

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

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

1. C.V. Wigneshwaran,

**SC/FRA/59/2025**

No. 16C, Cambridge Terrace,  
Colombo 07.

2. Visvalingam Manivannan,

No. 58, Ramanathan Road,  
Jaffna.

**PETITIONERS**

Vs.

1. I. Saseelan,

Returning Officer,  
Point Pedro Prades Sabha,  
Assistant Returning Officer Jaffana  
Administrative District, Election Office,  
Jaffna.

2. Mr. R. M. A. L Rathnayake,  
Chairman
3. Mr. M. A. P. C. Perera,  
Member,
4. Ameer Faaiz,  
Member
5. Anusuya Shanmuganathan,  
Member
6. Prof. D. M. S. S. Lakshman Dissanayake,  
Member
7. The Election Commission of Sri Lanka  
Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2 Sarana Mawatha,  
Rajagiriya.
8. Hon. Attorney General,  
Attorney General's Department,  
No.159, Hulftsdorp Street,  
Colombo 12.

**RESPONDENTS**

**SC/FRA/60/2025**

1. Gajendrakumar Gangesar Ponnambalam,  
General Secretary,  
All Ceylon Tamil Congress  
120, Main Street. Jaffna

2. Ramachandran Thanushan,  
School Road, Kondavil West,  
Kondail

**PETITIONERS**

Vs.

1. I. Saseelan,  
Returning Officer  
Nallur Pradesha Sabha  
Assistant Returning Officer  
Jaffna Administrative District  
Elections Office, Jaffna

2. M. Pratheepan  
Returning Officer/Acting District Secretary,  
Jaffna District Secretariat,  
Jaffna

3. R.M.A.L. Rathnayake  
Chairman

4. M.A.P.C. Perera  
Member

5. Ameer Faaiz

Member

6. A. Shanmuganathan

Member

7. Prof. Lakshman Dissanayake

Member

The Election Commission of Sri Lanka

Election Secretariat,

P.O. Box 02, Sarana Mawatha,

Rajagiriya, 10107,

Sri Lanka

8. Saman Sri Ratnayake

Commissioner General of Elections

Election Secretariat,

P.O. Box 02, Sarana Mawatha,

Rajagiriya, 10107,

Sri Lanka

9. Hon. Attorney-General,

Attorney-General's Department,

Colombo 12

## **RESPONDENTS**

1. Gnanaprakasam Sulakshan,  
24/7, Central East Road,  
Gurunagar, Jaffna.

**PETITIONER**

Vs.

1. I. Saseelan,  
Returning Officer,  
Assistant Returning Officer,  
Jaffna Administrative District.
2. M. Pratheepan,  
Returning Officer/Acting District Secretary,  
Jaffna District Secretariat, Kachcheri, Jaffna.
3. Mr. R. M. A. L Rathnayake,  
Chairman
4. Mr. M. A. P. C. Perera,  
Member,
5. Ameer Faaiz,  
Member
6. Anusuya Shanmuganathan,  
Member
7. Prof. D. M. S. S. Lakshman Dissanayake,  
Member

The Election Commission of Sri Lanka  
Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2 Sarana Mawatha,  
Rajagiriya.

8. Saman Sri Rathnayake,  
Commissioner General of Elections,  
All of Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2  
Sarana Mawatha,  
Rajagiriya.
9. Hon. Attorney General,  
Attorney General's Department,  
No.159, Hulftsdorp Street,  
Colombo 12.

**RESPONDENTS**

**SC/FRA/68/2025**

1. Ramachandran Suren,  
Leader of the Independent Group,  
(Valvettithurai Local Government Division)  
K. K. S. Road,  
Valvettithurai,  
Jaffna.

2. Kugathas Kamalathas,

Sannithy Kovilady,

Thondamanaru

3. Rajasingam Jeyaseelan

Kankesanthurai Veethy,

Aathikovilady,

Valvettithurai

4. Selvarasa Selvakumar,

Mamangkanai,

Polikandy-West.

5. Balachandran Jegan,

Kattuvalau,

Valvettithurai

6. Sabarathnam Selvendra,

Customs Road,

Valvettithurai

7. Yokendararajh Karthikeyan,

Viththalai Lane,

Valvettithurai

8. Vellaiyan Krishnamoorthy,

Kommanthurai,

Valvettithurai

9. Jelitha Sritharan,

Oorikkadu,

Valvettithurai

10. Vellaiyan Premthasan,

Kerudavil-South,

Thondaimanaru

11. Alagendararasa Gnanaruban,

Aathikovilady,

Valvettithurai

12. Ganeshamoorthy Prashanthan,

Aathikovilady,

Valvettithurai

13. Rangunathan Jegan,

Nadarasa Road,

Valvettithurai

14. Manimaran Swarna,

Kattuvalau,

Valvettithurai

15. Nishanthi Saranraj,

A.G. A. Lane,

Valvettithurai

16. Rekha Sugirthan,

Kodakkattai,

Valvettithurai

17. Ponnuthurai Eswaralingam,

Sivapura Veethy,

Valvettithurai

18. Natkunarasa Thivya,

Sanganthottam,

Polikandy,

Valvettithurai

**PETITIONERS**

Vs.

