

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

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

S C (F R) 336/2016

1. G. T. D. Nishantha Kumara,
Kahagollawatte,
Pol Abeygoda,
Ussapitiya.

2. N. A. Jayashantha,
No. 294/9, 1st Lane,
Widyala Mawatha,
Makola South,
Makola.

3. W. P. A. Roshan Weerawadhana,
No. 50/14, Prestije City,
Kothalawala, Kaduwela.

4. M. A. Chandika Jagath Kumara,
Woskasathin, Siyabalagaswewa,

Sippikulama,
Off Anuradhapura.

5. L. H. P. De Silva,
Wimalasara Mawatha,
Galkanuwa Road,
Gorakana,
Panadura South.

6. M. M. A. D. Tissa,
No. 452/1,
Makola North, Makola.

7. L. H. N. De Silva,
No. 174/5,
Pallemulla, Keselwatta,
Panadura.

8. W. A. Tissa Sarathchandra,
3rd Lane,
Ratnagiriya Watta,
Kirana,
Panadura.

9. D. C. Dayananda,
No. 72, Serpentine Road,
Colombo 08.

10. B. A. A. Jayasinghe,
32/2B, Gunasekara Mawatha,
Maththumagala,
Ragama

11. W. M. W. Weerasinghe,
No. 632/1C, Kottawa,
Pannipitiya.

12. H. K. S. Wijayagunawardena,
No. 83, Special Task Force Road,
Katukurunda,
Kalutara.

13. W. A. R. Wijelal,
6/95, Ihala Hanwella,
Hanwella.

14. M. P. Waidyathilake,
Kamvita,

Hunumulla,

Ganemulla.

15.W. M. K. P. Wijayamanne,

"Vijayanthi", Medagoda,

Amithirigala.

16. Gamage Dayaratne,

Domwatte Road,

Kumarapura 2nd Lane,

Hulandawa, Monaragala.

17.K. R. N. K. Tissa Bandara,

No. 6119, Near Ayurwedaya,

New Town, Embilitpitiya

18.H. N. Punyasiri,

No. 96, Kiripattiya Road,

Thibolketiya, Kolambageara.

19.R. M. Ajantha Pushpakumara,

No. 606/8A,

Makola North,

Makola.

20. N. A. Gunawardena

No. 38,

Gampulul Kirime Vyaparaya,

Bendiwewa,

Polonnaruwa.

21. W. H. De Silva Gunasekera,

"Mercy" Andakadawila,

Chilaw.

22. V. A. Pushpakumara,

No. 486, School Lane,

Piliyandala Road,

Arewwala.

23. R. W. K. Ariyaratne,

No. 5/6, Rahula Mawatha,

Mailagasthenna,

Badulla.

24. W. G. Bandara,

No. 14, Nawa Janapadaya,

Paradise, Kuruwita.

25. P. P. R. L. A. Gamlath

No. 31, 1st Lane,

Ranawiru Gammanaya Asala,

Aluwihare,

Mathale.

26. K. A. R. W. Kumarapeli,

No. 228/1, Asiri Mawatha,

Yakkala.

27. D. W. M. R. N. Dasanayake,

D. 16/5, Menerigama Road,

Nadeniya,

Mawanella.

28. M. H. M. G. Seneviratne Banda,

No. 55B, Aluthgama,

Jambugahapitiya.

29. Kulasiri Udugampola,

No. 21, Galkanda Road,

Eswatte, Kandy.

30.W. A. Ranjith Kumara,

No. 31, Riverside Garden,

Illukmodara, Thenne Kumbura,

Kandy.

31.Roshan Terrance Wedergert,

No. 5/A/3,

Hanthane Housing Scheme,

Kandy.

32.K. R. Lakshitha Fernando,

No. 7, Shri Sudharmara Road,

Wattala.

33.Alliyar Abdul Wahid,

No. 34, New Bridge Road,

Addalachenna 10.

34.Siripala Lokuhettumudali,

Kapugampotha,

Weeraketiya.

35.A. H. S. W. M. R. W. Diwelagama,

No. 128/30, Navodya Garden,

Angulana Station Road,
Moratuwa.

