divisional Secretary of Dambulla, namely, Ms. Abhaya Lakshmi Hewapathirana, had been transferred to the Department of Immigration and Emigration and the Petitioner had been transferred as the Divisional Secretary of Dambulla. However, by notice dated 20.01.2020 (P14) published on the official website of the PSC, the above Order of Transfer No. 051 had been differed for a period of one year by the Ministry of Public Administration. Parties are not at variance of the factual matrix set out above. Before examining the disputed factual matters between the parties, it is convenient to set out the grounds on which the Petitioner is impugning P27. They are:

- (i) There is no exigency of service in the Internal Administration Section of the Ministry of Public Services, Provincial Councils and Local Government (referred to by the Petitioner as "purported pool").
- (ii) There is no provision in law, to maintain a 'pool' of public officers without assigning any duties.

- (iii) The original transfer by the PSC to Dambulla Divisional Secretariat has not been cancelled by the PSC. The PSC confirmed the Petitioner's annual transfer to Dambulla in terms of the Annual Transfer Scheme P11, as such the Petitioner had a legitimate expectation to be transferred to the Divisional Secretariat Dambulla.
- (iv) The PSC has not granted the approval to transfer the Petitioner to the said purported pool.
- (v) Transfer is in violation of the PSC Rules.
- (vi) The impugned purported transfer contained in P27 and P28, has been made in violation of P11 (Annual Transfer Circular).
- (vii) Transfer is tainted with malice (collusion between the 1<sup>st</sup> Respondent and Petitioner's allegedly estranged husband).

### **Legitimate Expectation**

It was submitted on behalf of the Petitioner that her transfer by P27 has been made in violation of the Annual Transfer Circular (P11) and in violation of her legitimate expectation to be transferred to the post of Divisional Secretary, Dambulla as that transfer had not been cancelled by the PSC.

It appears that Ms. Abhaya Lakshmi Hewapathirana had appealed to the PSC against the decision to defer the Transfer Order No. 051 for a period of one year (11R3). After reviewing her appeal, the PSC granted her, by order of February 17, 2020 [P15(b)], the transfer to the Department of Immigration and Emigration.

The Petitioner claims that she too appealed against the order of deferment of Transfer Order No. 051 to the PSC. To support that position, the Petitioner submitted a letter dated 02.03.2020 [P15(a)]. However, I observe that this letter is dated 02.03.2020 whereas the order of cancellation of the deferment of Ms. Abhaya Lakshmi Hewapathirana [P15(b)] was issued on 17.02.2020, 14 days prior to the alleged appeal made by the Petitioner. Moreover, it is clear that only the name of the said Ms. Abhaya Lakshmi Hewapathirana is listed in the order dated 17.02.2020 [P15(b)]. Furthermore, the 11<sup>th</sup> Respondent (Secretary of the PSC) categorically denies that the Petitioner appealed to the PSC against the deferral of transfer order No. 051 prior to the order of cancellation of the deferment of Ms. Abhaya Lakshmi Hewapathirana. According to the 11<sup>th</sup> Respondent, the Petitioner appealed to the PSC regarding the 2020 annual transfers only by her letters dated 24.02.2020, 27.02.2020, 28.02.2020 and 02.03.2020 [P15(a)].

It is contended by the Petitioner that following order dated 17.02.2020 [P15(b)] of the PSC, she had by letter dated 26.02.2020 (P16) requested the 1<sup>st</sup> Respondent to take steps to release her from the Divisional Secretariat of Matale. However, she claims that although Ms. Abhaya Lakshmi Hewapathirana had been released from the post of the Divisional Secretary of Dambulla, no steps had been taken to release her from the post of Divisional Secretary of Matale.

It appears that the 12<sup>th</sup> Respondent had by letter dated 10.03.2020 (12R4) informed the Secretary, PSC that there is an inquiry pending in the Dambulla Divisional Secretariat regarding the purchase of a land for the business purposes of the husband of the Petitioner. As such, the 12<sup>th</sup> Respondent did not recommend that the Petitioner be appointed as Divisional Secretary, Dambulla in view of the conflict of interest. It was

recommended that the 15<sup>th</sup> Respondent be appointed to attend to the duties as Divisional Secretary, Dambulla.

Subsequently, the 15<sup>th</sup> Respondent had been appointed to “attend to duties” in the post of Divisional Secretary of Dambulla by the Secretary to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government with effect from 27.02.2020 P(19) based on the recommendation of the 1<sup>st</sup> Respondent. This letter has been copied to the Secretary, PSC.