1. Saseelan,

Returning Officer,

Point Pedro Prades Sabha,

Assistant Returning Officer Jaffna

Administrative District, Election Office, Jaffna

2. Mr. R. M. A. L Rathnayake,

Chairman

3. Mr. M. A. P. C. Perera,  
Member,
4. Ameer Faaiz,  
Member,
5. Anusuya Shanmuganathan,  
Member,
6. Prof. Lakshman Dissanayake,  
Member  
The Election Commission of Sri Lanka  
Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2 Sarana Mawatha,  
Rajagiriya. 10107,  
Sri Lanka.
7. Hon. Attorney General,  
Attorney General's Department,  
No.159, Hulftsdorp Street,  
Colombo 12.

**RESPONDENTS**

**SC/FRA/69/2025**

1. Murugesu Paranthiran,  
General Secretary,  
Democratic People's Front,  
No: 72, Bankshall Street,  
Colombo 11.

2. Kannathurai Mohanadas,  
No. 66/2, Circular Road,  
Katuudawela,  
Matale.

**PETITIONERS**

Vs.

1. S. A. T. Pushpa Kumara,  
Returning Officer,  
Matale Municipal Council,  
Assistant Returning Officer,  
Matale Administrative District.

2. Mr. R. M. A. L Rathnayake,  
Chairman,

3. Mr. M. A. P. C. Perera,  
Member,

4. Ameer Faaiz,  
Member,
5. Anusuya Shanmuganathan,  
Member,
6. Prof. D. M. S. S. Lakshman Dissanayake,  
Member  
The Election Commission of Sri Lanka  
Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2 Sarana Mawatha,  
Rajagiriya.
7. Hon. Attorney General,  
Attorney General's Department,  
No.159, Hulftsdorp Street,  
Colombo 12.

**SC/FRA/72/2025**

**RESPONDENTS**

1. Murugesu Paranthiran,  
General Secretary,  
Democratic People's Front,  
No: 72, Bankshall Street,  
Colombo 11.
2. M.P. Wigneswaran,  
No. 96, Balagolla, Kengalla.

**PETITIONERS**

Vs.

1. H D N S Fernando,  
Returning Officer  
Kandy Municipal Council,  
Kandy Administrative District.
2. W M Ananda Wanasinghe,  
Returning Officer,  
Kandy Municipal Council,  
Kandy Administrative District.
3. Mr. R. M. A. L Rathnayake,  
Chairman,
4. Mr. M. A. P. C. Perera,  
Member,
5. Ameer Faaiz,  
Member,
6. Anusuya Shanmuganathan,  
Member,
7. Prof. D. M. S. S. Lakshman Dissanayake,  
Member,  
The Election Commission of Sri Lanka,  
Election Secretariat,  
P.O. Box 2 Sarana Mawatha,

Rajagiriya, 10107,

Sri Lanka.

8. Hon. Attorney General,  
Attorney General's Department,  
No.159, Hulftsdorp Street,  
Colombo 12.

**RESPONDENTS**

**BEFORE:** **S. THURAIRAJA, PC, J.**

**MAHINDA SAMAYAWARDHENA, J. AND  
SAMPATH B. ABAYAKOON, J.**

**COUNSEL:** Geoffrey Alagaratnam, PC. with S.K. Puranharan and S. Vishakan instructed by Ishara Gunawardena for the Petitioner in SC/FR No. 59/2025

Dr. K. Guruparan instructed by Janani Iyyathurai for the Petitioner in SC/FR No. 65/2025

K.V.S. Ganesharajan with M. Shabishanth and Vithusha Loganathan instructed by M. Mangaleswary Shanker for the Petitioner in SC/FR Nos. 68/2025 and 69/2025

Kanishka de Silva Balapatabendi, DSG. With Nayanathara Balapatabendi, SC. and a legal officer for the Election Commission for the Respondent in all cases

**ARGUED ON:** 1<sup>st</sup> and 3<sup>rd</sup> April 2025

**DECIDED ON:** 04<sup>th</sup> April 2025

**THURAIRAJA, PC, J.**

1. Applications before us are out of several fundamental rights applications filed before the Supreme Court challenging the decisions of Returning Officers of several Administrative Districts to reject nomination papers tendered by certain recognized political groups and independent groups in relation to the local authorities' elections to be held on 06<sup>th</sup> May 2025.