36. Nishantha Alwis,
No. 61/20,
Pannipitiya Road,
Battaramulla.

37. P. M. C. J. B. Palihena,
No. 25/2A, Angamma Road,
Rathnapura.

38. A. I. U. Athulathmudali,
No. 123, Galanga,
Menikdiwela.

39. R. M. Lakshman Norbert Bandara,
No. 73/88,
St. Catherine Gardens,
Horahena Road,
Hokandara East.

40. G. D. Kumarasinghe,
No. 408/5, South Thalpitiya,

Wadduwa.

41. D. H. D. L. Udugamage,
No. 273/5, Annasiwatte,
Galoluwa, Minuwangoda.

42. R. A. Chandrakumara Ranasinghe,
No. 50, Mailawalana,
Kirindiwela.

43. K. Ashoka,
No. 23, Judge Mawatha,
Weligampitiya,
Ja-ela.

44. K.M.N. Rodrigo,
No. 510/4,
Janatha Mawatha,
Eldeniya,
Kadawatha.

PETITIONERS

Vs.

1. J. P. Wijeweera,
Secretary,
Ministry of Law and Order and
Southern Development,
Floor No. 13 Stage II
Sethsiripaya,
Battaramulla.

2. B.M. Basnayake,
Chairman
Committee to Inquire into Political
Victimization,
Ministry of Law and Order and
Southern Development,
Floor No. 13 Stage II,
Sethsiripaya,
Battaramulla.

3. Neil Hapuhinne,
Secretary,
Committee to Inquire into Political
Victimization,
Ministry of Law and Order and
Southern Development,
Floor No. 13 Stage II,

Sethsiripaya,
Battaramulla.

4. Ravi Wijegunawardena,
Member,
Committee to Inquire into Political
Victimization,
Ministry of Law and Order and
Southern Development,
Floor No. 13 Stage II,
Sethsiripaya,
Battaramulla.

5. Prof. Siri Hettige,
(Chairman),

6. Mr. P. H. Manatunga,
(Member)

7. Mrs. Savithree Wijesekara,
(Member),

8. Mr. Y. L. M. Zawahir,
(Member),

9. Mr. Anton Jeyandan,
(Member),

10. Mr. Tilak Collure,
(Member),

11. Mr. Frank De Silva,
(Member)

12. N. Ariyadasa Cooray,
Secretary to the National Police
Commission,

All of whom are of the National
Police Commission,
Block No. 09, B.M.I.C.H. Premises,
Bauddhaloka Mawatha,
Colombo 07.

13. J. D. Dadallage,
Secretary,
Ministry of Public Administration and
Management,
Independent Square,
Colombo 07.

14. Hon. Ranil Wickramasinghe,
Prime Minister and Minister of
National Policies and Economic
Affairs.

15. Hon. Sagala Rathnayake,
Minister of Law and Order and
Southern Development.

16. Hon. Akila Viraj Kariyawasam,
Minister of Education.

17. Hon. John Amaratunga,
Minister of Tourism
Development of Christian Religious
Affairs and Lands.

18. Hon. Gamini Jayawickrama Perera,
Minister of Sustainable Development
and Wildlife.

19. Hon. Nimal Siripala Silva,
Minister of Transport and Civil
Aviation.

20. Hon. Mangala Samaraweera,

Minister of Foreign Affairs.

21. Hon. S. B. Dissanayake,

Minister of Social Empowerment and
Welfare.

22. Hon. W. D. J. Senevirathne,

Minister of Labour and Trade Union
Relations.

23. Hon. Lakshman Kiriella,

Minister of Higher Education and
Highways.

24. Hon. Sarath Arumugam,

Minister of Special Assignments.

25. Hon. Rauff Hakeem,

Minister of City Planning and Water
Supply.

26. Hon. Anura Priyadarshana Yapa,

Minister of Disaster Management.

27. Hon. Susil Premajyanthe,
Minister of Science Technology and
Research.

28. Hon. (Dr.) Rajitha Senarathne,
Minister of Health Nutrition and
Indigenous Medicine.

29. Hon. Ravi Karunanayake,
Minister of Finance.

30. Hon. Mahinda Samarasinghe,
Minister of Skill and Vocational
Training.

31. Hon. Vajira Abeywardane,
Minister of Home Affairs.

32. Hon. S. B. Navinne,
Minister of Int. Affairs
Wayaba Development and Cultural
Affairs.

33. Hon. Rishad Bathiudeen,

Minister of Industry and Commerce.

