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(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC (FR) Application No: 16/2021

1. E.G.R.M.N.N.K. Rathnayaka,
   Alakolawewa, Kolaba Gedara, Mathurata.

2. A.M.N. Shamini Vidurangika,
   No. 196, Wilgoda Waththa, Kurunegala.

3. W.M.R.S. Wanigasekara,
   No. 67, Official Village,
   Digana, Rajawalla, Kandy.

4. P.D.M.R.U.S.S. Bandara,
   No. 234, Delgoda Walawwa,
   Delgoda, Dawgalagama, Kalawana.

5. B.G.M.R. Weerasinghe,
   No. 34, Gamudawa, Kundasale.

6. P.K.G.K. Maduprabashini,
   "Asiri", No.168/D,
   Maligathanna, Kadugannawa.

7. I.H.T.E. Karunathilaka,
   No. 88/1, Ihalagama,
   Ellawala, Ehaliyagoda.

8. R.G.J.H.S. Rajapaksha,
   No. 149/4, Haladiwela, Pilimathalawa.

9. R.M.L. Pethiyagoda,
   No. 7C, Kambiyawatta, Gelioya.

10. W.D.H.K. Wijesinghe,

Narangahamulahena,
Ihala Kalugala, Beligala.

11. T.S.D. Rathnayaka,
No. 135, Sanduni Trade Centre,
Panwewa, Pettiyagedgara,
Maligathanna, Bandarawela.

12. N.J.R.S. Samadika,
No. 107, Nugagahawatta,
Kohunugamuwa Road, Weligama.

13. T.S. Kariyawasam,
"Pathum", Uluwitike, Galle.

14. W.M.E.Y.S. Wasala,
No. 21/71A, Sramadana Road,
Aruppola, Kandy.

15. R.M.P. Chathurani,
"Nandana", 4th Mile Post,
Karandana, Eheliyagoda.

16. R.B. Premachandra,
Poholiyadda Walawwa,
Poholiyadda, Galagedara.

17. M.R. Vidanagamage,
No. 166/2, Sisil Uyana, Ranna.

18. M.B. Hasala,
No. 91, Perakumba Mawatha, Kolonnawa.

19. L.A.A.M.H. Gunawardhana,
Kusumita, Yattalgoda, Nawathalwaththa.

20. B.M.R.L.M. Jinatissa,
No. 20, Danaramba,
Doranegama, Madawala, Harispaththuwa.

21. N.A.U. Prabath Nissanka,
    No. 62, Nildiya Uyana,
    Pellandeniya, Maspotha, Kurunegala.

22. L.A.P. Asoka,
    Walakadayawa, Molagoda, Kegalle.

23. W.E.M.A.S.M. Sandanayake,
    No. 27/6, Mahiyanganaya Road,
    Hunnasgiriya.

24. W.P.K. Ruwandika,
    No. 84/A, Dodandugoda Road, Dodanduwa.

25. K.A.N. Kaushalya,
    No. 100/2, Kandewaththa,
    Kanewala, Pokunuwita, Horana.

26. H.R. Wijayaratne,
    No. 24/8, C1,
    Gemunu Mawatha, Attidiya, Dehiwala.

27. L.G. Komangoda,
    No. 18/2, Melfort Estate,
    Gemunupura, Kothalawala, Kaduwela.

28. G.B.W.T.M. Gunathilaka,
    Pimburuwellegama, Gonagama, Kurunegala.

29. O.N. Wimarshana,
    No. 258/A/3, 5th Lane,
    Bakmeegaha Road,
    Kahanthota Road, Malabe.

30. L.H.I.S. Deshappriya,
    Udugama, Wadumunnegedara.

31. W.M.K.K. Wijesundara,
    No. 25/B, Marlog Road,
    South Kabillawela, Bandarawela.

