

**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 in respect of
violation of Articles 12(1) of the constitution.

S.C. (FR) No. 66/2024

1. Rajapaksha Mudiyansele
Amarananda Rajapaksha,
No.25, Wekunagoda Road, Galle.

For and on behalf of;
Rajapaksha Mudiyansele Janula
Uthsara Rajapaksha.

Petitioners

VS.

1. P.S. Pushpakumara (Principal)
Chairman of the Appeal Board
Richmond College, Galle.

Party sought to be added/substituted

1A. Rusira Maddumahewage,
Principal, Richmond College,
Galle.

2. K. K. S. Dilshan
Secretary of the Interview Panel,
Richmond College, Galle.

3. H. P.L. Chandana Kumara,
Member No. 01 of the Interview
Panel, Richmond College, Galle.
4. Samith Thushara Gallage,
Member No. 02 of the Interview
Panel, Richmond College, Galle.
5. H. K. Anusha Maduwanthi,
Member No. 03 of the Interview
Panel, Richmond College, Galle.
6. Channa Upali Weerasekara,
Provincial Director of Education,
Southern Province.
7. Ranjith Yapa, Secretary,
Minister of Education,
Southern Province.
8. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Before : Janak De Silva, J.
Achala Wengappuli, J.
Menaka Wijesundera, J.

Counsel : Sapumal Bandara, with Lakshitha Edirisinghe instructed
by W. M. Y. T. M. K. Wickramasinghe for the Petitioner.
Sureka Ahmed, SSC Instructed by Rizni Firdous for the 1st
and 6th – 8th Respondents.

Written

Submissions : Written submissions on behalf of the petitioner
on 26th of May, 2025.

Argued on : 16.05.2025

Decided on : 16.07.2025

MENAKA WIJESUNDERA J.

The instant petition has been filed for an alleged infringement of fundamental rights of Rajapaksha Mudiyansele Amarananda Rajapaksha, who has filed the petition on behalf of his son, Rajapaksha Mudiyansele Janula Uthsara Rajapaksha.

Upon consideration of the matter at support stage, this Court has decided to grant leave under article 12(1) of the Constitution against the 1st and the 7th respondents.

The 1st respondent is the principal of Richmond College Galle and the chairman of the appeal board established to consider appeals lodged during school admissions to the year one. The 7th respondent is the secretary to the Ministry of Education Southern province.

The petitioner, on behalf of his abovementioned son, had made applications on the 25th of July to Richmond College, Mahinda College, St. Alloysius College, Piyatissa College, Buonavista College, Vidyaloka College Galle for grade one admission.

The petitioner, along with his son, had faced the interview for year one admission to the Richmond College Galle, which had been headed by the 1st respondent on the 11th of October, 2023, and had received 89.6 marks.

At the interview, the petitioner had tendered the lease agreement and other documents to establish his residence. The said lease agreement has been pleaded as P5(a) and P5(c).

The lessor of the petitioner had gifted the alleged premises to his son on the 30th of April, 2023 but the petitioner had annexed the said deed of gift also as P6.

Thereafter, the lessor of the petitioner had been appointed as a Special Power of Attorney of his son to lease out the alleged property in which the petitioner had been residing with his son and the said document had been marked as P7.

The petitioner alleges that the 1st respondent not having considered the documents tendered by him has struck off his marks on the basis that the place of residence of the petitioner has changed.

The petitioner has submitted that the alleged deed of gift had been drawn well after the lease agreement with the petitioner and nevertheless the lessor of the petition still holds the Power of Attorney to lease out the property and also, he further says that he holds the life interest to the aforementioned property.

But the 1st respondent has not held with the submissions of the petitioner and his marks had been struck off and being aggrieved by the said decision, the petitioner has filed the instant petition, on the basis that he has been residing in the aforementioned property since 2015 and that he is entitled to gain admission of his son to Richmond College Galle on the basis Chief Occupant category.

Upon perusal of the documents submitted by the petitioner as P3, P4 and the lease agreement no. 719, which has been drawn for the period of 2015.12.30 to 2022.12.29, and the lease agreement marked and produced as P5(b) by the no. 1904 for the period of 2022.12.30 to 2027.12.29, establishes his lease at the property of the lessor and from the deed of gift no. 875 marked as P6, it is quite evident that the lessor has gifted the property to his son holding his life interest in the property. The Special Power of Attorney no. 876, marked and produced as P7, further establishes that the lessor had every right to lease out the property in question, which was the place of residence for the petitioner and his son since 2015.

Therefore, it can very well be concluded that the petitioner had established quite satisfactorily that he had been the Chief Occupant of the residence he has pleaded in the petition, since 2015 and the striking off of his son's marks after the interview for admission to school had been arbitrary, capricious, and in violation of the principle of equality enshrined in Article 12(1) of the Constitution.

In the book of ***Fundamental Rights in Sri Lanka by Jayampathi Wickramaratne*** at chapter 5, page 436, he had said that

“while the concept of equality has an ancient history it is in modern times that equality assumed a significant theory and practice of politics. Today equality is recognized as a basic and essential requirement of democracy.”

In the case of ***Palihawadana vs The Attorney General (1978) 1 SLR 65***, *Sharvananda J* had held that,

“When a power is entrusted to a very high and responsible officer, he may be expected to act reasonably, objectively and without bias whilst discharging his duties.”

However, in the instant matter, I find upon perusal of the documents submitted that the 1st respondent had not acted reasonably and objectively when considering the deed of gift and the Special Power of Attorney and the lease agreement of the petitioner. He should have had the foresight to see that although the lessor had gifted the property to his son, he has retained the life interest in the property and even if it is not, he has been given the power of attorney to lease out the property concerned. Nevertheless, all these activities had been done subsequent to the impugned lease agreement.

Therefore, it is quite evident that the 1st respondent hadn't acted reasonably and objectively, when considering the application of the petitioner, as he had failed to give due consideration to the deed of gift, the power of attorney, and the lease agreements.

In the case of **Ariyawansa and others v. The People's Bank and others** [2006] 2 Sri L. R. 145 at 152 Shirani Bandaranayake, J. stated that,

“The concepts of negation of arbitrariness and unreasonableness are embodied in the right to equality as it has been decided that any action or law which is arbitrary or unreasonable violates equality.”

Furthermore, in the case of **Ajay Hasia v Khalid Mujib Sehravardi (1981) A.I.R 487**, it was emphasized that arbitrariness is the antithesis of equality. Although the principle part of the case was concerning the impugned admissions, the Court's observations regarding the scope of Article 14 of the Indian Constitution (The same as Article 12 of the Sri Lankan Constitution) are significant.

In light of the foregoing conclusion, we hold that the fundamental rights of the petitioner, guaranteed by Article 12 (1) of the Constitution, has been violated by the 1st to the 5th respondents.

We therefore direct 1A Respondent to admit Rajapaksha Mudiyanseelage Janula Uthsara Rajapaksha to the relevant grade at Richmond College, Galle, forthwith.

Application allowed. No costs.

JUDGE OF THE SUPREME COURT

Janak De Silva, J.

I agree.

JUDGE OF THE SUPREME COURT

Achala Wengappuli, J.

I agree.

JUDGE OF THE SUPREME COURT