34. Hon. Patali Champika Ranawake,
Minister of Megapolis and Western
Development.

35. Hon. Mahinda Amaraweera,
Minister of Fisheries and Aquatic
Resources Development.

36. Hon. Navin Dissanayake,
Minister of Plantation and Industries.

37. Hon. Ranjith Siyambalapitiya,
Minister of Power and Renewable
Energy.

38. Hon. Duminda Dissanayake,
Minister of Agriculture.

39. Hon. Vijith Vijayamuni Zoysa,
Minister of Irrigation and Water
Resources Management.

40. Hon. Dr. Wijayadasa Rajapakshe,

Minister of Justice and Buddha
Sasana.

41. Hon. P. Harrison,
Minister of Rural Economy.

42. Hon. Kabir Hashim,
Minister of Public Enterprises
Development.

43. Hon. Madduma Bandara,
Minister of Public Administration and
Management.

44. Hon. Gayantha Karunathilake,
Minister of Parliamentary Reforms
and Mass Media.

45. Hon. Sajith Premadasa,
Minister of Housing and
Construction.

46. Hon. Arjuna Ranatunga,
Minister of Ports and Shipping.

47. Hon. U. Palani Digambaram,
Minister of Hill Country New Villages
Infrastructure and Community
Development.

48. Hon. (Mrs.) Chandrani Bandara,
Minister of Women and Child affairs.

49. Hon. (Mrs.) Thalatha Atukorale,
Minister of Foreign Employment.

50. Hon. M. H. A. Haleem,
Minister of Posts Postal Services and
Muslim Religious Affairs.

51. Hon. Faiszer Mustapha,
Minister of Provincial Councils and
Local Government.

52. Hon. D. M. Swaminathan,
Minister of Prison Reforms
Rehabilitation, Resettlement and
Hindu Religious Affairs.

53. Hon. Chandima Weerakkody,

Petroleum Development.

54. Hon. Dayasiri Jayasekara,

Minister of Sports.

55. Hon. Harin Fernando,

Minister of Telecommunication and
Digital Infrastructure.

56. Hon. Mano Ganeshan

Minister of National Co-Existence,
Dialog and Official Languages.

57. Hon. Daya Gamage,

Minister of Primary Industries.

58. Hon. Malik Samarawickrama,

Minister of Development Strategies
and International Trade.

59. Field Marshal Hon. Sarath Fonseka,

Minister of Regional Development.

All of the office of the Cabinet of
Ministers Republic Square

Sir Baron Jayathilleke Mawatha,
Colombo 01.

60. Sumith Abeysinghe,
Secretary to the Cabinet of Ministers,
Republic Square,
Sir Baron Jayathillake Mawatha,
Colombo 01.

61. A. L. Abeygunasekara
Officer in Charge,
Weerambugedara Police Station,
Weerambugedara.

62. R. A. K. Premaratna
No. 54, Chatham Street,
Central Police Building,
Colombo 01.

63. Mahesh Menon Kumarasinghe,
Special Investigation Bureau,
New General Secretary Building,
Police Headquarters,
Colombo 01.

64.A. C. C. A. Perera,

No. 1145/01,

Dharmodaya Mawatha,

Battaramulla.

65.S. K. Senanayaka.

C/69, Keppitpola Mawatha,

Colombo 05.

66.A. W. S. J. K. Denial,

"Sampatha",

Udugama,

Aranayake.

67.Gunasena Thenabadu,

In front of Nawagamuwa Police,

Nawagamuwa,

Ranala.

68.R. M. I. B. Jayasinghe,

In front of Police Station,

Kurundagaha Hethemma.

69. Priyashantha Jayakodi,

Gajaba Mawatha,

Ganemulla Road,

Kadawatha.

70. Gamini Siyambalapitiya,

No. 175/A, Pubudu Mawatha,

Thudella,

Ja-Ela.

71. Kingsley Ekanayake,

No. 203/30, Sapumal Uyana,

Madapatha, Piliyandala.

72. Ananda Ratnaweera,

No. 322, Nagahamula Junction,

Gonawala, Kelaniya.

73. Pujith Jayasundera,

Inspector General of Police,

Police Headquarters,

Colombo 01.