**GRIEVANCES OF THE PETITIONERS**

2. The Petitioner in SC/FRA/59/25 came before this Court alleging violations of her fundamental rights by the decision of the Returning Officer to reject the nomination paper *in toto* on the basis of insufficient female candidates subsequent to her removal from the nomination paper owing to the deficiencies in the affidavit submitted by her. It was revealed that, while the Commissioner for Oaths who were to attest the same had placed the official frank but not his or her signature.
3. In the factual circumstances relating to SC/FRA/60/25, two female candidates had failed to include their names in the Affidavits, resulting in their removal from the nominations list. Subsequent to their removal, as the nominations list did not have the required number of female candidates, the same had been rejected in its entirety.
4. In SC/FRA/68/25, owing to the failure of the youth candidates to annex certified copies of their certificates of birth, the entire nominations list had been rejected for its failure to include the required number of youth candidates.

5. In SC/FRA/69/25, the failure of a woman candidate to duly take oath in terms of the Seventh Schedule to the Constitution and the failure of youth candidates to submit certified copies of their birth certificates, who submitted copies certified by a Justice of Peace instead, had caused their nomination paper to fall short minimum women representation, thereby seeing the rejection of the entire nomination paper.
6. The Petitioners in SC/FRA/72/25 claim that their nomination paper was rejected on the basis that it was submitted by an unauthorized person. However, when the matter was taken up before the Court, various other fatal infirmities were revealed in the nomination paper.
7. While none of the Petitioners made submission as to what fundamental rights have been violated with the matters were taken up for argument on the 1<sup>st</sup> and 3<sup>rd</sup> of April 2025, they have in their Petitions and written submissions alleged violations of Articles 12(1), 12(2) and 14(1)(a) of the Constitution.

## **ANALYSIS**

8. For ease of analysis, I shall first consider SC/FRA/72/25. The nomination paper concerned therein was ostensibly rejected on the basis of it being submitted by an unauthorized person and the Petitioners contend the person who in fact submitted the same to have been duly authorized. However, when this Court inquired into whether there is a document authorising such person, or at least a copy thereof, the Petitioners were not able to produce any such documentation. The learned Counsel submitted at this point that the Petitioners had not maintained copies of what was submitted to the Returning Officer. Accordingly, the Court directed learned Deputy Solicitor General to procure the documents submitted by the Petitioners in SC/FRA/72/25 for its perusal.

9. Upon perusing such documents, it was revealed to the Court that the Petitioners had filed 'Affidavits' which bore no information of the Petitioners whatsoever. They were mere empty forms with a blank and signature of a Justice of Peace. Accordingly, I am of the view that, the rejection of a nomination paper which contains such colossal errors on the face of it, could not amount to a violation of fundamental rights by any fiction of imagination. These errors were such that it would even warrant stern action against the Justice of Peace who attested the blank forms. Considering the aforementioned, this Court is of the view that leave to proceed should not be granted for SC/FRA/72/25. Accordingly, the Petition is dismissed.

#### **The Requirement to Submit Certified Copies of the Certificate of Birth**

10. Petitioners in SC/FRA/68/25, who only annexed photocopies of the birth certificates of the youth candidates contended the rejection of their nomination paper on that basis to be arbitrary, unreasonable, irrational, capricious and contrary to principles of natural justice and the rule of law.
11. They further contended the submission of certified copies of birth certificates to not be a mandatory provision under Section 31 of the *Local Authorities Elections Ordinance, No. 53 of 1946* and argued that the whole of the nomination paper ought not to be rejected on the basis of such failure to submit certified copies of birth certificates.
12. Section 28(4A) of the *Local Authorities Elections Ordinance*, as amended by *Act, No. 25 of 1990*, states very clearly that,

*"A certified copy of the birth Certificate of every youth whose name appears in the nomination paper or an affidavit signed by such youth, certifying his date of birth shall be attached to such nomination paper."<sup>1</sup>*

13. Section 31 of the Ordinance, as amended, contains the provisions relating to rejection of nomination papers. Section 31 states,

*"(1) The returning officer shall, immediately after the expiry of the nomination period, examine the nomination papers received by him and reject any nomination paper-*