Moreover, it is clear that the PSC was aware that the Petitioner was not being sent to Dambulla as Divisional Secretary. This becomes clearer upon an examination of letter dated 10.07.2020 (12R5) sent by the Secretary, PSC to the 12<sup>th</sup> Respondent, copied to the Petitioner, in reply to his letter dated 10.03.2020 (12R4). The PSC had requested the 12<sup>th</sup> Respondent to expeditiously conduct the inquiry pending in the Dambulla Divisional Secretariat regarding the purchase of a land for the business purposes of the husband of the Petitioner and submit the results to the PSC. This matter is corroborated by the contents of letter dated 20.08.2020 [Marked A10 and Annexed to 1R1] sent by the Secretary, PSC wherein it is stated that further steps on the transfer of the Petitioner will be considered upon the PSC receiving the report on the investigations being conducted within the Dambulla Divisional Secretariat.

Accordingly, I conclude that the PSC only approved the transfer of Ms. Abhaya Lakshmi Hewapathirana to the Department of Immigration and Emigration. There is no order from the PSC directing that the Petitioner be transferred as the Divisional Secretary, Dambulla.



At this stage, it is relevant to examine the conclusions of the investigations into the Dambulla land transaction which have been submitted to the Court. Prima facie, the findings provide cogent evidence of an act of misconduct on the part of the Petitioner in relation to a state land situated at Dambulla over which her husband has a business interest.

Evidence of this transpired after an article had been published in the Lankadeepa News Paper on or about 07.06.2018, titled “මාතලේ ප්‍රා: ලේකම්වරියගේ සැමියා රත්මලේකටුව වැවේ හෝටලේ හඳුනවා” (12R1). As a result, a preliminary investigation into the content of the newspaper article was opened on 13.08.2018 by the Ministry of the Home Affairs and concluded on 09.11.2020. During the investigation, it became apparent that the Petitioner's husband had built 4 cottages on state land in Lake Rathmalkattuwa in Dambulla.

Documentation regarding the following transactions was provided by the Respondents to support this disclosure. The original owner of the land in question was a Hettiaarachchige Lucas Appuhamy who had obtained the land through ‘Jaya Bhoomi’ Land Grant No. මධ්‍යම/දඹු/1097. Then said Hettiaarachchige Lucas Appuhamy had transferred the land to a Mudiyansela Gedara Dhammika Piyawathie Manike by deed No. 8646 dated 04.01.2009 and attested by Jayampathi Ratnadiwakara Notary Public.

Subsequently, the Petitioner's husband, Angoda Welegedara Siril Jayaweera, obtained a special power of attorney in relation to the land through a well-executed process. Based on the evidence before the Court, the Petitioner was actively involved in this process. It began with the Petitioner transferring property belonging to her situated in the Divisional

Secretariat Division of Yakkamulla, in the District of Galle to the said Mudiyansele Gedara Dhammika Piyawathie Manike by deed of transfer No. 71 dated 14.12.2016 attested by K.G.A. Ranasinghe Notary Public (Annexure A1 of 1R1). Thereafter, the said Mudiyansele Gedara Dhammika Piyawathie Manike had transferred the land on which the chalets were constructed to Kalahe Paadikoralage Jayaratne, the brother of the Petitioner, by deed of transfer No. 812 dated 10.07.2017 attested by G.M.U.G. Indika Seneviratne Notary Public (Annexure A1 of 1R1). The said Kalahe Paadikoralage Jayaratne by special power of attorney No. 815 dated 13.07.2017 attested by G.M.U.G. Indika Seneviratne Notary Public, had transferred all rights and powers over the said land to Angoda Welegedara Siril Jayaweera, the allegedly estranged husband of the Petitioner (Annexure A4 of 1R1).

Within a few days thereafter, the Petitioner was able to regain the property she had transferred to Mudiyansele Gedara Dhammika Piyawathie Manike by deed of transfer No. 71 dated 14.12.2016 attested by K.G.A. Ranasinghe Notary Public, through deed of transfer No. 91 dated 25.07.2017 attested by the same Notary Public (Annexure A3 of 1R1).

The 1<sup>st</sup> Respondent in his affidavit avers that according to the legal provisions governing transfer of state lands, the approval of the Divisional Secretary needs to be obtained in order to transfer the land to a third party. To obtain this approval, the transferor must have ownership of another land. The 1<sup>st</sup> Respondent avers that the Petitioner had shrewdly manipulated the legal provisions by transferring her property to the said Mudiyansele Gedara Dhammika Piyawathie Manike prior to the execution of the said Deed of Transfer No. 812 in order to obtain the approval of the Divisional Secretary of Dambulla for the transfer.