74. Hon. Attorney General,

Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: **P PADMAN SURASENA J**

E. A. G. R. AMARASEKARA J

A. H. M. D. NAWAZ J

Counsel: Ikram Mohamed, PC with M. S. A. Wadood, Palitha Subasinghe, Hashane Mallawarachchi, Vinura Jayawardena, Buddhika Jayakoday, and Ms. Dulmini Liyanage instructed by Mrs. P. Nilusha G.C. Silva for Petitioners.

Rajiv Goonetilleke, SSC for the 5th – 12th and 73rd and 74th Respondents.

Widura Ranawaka with Menaka Warnapura and Sudath Perera instructed by Indunil Bandara for the 71th Respondent.

Lal Matarage instructed by S. B. Dissanayake Associates for the 72nd Respondent.

Argued on: 22-03-2021

Decided on: 16-12-2021

P Padman Surasena J

Petitioners are police officers and retired police officers claiming to have been politically victimized during the period 1994 to 31-07-2014 by successive Governments.

Consequent to the change of Government in 2015 the then Cabinet of Ministers, having considered the Memorandum dated 09-03-2015,¹ under the title "To provide relief to those who were victimized for political reasons", submitted by the then Prime

¹ Produced marked **P 1**.

Minister, decided on 08-04-2015 to issue a Public Administration Circular to provide a reasonable period of time for those officers, if any, who have been subjected to political victimization and who wish to seek relief, but not yet submitted their appeals, to submit their appeals. The Cabinet of Ministers also decided to authorize the Secretary Ministry of Public Administration to appoint an official committee comprising of three retired public officers who had served in the capacity of Additional Secretary or any other similar or higher post to examine the said appeals and make recommendations. The Petitioners have produced the said cabinet decision made on 08-04-2015, marked **P 2**.

As authorized by the said cabinet decision, the Secretary Ministry of Public Administration had issued the Public Administration circular No. 09/2015 dated 17-04-2015, calling for appeals to be submitted to the Ministry of Public Administration by 05-05-2015. The Petitioners have produced the said Public Administration circular No. 09/2015 marked **P 3**.

The Minister of Public Order and Christian Affairs had appointed Gamini Siyambalapitiya (retired Additional Secretary), Kinsley Ekanayake (Former Senior Deputy Inspector General of Police) and Ananada Ratnaweera (Former Superintended of Police) as members of the "Political Victimization Committee" by the letter dated 21-06-2015 produced marked **R 1**. The said letter (**R 1**) has been addressed to "The Secretary, Political Victimization Committee, Jathika Sevaka Sangamaya, Kotte Road, Pitakotte" which is not a Government institution. Further, the said letter has not indicated how and why either the said committee or its members came to be appointed. Thus, the purpose of the said "Political Victimization Committee" appointed by the Minister of Public Order and Christian Affairs is not clear. Be that as it may, this committee will be hereinafter referred to as the 'Siyambalapitiya Committee'. Said 'Siyambalapitiya Committee is not a committee that has been appointed in consequence or under any authority of any Cabinet decision.

The Secretary, Ministry of Public Administration, by the letter dated 23-06-2015 produced marked **R 2** has informed the Secretary of the Ministry of Public Order and Christian Affairs that a three-member committee to look in to the relief to be granted to persons subjected to political victimization, had already been established in the

Ministry of Public Administration. In the same letter, the Secretary, Ministry of Public Administration had agreed that the said Siyambalapitiya Committee could assist the three-member committee set up in the Ministry of Public Administration in its work relating to appeals pertaining to the officers coming under the Ministry of Public Order and Christian Affairs. The said letter **R 2** had asked the Secretary of the Ministry of Public Order and Christian Affairs to forward its recommendations regarding the said appeals to the Secretary of the Ministry of Public Administration. Thus, the mandate if any, the letter **R 2** had granted to the Secretary of the Ministry of Public Order and Christian Affairs is only to forward its recommendations relating to appeals pertaining to its officers. The mandate if any, the letter **R 2** had granted to the said Siyambalapitiya Committee is only to assist the Secretary of the Ministry of Public Order and Christian Affairs in preparing the requested recommendations to be submitted to the Secretary of the Ministry of Public Administration. Indeed, the letter **R 2** had not only mandated the said Siyambalapitiya Committee but mandated any other members of its staff also to render assistance required for preparation of the requested recommendations.

