

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.*

Sandul Sethmina Chandrasena
Mahagama,
Kohilagedara,
Kurunegala

Appearing by his next friend,
D.P.N. Chandrasena,
Mahagama,
Kohilagedara,
Kurunegala.

**S.C. (FR) Application No.
103/2019**

PETITIONER

Vs.

1. Rev. Chandana Hapuarachchi,
Principal,
St Anne's College,
Kurunegala.
2. Rev. Bro. A.E. Tarcisius,
Retired Principal (2013-2018),
St. Anne's College,
Kurunegala.
3. M.D. Gunawardena,
Chairman,
Objection and Appeal Board,
St. Anne's College,
Kurunegala.
4. H.K.S. Gunasinghe,
Secretary,
Objection and Appeal Board,
St. Anne's College,

Kurunegala.

5. L.R.M.U.B. Ratnayake,
Member,
Objection and Appeal Board,
St. Anne's College,
Kurunegala.
6. Y.K. Kumarathanna,
Member,
Objection and Appeal Board,
St. Anne's College,
Kurunegala.
7. Bandulani Basnyake,
Assistant Director,
Provincial Education Office,
Kandy Road,
Kurunegala.
8. Sunil Hettiarachchi,
Secretary to the Ministry of Education,
Isurupaya,
Pelawatte,
Battaramulla.
9. Honourable Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

BEFORE : **P. PADMAN SURASENA, CJ.**
A. H. M. D. NAWAZ, J.
ARJUNA OBEYESEKERE, J.

COUNSEL : Manohara de Silva, PC with Ms. Nadeeshani Lankatilleka
instructed by Nimal Hippola for the Petitioner.

Viveka Siriwardena, PC, ASG with Sabrina Ahmed, SSC for
the 1st - 9th Respondents.

ARGUED ON : 03-02-2026

DECIDED ON : 15-09-2026

P. PADMAN SURASENA, CJ.

The Petitioner is a minor and therefore has made this Application to this Court through his Next Friend (his father). The Petitioner's father being a past student at St. Anne's College, Kurunegala, has preferred an application to admit the Petitioner to this school.¹ The Petitioner's elder brother is also a student at the same school.

At the outset, I need to bear in mind that the process of selection of children to Public schools is conducted in accordance with the provisions of the Circular dated 31-05-2018 produced marked **1R9** by the Respondents. The said process envisaged by the said Circular is a competitive process. According to Clause 7.0 of this circular, a specified percentage of children are admitted to Grade 1 in public schools in each year. This intake of students is taken from each of the six categories set out below.

- I. 50% of children of residents in close proximity to the school,
- II. 25% of children of parents who are Past Pupils of the school,
- III. 15% of children who are brothers/sisters of students already studying in the school,
- IV. 05% of children of parents who are employed in an institution engaged in work directly related to public school education under the Ministry of Education,

¹ The Application submitted by the Petitioner is marked **P6f**.

V. 04% of children of parents of Government institutions/corporations/Statutory Boards/State Banks, who are transferred on the exigencies of Government service or on annual transfer schemes,

VI. 01% of children of parents returning to the country after been abroad for some time.

As the process of admission of children to Grade 1 in public schools is a competitive one, the Circular has devised a marking system relating to each of the above categories. The school authorities, after evaluation according to the marking scheme, prepares a merit list placing all the applicants according to the marks they have scored. It is thereafter that the school authorities decide on a cut-off mark and admit only the children who are placed above the said cut-off mark.

The Petitioner sought admission in terms of Clause 11.6 of Circular bearing No. 24/2018. After the interviewing process Petitioner obtained a total of 63.75 marks at the first interview in respect of his Application under the Past Pupil category. Similarly the Petitioner obtained a total of 53 marks in respect of the other Application he has submitted under the Sibling category. The Petitioner's name was included in the interim list of students selected under the Past Pupil category as he had obtained a total of 63.75 marks under that category. However, the Petitioner's name was not included in the interim list of the students selected under the category of children who are brothers/sisters of students already studying in the school (Siblings category).