32. H.P.D.V. Pathirana,
"Haritha", Palle Gattuwana,
Dambulla Road, Kurunegala.

33. D.I.H.P.S. Dissanayake,
No. 78/22, Vihara Lane,
Suduhumpola, Kandy.

34. W.S.H. Erandika,
No. 692/3A, Meda Mawatha,
Ella, Kurundugaha, Hethepma, Elpitiya.

35. N.M.R.S.A. Samarasekara,
No. S.29, Udahenkanda, Deraniyagala.

36. N.B.M. Sumanarathne,
No. 113A, Wathupitiwala, Nittambuwa.

37. K.L.T.K. Jayarathne,
No. 98/2, Kaudupitiya, Gampola.

38. P.H.I.H. Bawanthika,
"Siripul", Karaketiya, Urugasmanhandiya.

39. P.H.W.K. Danushika,
No. 513,/1/A, Udumulla Road, Battaramulla.

40. H.A.I.I. Wijesiri,
No. 157/6,
Godaparagahawatta, Honnantara, Piliyandala.

41. D.M.N.N. Dissanayake,
No. 74/2, Dedunupitiya,
Pahalagama, Dedunupitiya, Kandy.

42. M.F.A. Muhammadu,
No.235/23, C01, Lafir Hajiyar Mawatha,
Warana Road, Thihariya.

43. H.S.N. Karunathilaka,

Kuda Belungala, Ambanpola.

44. R.D.H.E. Karunarathne,
No. 1570/30, Gurugama, Kirindiwela.

45. D.M.T.P. Jayawanthi,
School Road, Wadakada.

46. M.S.N. Fernando,
No. 2/8, College Road, Chilaw.

47. H.T.C.G. Chandrasoma,
No. 39/24, Compayahena Road,
Panagoda, Homagama.

48. R.M.S. Madara,
Godella Watta, Madiha, Kamburugamuwa.

49. S.C.Y.M.A.M. Udawela,
No. 5/A, Koonwewa, Thambuththegama.

50. D.A. Weerasinghe,
No. 160, Marathugoda, Pujapitiya, Kandy.

51. W.A.T. Dinuruwan,
No. 59A, Prema Bakery,
Baddegama Road, Hirimbura, Galle.

52. B.K.G.P. Pabasara,
Paradullawatta, Galkaduwa, Imaduwa.

53. R.M.D. Manuranga,
No. 326/A/7,
Charlston Garden, Ganemulla.

54. K.B.L. Perera,
No. 67, 4th Lane, Nildiyauyana.
Pallandeniya, Maspotha, Kurungegala.

55. I.B.S.H. Gunawardena,

Dehelgamuwa, Yatigaloluwa, Polgahawela.

56. N.A.D.S. Dias,
No. 321, Wackwella Road, Galle.

57. K.M.U.K. Kulathunga,
Nabiriththawewa, Nikadalupotha.

58. S. Sasadari Abeysekara,
No. 96/9, Megoda,
Kolonnawa, Wellampitiya.

59. S.J. Pthirana,
No. 187/24, Richmod Hill Road, Galle.

60. D.D.M. Thalagala,
Asiri Lake Road, Dambulla.

61. J.N.N. Ilangarathna,
Kotavilakanda, Pahamune.

62. U.G.C.K.R. Gunasena,
No. B2/39, Waimbula, Owaththa, Hingula.

63. H.D.U. Hettiarachchi,
No. 479, Thalwatta,
Mananwatta, Matale.

64. T.G.K.O. Vijithapala,
Nagodawaththa,
Mihiripanna, Thalpe.

65. H.K.L.T. Hewa,
No. 411/17, Parakrama Mawatha,
Kirillawala, Kadawatha.

66. S.P.N. Kaushalya,
"Chamara", Kotavila, Kamburugamuwa.

PETITIONERS

Vs.

1. Jagath Balapatabendi,
   Chairman, Public Service Commission.

1A. A. Sanath J. Ediriweera,
   Chairman, Public Service Commission.