The Secretary of the Ministry of Public Order and Christian Affairs, by the letter dated 12-01-2016 produced marked **R 5**, had forwarded the recommendations of the Siyambalapitiya Committee to the secretary Ministry of Public Administration as requested by the letter dated 23-06-2015 (**R 2**). It is to be noted that the said letter **R 5** has merely forwarded the report of the Siyambalapitiya Committee rather than the recommendations of the Secretary of the Ministry of Public Order and Christian Affairs. The Petitioners have also produced the aforesaid letter dated 12-01-2016 marked **P 6**.

It then came to light that the official committee appointed by the Secretary to the Ministry of Public Administration as per the decision by the Cabinet of Ministers (**P 2**) and the Siyambalapitiya Committee appointed by the Minister of Public Order and Christian Affairs, had made conflicting recommendations in respect of some officers. It was in this backdrop that the Minister of Law and Order and Southern Development, by the Cabinet memorandum dated 06-04-2016, sought Cabinet approval to appoint a new three member committee comprising of an Additional Secretary of the Ministry

of Public administration, Additional Secretary of the Ministry of Law and Order and Southern Development and a Senior Deputy Inspector General of Police to reconsider and make recommendations on the appeals of police officers who were subjected to political victimization. Hon. Attorney General has produced the said Cabinet memorandum dated 06-04-2016 marked **R 6**. The document produced by the Petitioners marked **P 7** appears to be a copy of **R 6**.

Pursuant to the said Cabinet memorandum (**R 6**) the Cabinet of Ministers decided on 19-04-2016 to approve the said proposal to appoint a three-member committee by the Minister of Law and Order and Southern Development and to forward the recommendations of the said committee to the Cabinet. Hon. Attorney General has produced the said Cabinet decision on 19-04-2016 marked **R 7**.

It was pursuant to the said Cabinet decision (**R 7**) that a committee comprising of Ms. B. M. M. M. Basnayake (Additional Secretary Ministry of Public Administration), Neil Hapuhinna (Additional Secretary Ministry of Law and Order) and Ravi Wijegunawardene (Senior Deputy Inspector General of Police) were appointed to reconsider and make recommendations regarding the afore-stated appeals. This Committee (hereinafter sometimes referred to as the "Basnayake Committee") recommended granting relief to 129 police officers. Hon. Attorney General by way of Motion dated 2nd February 2018 has produced the Basnayake Committee report marked **Y**.

Thereafter, the Minister of Law and Order and Southern Development, by the Cabinet Memorandum dated 10th June 2016, sought the approval of the Cabinet of Ministers, for the implementation of the recommendations of the Basnayake Committee. Hon. Attorney General has produced the said Cabinet Memorandum dated 10th June 2016 marked **R 8**.

The Cabinet of Ministers, having considered the above Memorandum (**R 8**), the observations in that regard forwarded by the Minister of Finance dated 18th June 2016 (**R 9**), the observations dated 23rd June 2015 forwarded by the Minister of Public Administration and Management (**R 10**), decided on 28th June 2016, to request the Prime Minister to propose a methodology to grant relief to officers who had been

subjected to disciplinary measures. Hon. Attorney General has produced the said Cabinet decision on 28th June 2016, marked **R 11**.

Upon the above request, the Prime Minister had proposed that those who were not facing any pending disciplinary proceedings, be granted relief without delay. The Prime Minister had also proposed that those who were facing disciplinary proceedings be granted relief if they are exonerated. The Note to the Cabinet dated 26th of July 2016 containing the said proposal by the Prime Minister has been produced by Hon. Attorney General, marked **R 12**.

The President has approved the said proposal made by the Prime Minister subject to the condition that the relief could be granted only if such a course of action would not affect the seniority of other serving police officers. Hon. Attorney General has produced the said observations of the President dated 29th July 2016 marked **R 14**.

The Cabinet of Ministers having considered the Note to the Cabinet forwarded by the Prime Minister (**R 12**) along with the observations of the President (**R 14**) and the observations of the Minister of Finance (**R 9**), decided on 9th August 2016 to direct the Secretary Ministry of Law and Order and Southern Development to implement the proposals recommended in the Note to the Cabinet (**R 12**) forwarded by the Prime Minister subject to the conditions set out in the observations of the President (**R 14**). The Cabinet of Ministers also decided to treat the above decision as a matter of Policy. Hon. Attorney General has produced the copy of the said Cabinet decision dated 9th August 2016 marked (**R15**). For clarity I would reproduce below the relevant extract from the said Cabinet decision **R15**.