- (a) that has not been delivered in accordance with the provisions of subsection (5) of section 28; or*
- (b) that does not contain the total number of candidates required to be nominated under subsection (2) of section 28; or*
- (bb) and (bbb) Repealed*
- (c) in respect of which the deposit required under section 29 has not been made; or*
- (d) Repealed*
- (e) where the signature of the secretary in the case of a recognized political party or of the group leader in the case of an independent group does not appear on the nomination paper or where such signature has not been attested as required by subsection (5) of section 28; or*
- (f) that does not contain the total number of women and youth candidates as required to be nominated under subsection (2A) of section 28 of this Ordinance.*

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<sup>1</sup> Emphasis added

(1A) *Objections to a nomination paper may be made to a returning officer between twelve noon and one-thirty O'clock in the afternoon of the- last day of the period of nomination and no such objections shall be entertained by the returning officer after one-thirty O'clock in the afternoon of that day.*

(2) *Where any nomination paper has been rejected by the returning officer under subsection (i), the returning officer shall inform the secretary of the recognized political party or the group leader, as the case may be, who had submitted such nomination paper the fact of such rejection. The decision of the returning officer to reject such nomination paper shall be final and conclusive.*

(3) **Where a candidate or any person** whose name appears on a nomination paper submitted by a recognized political party or an independent group, as the case may be, **is found to be disqualified due to the failure of such candidate or person**:-

(a) **where the candidate or person concerned is a youth, to have attached to the nomination paper a certified copy of his Certificate of Birth or in the event the Certificate of Birth is not available an affidavit signed by such youth certifying his date of birth; or**

(b) **to have his consent which is required to be included in such nomination paper to be endorsed on the nomination paper, and to have annexed to the nomination paper his oath or affirmation in the form set out in the Seventh Schedule to the Constitution,**

**the nomination paper so submitted shall not be rejected, but the name of the candidate or the person concerned who is found to be disqualified due to any of the reasons specified in this subsection, shall be removed from the nomination paper so submitted. Where a name of any candidate or any person is removed from a nomination paper, the political party or the**

*independent group, as the case maybe, which submitted such nomination paper, shall not thereafter be entitled to replace the name so removed with any other new name and the deposit made in respect of the candidate or other person whose names was removed, shall be forfeited.*<sup>2</sup>

14. As it is amply clear from the above provision, a youth candidate—as defined in Section 89 of the Ordinance—is required to attach to the nomination paper a certified copy of his or her certificates of birth or an affidavit signed by such youth candidate certifying the age, where the birth certificate is not available. Where this requirement is not fulfilled, the Returning Officer is bound under Section 31 of the Ordinance to remove the name of such defaulting youth candidate from the nomination paper.
15. Before we proceed to consider whether or not such removal of a candidate should affect the minimum number of youth candidates required in terms of the law, let us consider what exactly amounts to a *certified* copy.
16. It was submitted by the learned Deputy Solicitor General that Section 56(1) of the *Births and Deaths Registration Act, No. 40 of 1975*, as amended, sets out how a “certified copy” of a certificate of birth may be obtained.
17. Section 56(1) of the *Births and Deaths Registration Act* states as follows:

*“Any person shall be entitled on making a written application to the appropriate District Registrar or to the appropriate Additional District Registrar for to the appropriate registrar, and under such conditions and on payment of such fees as may be prescribed, to refer to any book or document in the possession of such District Registrar, Additional District Registrar or registrar, and kept under this Act or under any past enactment, and to demand a certified copy of, or a certified extract from,*

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<sup>2</sup> Emphasis added

*any entry in such book or document. The Registrar-General or an Assistant Registrar-General may, on payment of such fees as may be prescribed, issue a certified copy of or an extract from, any registration entry."*

18. The learned Deputy Solicitor General further submitted the case of ***Maththaka Gamage Pawaresena v. Dayananda Dissanayake, Commissioner of Elections and 2 Others***,<sup>3</sup> where C Hettige, PC, J (P/CA, as His Lordship was then) held as follows:

*"I agree... that the Justice of the Peace is not the custodian of the original records relating to birth certificates and not authorized to issue certified copies of birth certificates. And a certified copy of the birth certificate can be issued only by the Registrar General of Births and or his Assistant Registrar General."*

19. I find myself in agreement with the aforementioned views of Sathya Hettige, PC, J. While a Justice of Peace, a Commissioner for Oaths or an Attorney-at-Law may attest a document as a "true copy", documents so attested does not amount to a "certified copy". A *certified copy* must be obtained from the custodian of the original and must be certified by someone who is authorised to so certify. In any event, the Petitioners of the instant application have submitted mere photocopies and such copies can no way amount to certified copies.