In response to these allegations, the Petitioner states that the transaction in question was in good faith and had been approved by the Divisional Secretary of Dambulla. Other than this bare assertion, the Petitioner has not explained the circumstances under which she transferred her property to Mudiyansela Gedara Dhammika Piyawathie Manike, the reason for the said Piyawathie Manike thereafter to transfer the state land to the brother of the Petitioner and the reasons for her brother thereafter to give a Power of Attorney over the said land to her husband and finally why soon thereafter the said Piyawathie Manike re-transferred the land given by the Petitioner to her.

Instead of responding to these serious allegations, the Petitioner has produced along with the counter objections tape recordings allegedly containing conversations between her husband and the 1<sup>st</sup> Respondent. A transcription of the alleged conversations was also provided.

However, the Court is not prepared to proceed with this evidence on several grounds. According to the Petitioner, the 1<sup>st</sup> Respondent acted maliciously against her while she and her husband were separated and the husband was colluding with the 1<sup>st</sup> Respondent. The question then is how she could get so-called recordings of telephone conversations between them.

In any event, the question of proper custody is important in the circumstances of the case. In my opinion, the Court should observe the fundamental rules of evidence in exercising its jurisdiction over fundamental rights. Furthermore, this tape recording was not produced with the petition providing an opportunity for the 1<sup>st</sup> Respondent to respond. Counter-objections should not be used to present evidence that was available with the

Petitioner and, had it been produced with the petition, would have given the Respondents an opportunity to respond. This is an application of the *Audi alteram partem* rule on which the procedural rules of this Court are firmly built.

Upon an examination of the factual matters pertaining to the transaction relating to the State land at Dambulla, I am of the view that the circumstances fully justify the action taken to prevent the Petitioner from assuming duties as Divisional Secretary, Dambulla. To allow that to happen would have created an obvious conflict of interest. In this context, it is interesting to observe that the Petitioner had, in specifying three stations for her annual transfer (P12), named Dambulla and Ukuwela which are situated outside the Kandy District, as her first and second choices although admittedly her two children, aged 12 and 13, are schooling in Kandy.

Accordingly, I reject the contention that the transfer of the Petitioner by P27 is in violation of the Annual Transfer Circular (P11) and in violation of her legitimate expectation to be transferred to the post of Divisional Secretary, Dambulla on the basis that it had been approved by the PSC.

### **Malice**

In the alternative, the Petitioner contended that the impugned transfer is marred by malice and animosity, as the 1<sup>st</sup> Respondent and the Petitioner's allegedly estranged spouse acted in collusion. It was submitted that the 1<sup>st</sup> Respondent developed an animosity due to the Petitioner taking steps to open the access road to Buddhist College, Maligatenna, Matale which was closed by the 1<sup>st</sup> Respondent. The Petitioner has cited a few instances reflecting the subsequent malicious acts of the 1<sup>st</sup> Respondent such as

verbal abuse and threats at meetings held at the Divisional Secretariat and at Buddhist College, Maligatenna, Matale. Another instance is where the 1<sup>st</sup> Respondent directed the Petitioner to submit medical records of her aunt in order to approve a personal leave that she had obtained on 21.09.2020 (P26). The failure of the 1<sup>st</sup> Respondent to release the Petitioner from Matale to assume duties in Dambulla is also cited as another example.

However, as fully explained earlier, the Respondents have placed cogent prima facie evidence before Court of an act of misconduct on the part of the Petitioner in relation to the state land in Dambulla. Hence the failure to allow the Petitioner to assume duties as Divisional Secretary of Dambulla is justified on grounds independent of malice and the failure to allow the Petitioner to assume duties in such post is not a malicious act on the part of the 1<sup>st</sup> Respondent.

That leaves the question of malice to be examined in relation to the transfer of the Petitioner to the Internal Administration Section of the Ministry of Public Services, Provincial Councils and Local Government.

According to the Respondents, this transfer was intended to facilitate an investigation into further alleged misconduct by the Petitioner while she was Divisional Secretary of Matale. These acts are outlined in letter dated 11.10.2020 (1R1). No doubt the Petitioner has sought to provide explanations to some of these allegations unlike her bare denial of the allegation relating the land transaction in Dambulla. Nevertheless, it is not for the Court to render a definitive decision on the veracity of these allegations. It is a matter for the proposed investigation. For the purposes of the determination of this application, it suffices to state that some of these allegations are forging the signature of the husband

in a letter sent to the PSC, providing false information to senior public officers, failure to give effect to lawful orders of the immediate supervising officer which are serious in nature.