Given below is an extract of Item (08) of the Minutes of the Cabinet Meeting held on 2016-08-09.

Item (08)

*Cabinet Paper No. 16/1473/702/053, a Note to the Cabinet dated 2016-07-26 by the Prime Minister on **"Providing relief to those who faced difficulties due to political reasons"**- (Cabinet decision dated 2016-04-19 on CP No. 16/0654/748/010 and 2016-06-28 on CP No. 16/1134/748/010-I refers) the above Note was considered*

along with the observations of H.E the President and the Minister of Finance. After discussion, it was decided-

- a) To grant approval treating this as matter of policy, to the proposals (I) and (II) in paragraph 03 of the Note;*
- b) To direct the Secretary, Ministry of Law & Order and Southern Development-*
 - (i) to take note of the matters highlighted in the observations of H.E the President and pursue action accordingly, and*
 - (ii) to obtain the concurrence/approval of the relevant authorities prior to implementation of the proposals referred to at (a) above, as indicated in the observations of the Minister of Finance.*

It was also decided to treat this decision as confirmed and to authorize the Secretary to the Cabinet of Ministers to convey the same to the relevant authorities for necessary action accordingly.

*Action by: **Secretary to the Prime Minister** - above observations annexed.*

***My/Law & Order and Southern Development** - copy of Note and above observations annexed.*

*Copied to: **Secretary to the President** - observations of the Minister of Finance annexed.*

***My/Finance** - observations of H.E the President annexed.*

***My/Public Administration and Management** - copy of Note and above observations annexed.*

***Secretary, National Police Commission** - copy of Note and above observations annexed.*

Let me at this stage turn to the complaint made by the Petitioners. The Petitioners in their petition have stated that the Siyambalapitiya Committee appointed by the Minister of Public Order and Christian Affairs, having interviewed 812 police personnel

(who had submitted appeals) and having considered their appeals, recommended relief to 333 officers on the grounds of political victimization.

The Petitioners have stated that the "Siyambalapitiya Committee" in its report has recommended that the Petitioners be given various relief and that the said relief are set out in the circular dated 18.03.2016 which was issued for the purpose of implementing the said recommendations. The Petitioners have not produced the said circular but produced the circular **P 5** which is applicable to the Education Service.

The Petitioners complain that the subsequently appointed Basnayake Committee conducted fresh interviews in respect of only the 333 officers recommended by the Siyambalapitiya Committee and another 100 officers recommended by some other ad hoc committee and failed to reconsider appeals of remaining police officers from the list of 812 appellants from the Police Department. The Petitioners also complain that the Basnayake Committee selected only 92 people from the previously selected list of 333 leaving out 241 people out of the said list including the 11th to 44th Petitioners. The Petitioners further complain that the Basnayake Committee has also considered and included the names of 9 officers, who are 61st to the 69th Respondent who were not amongst the appellants considered by the Siyambalapitiya Committee or any other ad hoc committee. The Petitioners complain that the action of Basnayake Committee recommending a total number of 129 Police Officers for redress, is arbitrary, unfair and/or unreasonable and/or devoid of any rational basis and hence violates their fundamental rights.

Further, the Petitioners state that the Basnayake committee has given lesser relief for the 1st to 10th Petitioners than the relief recommended by Siyambalapitiya Committee. The Petitioners also state that Basnayake Committee has arbitrarily dropped the recommendations of the Siyambalapitiya Committee in respect of 11th to 44th Petitioners who were waiting to receive the said recommended relief.

The Petitioners allege that the above action by subsequently appointed Basnayake Committee is ultra vires, arbitrary and has violated the fundamental rights of the petitioners. The Petitioners therefore seek to challenge the said Basnayake Committee recommendations in this application.

It is in that backdrop that the Petitioners in this application have prayed inter alia, for the following relief in their petition.