Petitioner's father was then informed by the 2nd Respondent through the Letter dated 19-12-2018 bearing No. SAC/OB/BD/05 calling him for an inquiry to be held on 27-12-2018 at St. Anne's College as there has been an objection for the admission of the Petitioner to Grade 1 of that School. The Petitioner has produced this Letter marked **P8**. The said objection raised against the Petitioner being admitted as a student to this School on the basis that the Petitioner is supposed to be a Christian as the father of the Petitioner is a Christian.

It is pertinent to note here that the Petitioner's father is a Christian, but the Petitioner's mother is a Buddhist. According to the Petition, the father and the mother had mutually agreed between them that the Petitioner's elder brother would be brought up as a Christian, but the Petitioner (who is the younger child) would be brought up as a Buddhist. It is on that basis that the Petitioner's father has identified the Petitioner as a Buddhist in the Application.

It is pertinent to note that the Petitioner is a child who has not been baptized.

It is on the above basis that the Petitioner's name was not included in the final list of names of students selected under the Past Pupil (Buddhist) category in respect of the Application No. SAC/OB/BD/05 issued by St. Anne's College on 15-01-2019.

Admittedly, the Petitioner was thereafter admitted to this School on 19-08-2019. The Respondents have produced proof of this by way of Letter dated 20-08-2019 marked **1R1**.

The Petitioner in his Petition dated 08-03-2019 has prayed inter alia for:

- (i) A declaration that the Petitioners fundamental rights guaranteed under Article 12 (1) and Article 12 (2) of the Constitution have been violated by the Respondents.;
- (ii) A direction on the Respondents to admit the Petitioner to Grade 1 to St. Anne's College for the year 2019;
- (iii) Compensation;
- (iv) Costs.

Thus, it is clear that the main relief the Petitioner has prayed for, in this Application has already been granted. This has been done well before the date the Court took this case up for argument.

This Court has granted Leave to Proceed on 26-06-2019 and fixed the argument on 19-09-2019. I observe that the Petitioner was admitted to the school on 19-08-2019. As the Petitioner has been admitted to the school, it would be purely an academic exercise now to embark on the correctness or incorrectness of the original approaches taken by the Respondent school authorities.

The Fundamental Rights Jurisdiction of this Court has to be exercised on the basis of equity. When the Petitioner has got the relief at the instance of the Respondents immediately after this Court has granted Leave to Proceed it does not stand to reason to further impose sanctions on the Respondents. That would be against the principles of equity which is one of the yardsticks used by this Court in the exercise of its jurisdiction with regard to complaints of infringements of Fundamental Rights of citizens. This can be gathered from Article 126(4) of the Constitution which is reproduced below:

*"The Supreme Court shall have power to grant such relief or make such directions **as it may deem just and equitable** in the circumstance in respect of any petition or reference referred to in paragraphs (2) and (3) of this Article or refer the matter back to the Court of Appeal if in its opinion there is no infringement of a fundamental right or language right."*

Furthermore, Hon. Justice Mahinda Samayawardhena in Wickramage Don Subadra v. Kotikawatte Mulleriyawa Pradeshiya Sabhawa and Others (2024)² has stated as follows:

*"The Supreme Court in the exercise of fundamental rights jurisdiction acts both as a court of law and a **court of equity**, ensuring that justice is administered not only according to legal rules but also **in accordance with principles of equity.**"*

² SC FR NO: SC/FR/247/2016 SC Minutes dated 05-08-2024 at page 5.

As has been mentioned above, the main relief prayed for, by the Petitioner has been granted without delay. In my view, that must be taken as complete redress as far as the Petitioner's grievance is concerned. In the above circumstances, I have no basis to further proceed with this application. I direct that this application must stand dismissed without costs.

CHIEF JUSTICE

A. H. M. D. NAWAZ, J.

I agree.

JUDGE OF THE SUPREME COURT

ARJUNA OBEYESEKERE, J.

I agree.

JUDGE OF THE SUPREME COURT