In all the foregoing circumstances, I am unable to hold that the 1<sup>st</sup> Respondent acted maliciously in recommending an immediate transfer of the Petitioner out of the district on a temporary basis until the conclusion of the relevant investigations. The decision taken to transfer her on exigencies of service to the Internal Administration Section of the Ministry of Public Services, Provincial Councils and Local Government is justified as more fully discussed below.

### **Exigency of Service**

The transfer of the Petitioner by P27 has been done on exigency of services. It is contended that there cannot be any exigency of service inasmuch the Petitioner has been transferred to the Internal Administrative Section of the Ministry of Public Services, Provincial Councils and Local Government or the “pool” as referred to by her where she is without any work.

Procedural Rule 218-III of the Public Service Commission Procedural Rules reads:

*218. A Public Officer may be transferred on exigencies of service by the Appointing Authority for any one of the following reasons:*

*(iii) Where it is found, due to administrative reasons, that the retention of an officer in his present station is not suitable.*

The request to transfer the Petitioner was made to facilitate an investigation into alleged misconduct. The conduct of such an investigation is part of the administrative functions of the Public Service. Therefore, in my opinion, the transfer of the Petitioner by P27 is in accordance with the Public Service Commission Rules.

In any event, I observe that in recommending the transfer of the Petitioner, the Secretary to the Ministry of Internal Security, Home Affairs and Disaster Management (12<sup>th</sup> Respondent) had recommended that it be done in terms of Procedural Rule 222-III of the Public Service Commission Procedural Rules which reads:

*222. The Appointing Authority may transfer a Public Officer on disciplinary grounds, in the following instances, even without prior notice. The Appointing Authority shall convey the reasons in writing to the officer concerned:*

*(iii) Where it is found on matters revealed either before the beginning, or in the course of an investigation or on existing circumstances that the retention of a Public Officer in his post or station may obstruct the conduct of a preliminary investigation.*

Hence, in any event, the Public Service Commission Procedural Rules provided for the transfer of the Petitioner in the circumstances of this matter.

It is an established principle that as long as an authority has the power to do a thing, it does not matter if he purports to do it by reference to a wrong provision of law, and the order can always be justified by reference to the correct provision of law empowering the authority making the order to make such order. [See **L. C. H. Peiris v. The Commissioner**

*of Inland Revenue (65 N.L.R. 457), Kumaranatunga v. Samarasinghe and Others (1983) 2 Sri.L.R. 63, Edirisuriya v. Navaratnam and Others (1985) 1 Sri.L.R. 100, Seneviratne and Others v. Urban Council, Kegalle and Others [(2001) 3 Sri.L.R. 105]*

Accordingly, I hold that the transfer of the Petitioner is not in violation of the procedural rules on the ground urged by the Petitioner.

### **PSC Approval**

The Petitioner contends that the PSC has not granted approval to transfer the Petitioner to what is referred to by the Petitioner as the 'pool'.

The 1<sup>st</sup> Respondent had, by letter dated 11.10.2020 (1R1), informed the 12<sup>th</sup> Respondent of several acts of alleged misconduct of the Petitioner, and recommended that action be taken to investigate those matters. It was also recommended that the Petitioner be temporarily transferred out of the district on exigencies of service to prevent any impediment to the investigations. In response, the 12<sup>th</sup> Respondent, by letter dated 29.10.2020 (12R6), informed the Additional Secretary (Home Affairs) that a charge sheet involving charges coming under the First Schedule of Chapter XLVIII of the Establishments Code is to be served on the Petitioner in relation to item 1 in letter dated 11.10.2020 (1R1). Further it was stated that the other charges set out in letter dated 11.10.2020 (1R1) are of a very serious nature and that the Petitioner should be immediately transferred to the pool of the Ministry of Public Administration subject to covering approval of the PSC as retaining her in the present post will be an impediment to the investigation. The request was made in terms of Procedural Rule 222(iii).