20. The learned Deputy Solicitor General also invited the attention of this Court to the fact that ample notice had been given to the parties of this requirement of annexing a copy certified by Additional District Registrar. She conceded to the fact that initial guidelines, handed out along with nomination papers, only mentioned that a copy of the certificate of birth was required. However, thereafter, by further communication dated 14<sup>th</sup> and 15<sup>th</sup>

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<sup>3</sup> CA 75/2011, CA Minutes of 12<sup>th</sup> May of 2011

March 2025, the Commissioner-General of Elections and Assistant Commissioner had clarified the requirement of such certificates of birth being certified by a District Registrar.

21. Hence, I am of the view that submitting a certified copy of the birth certificate or an affidavit certifying a youth candidate's age is a mandatory requirement, and this requirement cannot be satisfied by merely submitting a photocopy or a copy attested by a Justice of Peace.

#### **Oath and Affirmation in the Form of the Seventh Schedule to the Constitution**

22. Section 28 (4) of the *Local Authorities Elections Ordinance* provides that,

*"The written consent of each candidate and each person being nominated by a recognized political party or an independent group shall be endorsed on the nomination paper and **there shall be annexed to the nomination paper, an oath or affirmation, as the case may be, in the form set out in the Seventh Schedule to the Constitution**, taken and subscribed or made and subscribed, as the case may be, by every such candidate."*

23. The nomination papers of some of the Petitioners aforementioned were rejected by the Returning Officer based on deficiencies relating to the requirement of submitting an oath or affirmation in terms of the above provision.

24. Section 12(2) of the *Oaths and Affirmations Ordinance, No. 9 of 1895* provides,

*"A Commissioner for Oaths appointed under this Ordinance may administer any oath or affirmation or take any affidavit for the purpose of any legal proceedings or otherwise in all cases in which a Justice of the Peace is authorized by law so to do, and in all cases in which an oath, affirmation, or affidavit is commonly administered or taken before a Justice of the Peace; and any oath or affirmation or affidavit*

*administered or taken by a Commissioner for Oaths shall in all legal proceedings and for all other purposes have the same effect as an oath, affirmation, or affidavit administered or taken before a Justice of the Peace ; and all enactments relating to oaths, affirmations, and affidavits administered or taken before a Justice of the Peace shall, with the necessary modifications, apply thereto : Provided that a Commissioner for Oaths shall not exercise the powers given by this section in any proceeding or matter in which he is attorney-at law to any of the parties, or in which he is otherwise interested."*

25. The learned Deputy Solicitor General brought to the attention of this Court the case of **Ven. Weadinigama Wimalatissa Thero and Others v. R.M.R. Rathnayake and Others**,<sup>4</sup> where the Court of Appeal considered the requirement of an oath or affirmation with respect to the Seventh Schedule to the Constitution in relation to the *Parliamentary Elections Act, No. 1 of 1981*. Nawaz, J (P/CA as His Lordship then was) observed therein,

*"Black's Law Dictionary (11<sup>th</sup> Edition Bryan A. Garner at p. 1289) defines an oath to be a solemn declaration, accompanied by a swearing to God or a revered person or thing, that one's statement is true or that one will be bound to a promise.*

*This definition brings out the solemnity of an oath and imports and external agency to whom the solemn declaration must be sworn. An affirmation is defined by Black's Law Dictionary as a solemn pledge equivalent to an oath but without reference to a supreme being or to swearing. Both attract the penalty of forgery if the oath or affirmation turns out to be untrue. There must be a witness to an oath or affirmation who could speak to it having been made. Otherwise one can disavow a sacred oath and yet claim that he took the oath. One can deny sovereignty of a state and claim that he owes allegiance. He cannot just sign below the format of the oath and claim*

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<sup>4</sup> C.A. (Writ) 86/2020, CA Minutes of 22<sup>nd</sup> June 2020

*that he took the oath. An oath or affirmation by their intrinsic nature presupposes the oral declaration of the oath or affirmation and signing it to signify its taking or subscribing. It cannot be taken in secrecy. Thus there cannot be a self-pledge. It goes without saying that an oath or affirmation as solemn as a pledge or promise has to be administered...*

*In Sri Lanka the Constitutional Oath introduced by the Sixth Amendment is peremptorily made mandatory for not only those aspiring to be representatives of the people but several other office holders. The mandate of the oath is spelt out in Article 157A of the Constitution whilst its format is given in the Seventh Schedule. Article 157A(8)(a) and (b) render the Seventh Schedule oath or affirmation mandatory not only for Members of Parliament but also for those nominated as a Member of Parliament. So when the mandate of Section 15(2) of the Parliamentary Elections Act declares that every candidate must take the Seventh Schedule oath or subscribe to an affirmation and have it endorsed on the nomination paper, he must demonstrate his allegiance to the Constitution by scrupulously abiding by the form and mode of taking the oath.*