- (i) Declare that the Fundamental Rights of the Petitioners guaranteed by Article 12 (1) of the Constitution has been violated by the 2nd to 4th Respondents and/or 14th to 59th Respondents*
- (ii) Declare that the recommendations of the Basnayake Committee to grant relief to the 129 persons without granting the reliefs recommended to the Petitioners by the Siyambalapitiya Committee is unlawful and/or wrong in law and is violative of the Petitioners fundamental rights guaranteed by Article 12 (1) of the Constitution and/or the implementation thereof by the 14th to 59th Respondents is violative of the Petitioners fundamental rights*
- (iii) Declare that the Petitioners are entitled to be granted the reliefs recommended by the Siyambalapitiya Committee marked as "**P 4**" after addressing the anomalies contained therein*
- (iv) Direct that the Petitioners be granted the reliefs recommended by the "Siyambalapitiya Committee" marked "**P4**" after addressing the anomalies contained therein*
- (v) Grant compensation in an amount of Rs. 750,000/- to the Petitioners*

In the instant case, the Court has granted leave to proceed under Article 12(1) of the Constitution. Thus, the task of this Court at this moment must be to ascertain whether anyone or more of the Respondents have infringed the fundamental rights of the petitioners guaranteed under Article 12(1) of the Constitution.

By looking at the prayers of the petition, it is clear that it is the recommendations made by the Siyambalapitiya Committee that the Petitioners seek to enforce in this application. As has been mentioned above, Siyambalapitiya Committee is not a committee that has been appointed in consequence or under any authority of any Cabinet decision. The decision of the Cabinet of Ministers marked **P 2** has only authorized the Secretary Ministry of Public Administration to appoint an official committee to examine the said appeals and make recommendations. Thus, the

appointment, the proceedings and the decision of the Siyambalapitiya Committee does not have any lawful basis.

The letter dated 23-06-2015 (**R 2**) had only asked the Secretary of the Ministry of Public Order and Christian Affairs to forward its recommendations regarding the relevant appeals to the Secretary of the Ministry of Public Administration. Thus, the mandate if any, the letter **R 2** had granted to the Secretary of the Ministry of Public Order and Christian Affairs by the Secretary Ministry of Public Administration was only to forward its recommendations (relating to appeals pertaining to the officers coming under the Ministry of Public Order and Christian Affairs) to the Secretary of the Ministry of Public Administration. This clearly shows that the recommendations made by Siyambalapitiya Committee is not final but would be open for review.

It would be opportune at this juncture to consider the position taken up by the learned counsel for the 71st respondent.

One of the three members of the Siyambalapitiya Committee is Ananda Ratnaweera (Former Superintended of Police). It has come to light in the course of these proceedings that the recommendations made by Siyambalapitiya Committee (**P 4**) contains a recommendation favorable to that member Ananda Ratnaweera. This is found under item No. 191 of the said report. Thus, it is clear that the Siyambalapitiya Committee which comprised of three members has not had any hesitation or restrain to proceed to make a recommendation favorable to one of its members also. This in my view violates the breach of rules of natural justice namely the rule '*Nemo judex in causa sua*' which is sufficient to vitiate the proceedings and the recommendations made by Siyambalapitiya Committee as appearing in **P 4**.

Bamunu Mudiyanseleage Kandewalawwe Kingsley Ekanayake who is the 71st Respondent in this application has also filed an affidavit stating that the document **P 4** which the Petitioners seek to enforce in this proceeding is not the genuine recommendations made by the Siyambalapitiya Committee of which he was one of the three members. Moreover, the learned counsel for the 71st respondent Mr. Widura Ranawaka, having highlighted many discrepancies between **P 4** and genuine copy also revealed before this Court that **P 4** contains interpolations made by the General Secretary of the United National Party Cabir Hashim who had placed his seal on **P 4**.

This is indicative of the fact that a particular political party had been involved in the decision-making process at least as far as the said document (**P 4**) (as has been produced to this Court) is concerned. In the afore-stated circumstances, this court is unable to accept and enforce the recommendations contained in the said document (**P 4**) as a legal document.

In these circumstances and for the foregoing reasons, The Petitioners are not entitled to succeed with the prayers in this application. This Court decides to dismiss this application but without costs.

JUDGE OF THE SUPREME COURT

E. A. G. R. AMARASEKARA J

I agree,

JUDGE OF THE SUPREME COURT

A. H. M. D. NAWAZ J

I agree,

JUDGE OF THE SUPREME COURT