Accordingly, the Additional Secretary (Home Affairs) by letter dated 03.11.2020 (12R7) requested the Secretary, Ministry of Public Services, Provincial Councils and Local Government to immediately transfer the said transfer subject to covering approval of the PSC. This request was also made in terms of Procedural Rule 222(iii). It is only thereafter that the Secretary, Ministry of Public Services, Provincial Councils and Local Government had sent the impugned letter dated 05.01.2021 (P27) transferring the Petitioner to the Internal Administration Section of the Ministry of Public Services, Provincial Councils and Local Government. The transfer had been made subject to the covering approval of the PSC and the letter had been copied to the 11<sup>th</sup> Respondent, Secretary of the PSC. It is stated that the transfer is being made on exigencies of service although the request was made under Procedural Rule 222(iii).

No material has been placed before Court on whether the PSC gave its approval or not for the impugned transfer. The affidavit filed by the 11<sup>th</sup> Respondent does not shed any light on this matter, other than that the PSC received the request for approval. It may well be that the PSC did not have sufficient time to review the request given that the Petitioner invoked the jurisdiction of Court on 03.02.2021.

Nevertheless, Court is not inclined to hold that the fundamental rights of the Petitioner guaranteed under Articles 12(1) and 14(1)(g) of the Constitution has been violated due to the transfer being made subject to the covering approval of the PSC as there is evidence that the covering approval was in fact sought and that the PSC had failed to take a decision on the request until the jurisdiction of this Court was invoked.

In any event, it is trite law that a person invoking the fundamental rights jurisdiction of this Court must act with *uberima fides* and make a full disclosure of all material facts [See ***Liyanage & Another v Ratnasiri - Divisional Secretary, Gampaha & Others (2013) 1 Sri.L.R. 6, Jayasinghe v The National Institute of Fisheries and Nautical Engineering (NIFNE) and others (2002) 1 Sri L.R. 277***]. The application is liable to be dismissed where a party fails to do so. In paragraph 22 of her petition, the Petitioner denies that her husband has a business in Dambulla, which is incorrect. This a material fact to her application to be posted as Divisional Secretary of Dambulla. Hence, this application is liable to be dismissed in limine.

Furthermore, the Court is exercising its just and equitable jurisdiction under Article 126(4) of the Constitution. It is an established maxim that *he who comes into equity must come with clean hands*. This doctrine has nothing to do with the general conduct of a party. The misconduct which is condemned should form part of the transaction which is the subject of the dispute. Where the conduct of a party to the litigation is unmeritorious in relation to the transaction forming the subject matter of the litigation, a Court exercising equitable jurisdiction is entitled to refuse any relief to such party [See ***Gascoigne v. Gasscoigne (1918) 1 K.B. 223, Tinker v. Tinker (1970) 1 All ER 540***]. In this application, the Petitioner has sought a direction that she be appointed as Divisional Secretary of Dambulla. Her unmeritorious conduct in relation to the land in Dambulla suffices for Court to refuse any relief. Hence, I am of the view that the Petitioner is not entitled any relief.

For all the foregoing reasons, I dismiss this application.

Before parting with this judgment, I am compelled to observe that the conduct of the Petitioner in relation to the land transaction in Dambulla is an imminently suitable matter to be considered by the Commission to Investigate Allegations of Bribery or Corruption. The just and equitable jurisdiction this Court exercises in terms of Article 126(4) of the Constitution to make suitable directions is not contingent on making an affirmative finding that the fundamental rights of the Petitioner are infringed [See ***Noble Resources International Pte Limited v. Hon. Ranjith Siyambalapitiya, Minister of Power and Renewable Energy and Others***, S.C. (F/R) Application No. 394/2015, S.C.M. 24.06.2016]. The jurisdiction extends to making all necessary orders to uphold the rule of law. Bribery or corruption in the public sector is a cancer destroying public confidence in the system of governance. It must be eliminated by enforcing the rule of law in which this Court has an imperative role to play. Court cannot turn a blind eye where prima facie material involving an act of corruption relating to the land transaction in Dambulla has been placed before it. Therefore, I direct the Registrar of the Supreme Court to send a certified copy of this judgment along with a complete set of the pleadings in this application to the Director-General of the Commission to Investigate Allegations of Bribery or Corruption by name expeditiously. In fact, a complaint has already been lodged with the Commission by the Secretary, Ministry of Public Administration, Home Affairs and Provincial Councils & Local Government on 26.06.2020 (12R1).

For the avoidance of doubt, the findings made on the transaction relating to land in Dambulla has been made on the material placed before Court by all parties. Any future inquiry or investigation into this matter must consider all evidence that the parties may adduce.

Application dismissed.

**Judge of the Supreme Court**

**E.A.G.R. Amarasekara, J.**

I agree.

**Judge of the Supreme Court**

**K.K. Wickremasinghe, J.**

I agree.

**Judge of the Supreme Court**