*The prospective candidate has to manifest in the nomination paper that he would uphold the sovereignty and integrity of the country. A mere signature below the oath would not suffice. Article 157A(3) prescribed severe penalties for any person who acts in contravention of the oath. It is not mere belief. If strict compliance is not insisted upon, there would be no end to modifications or variations."*

26. I see no reason as to why these observations should not apply *mutatis mutandis* to the requirement under Section 28(4) of the *Local Authorities Elections Ordinance*.
27. Accordingly, I am of the view that a Commissioner for Oaths not placing his or her signature or an affiant failing to place his or her name in an affidavit, as has happened

in the instant applications, are not curable defects, thus leading to a manifest non-compliance with respect to the mandatory requirements set out in *Local Authorities Elections Ordinance*.

### **Minimum/Total Number of Women Candidates**

28. According to Section 31(1)(f) of the *Local Authorities Elections Ordinance*, "The returning officer shall, immediately after the expiry of the nomination period, examine the nomination papers received by him and reject any nomination paper- (f) that does not contain the **total number of women** and youth candidates as required to be nominated under subsection (2A) of section 28 of this Ordinance."
29. As the above provision is so couched in mandatory language, the Returning Officer has no option but to reject a nomination paper *in toto* where such nomination paper does not contain the total number of women and youth candidates as required under Section 28(2A) of the *Local Authorities Elections Ordinance*.
30. The Petitioners placed heavy emphasis on the words "total number of women" and sought to argue that they need not meet the thresholds set for the first nomination paper and second nomination paper individually, so long as the total number of women candidates is satisfied by considering both nomination papers as one unit. In other words, the submission is that, where the number of women candidates in either nomination paper—be it first or second—does not satisfy the percentage stipulated in the Ordinance, the distinction between the two nomination papers must be ignored and the total number of women candidates in both nomination papers must be considered.
31. Learned Deputy Solicitor General contended that such an interpretation to Section 31(1)(f) would require this Court to ignore or overlook Sections 28(2) and 28(2A) of the Ordinance. It is a trite rule of statutory interpretation that provisions of a statute must be interpreted harmoniously with other provisions of such statute rather than in isolation.

As such, any interpretation given to Section 31(1)(f) must necessarily be read harmoniously with other provisions of the statute, including Sections 28(2) and 28(2A).

32. In any event, as one might very clearly observe Section 31(1)(f) itself refers to the requirements of Section 28(2A). In such an instance, in my view, it would be a cardinal error if one were to read the former provision without due deference to the construction of the latter provision.
33. Section 28(2) of the Ordinance provides that,

*"Any recognized political party or independent group shall, for the purpose of election as members of any local authority, submit two nomination papers in respect of all wards of such local authority. The nomination papers submitted by every recognized political party or independent group in respect of all wards of any local authority shall consist of the number of candidates of whom not less than **twenty-five per centum** of the total number of candidates nominated in **both the First Nomination Paper and the Additional Nomination Paper** shall be youth candidates and of whom, not less than **ten per centum of the total number of members to be elected and returned in the first nomination paper**, and **not less than fifty per centum of the total number of candidates in the additional nomination paper** shall be women candidates for the purpose of election as members of such local authority. The nomination papers submitted by every recognized political party or independent group in respect of all wards of any local authority shall be substantially in the Forms set out in the First Schedule, setting out the names-*

*(a) of candidates being nominated in respect of each ward of that local authority which number shall be equivalent to sixty per centum of the total number of members of that local authority:*

*Provided that where the number constituting sixty per centum referred to in this paragraph is an integer and fraction, the integer shall be deemed to be the number which shall constitute sixty per centum, for the purpose of this paragraph.*

*(b) of such number of additional persons to be nominated as candidates to be returned as is equivalent to forty per centum of the total number of members of the local authority plus three additional persons:*

*Provided that where the number constituting forty per centum referred to in this paragraph is an integer and fraction, the integer shall be deemed to be the number which shall constitute forty per centum, for the purpose of this paragraph.<sup>5</sup>*

34. In the aforementioned provision, the legislature very clearly prescribes the minimum percentage of youth candidates for *both* first *and* second nomination papers, whereas the minimum percentage of women candidates is clearly set out separately for the first and second nomination papers. The construction of Section 28(2A) is similar, as I shall highlight hereinbelow.