2. Indrani Sugathadasa

2A. A.S.M. Mohamed

3. V. Shivagnanasothy

3A. N.H.N. Chithrananda

4. Dr. T.R.C. Ruberu

4A. Prof. N. Selvakkumaran

5. Ahamad Lebbe Mohamed Saleem

5A. M.B.R. Pushpakumara

6. Leelasena Liyanagama

6A. Dr. A.D.N. de Zoysa

7. Dian Gomes

7A. R. Nadarajapillai

8. Dilith Jayaweera

8A. C. Pallegama

9. W.H. Piyadasa

9A. G.S.A. de Silva, PC

2nd, 2A, 3rd, 3A, 4th, 4A, 5th, 5A, 6th, 6A, 7th, 7A, 8th, 8A, 9th and 9A Respondents are members of the Public Service Commission.

1st, 1A, 2nd, 2A, 3rd, 3A, 4th, 4A, 5th, 5A, 6th, 6A, 7th, 7A, 8th, 8A, 9th and 9A Respondents are at No.1200/9, Rajamalwatta Road, Battaramulla.

10. Dr. P.B. Jayasundara,
Secretary to the President,
Presidential Secretariat,
Galle Face Centre Road, Colombo 1.

11. Hon. Janaka Bandara Tennakoon,
Minister of Public Services, Provincial Councils & Local Government.

11A. Hon. Dinesh Gunawardena,
Minister of Public Services Provincial Councils & Local Government.

12. J.J. Rathnasiri,
Secretary to the Ministry of Public Services, Provincial Councils & Local Government

12A. K.D.N. Ranjith Asoka,
Secretary to the Ministry of Public Services, Provincial Councils & Local Government.

11th, 11A, 12th and 12A Respondents at Independence Square, Colombo 7, Sri Lanka.

13. University Grants Commission,
No. 20, Ward Place, Colombo 7.

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

RESPONDENTS

Before:	**Yasantha Kodagoda, PC, J** **Achala Wengappuli, J** **Arjuna Obeyesekere, J**
Counsel:	Shantha Jayawardena with Hirannya Damunupola for the Petitioners
	Yuresha De Silva, Deputy Solicitor General with Sabrina Ahamed, Senior State Counsel for the Respondents
Argued on:	13th December 2024
Written Submissions:	Tendered on behalf of the Petitioners on 6th December 2022 and 27th February 2025
	Tendered on behalf of the Respondents on 18th November 2022
Decided on:	26th November 2025

Obeyesekere, J

1) The Petitioners have complained to this Court that the decision of the Respondents to reject their applications for a placement on the "Scheme to provide training and employment to unemployed graduates" [**the Scheme**] initiated by the Government in February 2020 on the sole basis that the bachelors degree they hold have been awarded by foreign universities is irrational and arbitrary, and is violative of their fundamental rights guaranteed by Articles 12(1) and 14(1)(g) of the Constitution. Leave to proceed was granted on 30th March 2021 for the alleged violation of the said Articles.

2) Although the Petitioners had named 14 persons as Respondents including the Chairman and the members of the Public Service Commission [1st – 9th Respondents] and the University Grants Commission [13th Respondent], the journal entry of 30th March 2021 does not indicate the Respondents against whom leave to proceed has been granted. However, the actions that have been complained of are only those of the 12th Respondent, that being the Secretary, Ministry of Public Services, Provincial Councils and Local Government, and for that reason, the findings in this judgment shall be limited to the actions of the 12th Respondent, for which the State shall be responsible.

The Petitioners and the validity of their degrees

3) The Petitioners are graduates who hold bachelor's degrees awarded by foreign Universities. The 25th – 29th Petitioners have obtained their degrees from Indian Universities through scholarships awarded by the Ministry of Higher Education and/or the High Commission of India in Sri Lanka. While the 7th – 9th, 19th, 25th – 29th, 42nd, 52nd, 58th and the 61st Petitioners have enrolled themselves as internal students at the foreign university that awarded them their degrees, the other Petitioners have followed an external course of study in Sri Lanka conducted by institutions that are affiliated to the foreign university that awarded them their degrees. In this judgment, and where relevant, I shall collectively refer to the Petitioners as foreign graduates.