35. Section 28(2A) of the Ordinance provides that,

*"The Commissioner shall by notice published in the Gazette, **specify the minimum number of youth candidates** to be nominated in total in **both the First Nomination Paper and the Additional Nomination Paper** and the **minimum number of women candidates to be nominated in the First Nomination Paper and the Additional Nomination Paper** as referred to in subsection (2), in respect of all wards of each local authority. Where-*

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<sup>5</sup> Emphasis added

*(a) the total number of youth candidates to be nominated is such that not less than twenty-five per centum of the total number of candidates nominated in both the First Nomination Paper and the Additional Nomination Paper; and*

*(b) the total number of women candidates to be nominated is such that not less than ten per centum of the total numbers of members to be elected and returned in the First Nomination Paper, and not less than fifty per centum of the total number of candidates nominated in the Additional Nomination Paper,*

*would be an integer and fraction, the integer shall be deemed to be the number required for the purpose of this section.”<sup>6</sup>*

36. The Gazette Extraordinary No. 2425/70 dated 01st March 2025 has very clearly set out, separately, the number of women candidates that must be included in the two nomination papers.
37. Accordingly, I am of the view that the language in the statute in no way supports the contention of the Petitioners. The construction of the statute makes it amply clear that Returning Officer are bound to consider the women candidate threshold set out for each of the nomination papers separately.

#### **Rejections of Nomination Papers *in toto***

38. Where a name of a youth or women candidate is disqualified and removed in terms of Section 31(3) of the *Local Authorities Elections Ordinance*, and such removal brings a particular nomination paper below the youth or women quota requirement, should the entire nomination paper be rejected?

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<sup>6</sup> Emphasis added

39. This is one of the questions that was very forcefully argued by the Counsel appearing for the Petitioners, especially Mr. Alagaratnam, PC, Mr Ganesharajan and Dr. Guruparan.

40. Section 31(3) of the *Local Authorities Elections Ordinance* provides that,

"(3) **Where a candidate or any person** whose name appears on a nomination paper submitted by a recognized political party or an independent group, as the case may be, **is found to be disqualified due to the failure of such candidate or person**:-

(a) **where the candidate or person concerned is a youth, to have attached to the nomination paper a certified copy of his Certificate of Birth or in the event the Certificate of Birth is not available an affidavit signed by such youth certifying his date of birth;** or

(b) **to have his consent which is required to be included in such nomination paper to be endorsed on the nomination paper, and to have annexed to the nomination paper his oath or affirmation in the form set out in the Seventh Schedule to the Constitution,**

**the nomination paper so submitted shall not be rejected, but the name of the candidate or the person concerned who is found to be disqualified due to any of the reasons specified in this subsection, shall be removed from the nomination paper so submitted. Where a name of any candidate or any person is removed from a nomination paper, the political party or the independent group, as the case maybe, which submitted such nomination paper, shall not thereafter be entitled to replace the name so removed with any other new name and the deposit made in respect of the candidate or other person whose names was removed, shall be forfeited.**<sup>7</sup>

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<sup>7</sup> Emphasis added

41. Counsel placed heavy emphasis on the words "nomination paper so submitted shall not be rejected" in the above provision, and rightfully so, for it indicates an intention to preserve the nomination paper in spite of such defaults set out in paras (a) and (b) of subsection 3. Prior to the amendment by *Act, No. 22 of 2012*, failure to attach certified copies as required by Section 28(4A), was a ground for rejecting the nomination paper itself under Section 31(1)(bbb). However, said Section 31(1)(bbb) was repealed by *Act, No. 22 of 2012* and the subsection 3 quoted above was included instead.
42. In light of this, Counsel for the Petitioners contended that where a candidate is removed from the nomination list on the basis of Section 31(3)(a) or (b), such removal should not affect the quota requirement set out in Sections 28(2) and 28(2A), thereby once again reverting back to consider Section 31(1)(f). To this extent, the Petitioners contention, in essence, is that the list of nominations at the time of submission must be considered for the purpose of considering the question whether the minimum number of women and youth candidates have been included in either of the nomination papers.
43. According to the submission of Dr. Guruparan, Article 31(1) contained such requirement a Returning Officer *ex facie* considers at the very point of receiving the nomination papers. Once the Retuning Officer is satisfied as to such requirements and moves on to consider the requirements in terms of Section 31(3), such Retuning Officer must not return to reconsider the requirements under Section 31(1) in light of whatever disqualifications and removal there may be under Section 31(3) of the Ordinance.
44. The learned Deputy Solicitor General highlighted the fact that, in terms of Section 31(3), where a youth candidate fails to attach a certified copy of the birth certificate or affidavit and the oath or affirmation in the form set out in the Seventh Schedule to the Constitution, the name of such candidate is to be disqualified and removed from the nomination paper and no replacement is permitted in lieu thereof. She conceded that

such removal *per se* should not result in the rejection of the nomination paper. However, it was her submission that the nomination paper must be rejected in toto where such removal results in the minimum number of youth candidates specified by law not being met.

45. As was held in ***Rajavarothiam Sampanthan and Others v. The Attorney-General and Others***,<sup>8</sup>

*"The next principle of interpretation which should be mentioned is that, where there is more than one provision in a statute which deal with the same subject and differing constructions of the provisions are advanced, the Court must seek to interpret and apply the several provisions harmoniously and read the statute as a whole. That rule of harmonious interpretation crystallises the good sense that all the provisions of a statute must be taken into account and be made to work together and cohesively enable the statute to achieve its purpose."*

46. As Samayawardhena, J opined more recently in ***Chemisales Holding (Pvt) Ltd v. People's Bank***<sup>9</sup>

*"Harmonious construction is employed to resolve apparent inconsistencies or contradictions within the same law. It rests on the principle that every statute is enacted with a distinct purpose and intention and should, therefore, be interpreted as a cohesive whole."*

47. The learned Deputy Solicitor General further highlighted the adverse consequences that may arise if the provision were to be otherwise interpreted. She submitted that it would enable political parties to place some names of youth candidates, without proper birth

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<sup>8</sup> SC/FR/351-356, 358-361/2018, SC Minutes of 13<sup>th</sup> December 2018, at p. 61

<sup>9</sup> SC/Appeal/148/2019, SC Minutes of 03<sup>rd</sup> April 2025, at p. 11

certificate or other documentation, merely for the purpose of fulfilling minimum requirement, thus defeating the purpose of the amendment which brought about the minimum women and youth candidate thresholds.

48. I am in agreement with the submission of the learned Deputy Solicitor General in this regard. The legislature could not have intended there to be such a glaring loophole which can so easily be abused. As the maxim *ut res magis valeat quam pereat* dictates, this Court must interpret any statute in manner that makes them functional and effective rather than defunct.
49. As such, this Court takes the view that any disqualification and removal of a candidate under Section 31(3) of the Ordinance shall not result in the nomination paper being rejected *in toto*, so long as such nomination paper meets the minimum threshold of women and youth candidates in spite of such disqualification and removal.
50. Where a nomination paper contains youth or women candidates over and above the bare minimum threshold and minimum number of youth and women candidate requirement is still satisfied despite any disqualification or removal of any candidate under Section 31(3), such nomination paper should not, and cannot in terms of the law, be rejected by virtue of Section 31(1)(f) of the Ordinance.

## **CONCLUSION**

51. Accordingly, I am of the view that none of the Petitioners have established any arbitrary, mala fide, capricious or unreasonable treatment against them. Although allegations of differential treatment were made by some Petitioners, none have substantiated such allegations with evidence.
52. I am mindful of the fact that franchise is a right that is sacrosanct, and that it runs to the very core of the freedom of expression. I am also mindful of the principle that legal

provisions must be interpreted in a manner that makes such rights meaningful. While we must bear in mind the importance of such principles, it is also necessary to prevent the misuse of such revered rights at the expense of the citizenry. To that end, as Sharvananda, J observed in ***Dissanayake v. Sri Jayawardenapura University.***<sup>10</sup> “*Regulations made in the interests of efficiency, discipline, health, morality, public order and the like may undoubtedly be imposed. Such regulations are not restrictions on the operation of the guaranteed rights. Freedom has never been antithetical to regulation.*” Such regulations are by no means obnoxious to the rule of law.

53. In line with what has been discussed hereinabove, I am of the view that leave to proceed in SC/FRA/59/2025, SC/FRA/60/2025, SC/FRA/68/2025 and SC/FRA/69/2025 should be refused. Accordingly, the Petitions are dismissed.

***Application Dismissed.***

**JUDGE OF THE SUPREME COURT**

**MAHINDA SAMAYAWARDHENA, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

**SAMPATH B. ABAYAKOON, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

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<sup>10</sup> [1986] 2 Sri L.R. 254 at p. 264

On 04<sup>th</sup> April 2025, the above decision was read out in open court and the judgment was delivered. However, it was later informed that the caption of the judgment inadvertently did not bear the caption of SC/FR/60/25. Accordingly, the same were later included in the caption and the judgment was reuploaded.

Although page numbers and the length of the caption may differ from the version previously published, the contents of the judgment, including paragraph numbers, remain unchanged.