4) The Petitioners state that Circular No. 16/92 issued by the Ministry of Public Administration, Provincial Councils and Home Affairs **[P2]** contain provisions relating to the recognition of degrees issued by local and foreign universities. With regard to foreign universities, the said Circular provides as follows:

   (a) Degrees awarded by Universities and Higher Educational Institutions situated in India shall be recognised in Sri Lanka if such institutions and their degrees are listed in the Association of Commonwealth Universities (ACU) Yearbook;

   (b) Recognition of degrees awarded by Universities of countries other than those described above depends on such Universities being listed in the ACU Yearbook and/or the International Handbook of Universities;

   (c) However, where a University is not listed in the ACU Yearbook and/or the International Handbook of Universities, recognition of degrees awarded by such Universities shall be decided by the University Grants Commission.

5) Thus, with regard to degrees awarded by Indian Universities, both the institute and the degree had to be listed in the ACU Yearbook. If a university in any other country was listed in the ACU Yearbook or the International Handbook of Universities, degrees awarded by such universities were also recognised. P2 did not require each programme of study offered by a university listed in either the Yearbook or the Handbook to be approved by the University Grants Commission, for the obvious

reason that not only would it be impractical to impose such a requirement, the University Grants Commission would not have the capacity and the expertise to engage in such an exercise. The only exception was in respect of degrees awarded by universities that were not listed in either the Yearbook or the Handbook.

6) The Petitioners state that the foreign universities that awarded them their degrees have been recognised by the University Grants Commission. This is borne out by the letters issued to each Petitioner by the University Grants Commission **[P3]**, the contents of which are almost identical, confirming that the particular university from where each Petitioner has obtained their degree is either listed on the International Handbook of Universities or on the ACU Handbook, and are therefore recognised by the University Grants Commission. Thus, on the face of it, there is no issue with regard to the recognition of the University that awarded each Petitioner their degree.

<u>Graduates and unemployment</u>

7) I shall very briefly refer to the issue that culminated in this application.

8) It is common knowledge that unemployment among educated youth is a deep-rooted issue in Sri Lanka with thousands of graduates who pass out each year finding it difficult to secure employment. While there are several underlying reasons for this issue, one of the principle reasons is the considerable mismatch between the prevailing education system and the labour market in Sri Lanka which has resulted in the skills acquired by the Sri Lankan graduates being grossly inadequate and/or irrelevant to meet the competencies and skills demanded by the labour market. Absence of fluency in the English language has compounded matters further, making their entry into the private sector even more challenging.

9) The attitudinal issues of the graduates have aggravated this situation. Educated youth, especially those from the suburbs of Colombo and those living in districts other than Colombo, are attracted by the retirement benefits offered to State employees and the prestige that goes with being employed in the State sector and therefore look for employment opportunities in the State sector, even though the private sector may offer employment opportunities to them, sometimes more

lucrative than the State. This is clearly reflected by the fact that over 80% of the Petitioners are resident outside of the Western Province.

10) Furthermore, some graduates of State universities assume wrongly that in addition to providing free primary, secondary and tertiary education, which by itself is a privilege, the State owes a duty towards them to provide State sector employment as well.

11) As a result, even though there are employment opportunities available in the non-government as well as the private sector, a majority of graduates from State universities prefer to join the State sector. While it's clearly a misconception to consider the State as the sole employer to all graduates, these attitudinal issues together with the existing deficiencies in the education system of Sri Lanka have unfortunately contributed to unemployment among educated youth.

12) Successive Governments have adopted numerous measures of addressing this issue and have introduced several initiatives to at least partially resolve it. Unfortunately, most of these measures have been taken for political expediency of the Government in power, and therefore have only provided temporary or stopgap solutions.

13) This Court however notes with appreciation the delivery of new degree programmes in the recent past aimed directly at effective employment in areas such as Information Technology, Food Technology, Hospitality Trade and Entrepreneurship. That most of these programmes are being delivered in the English language and are skills based, makes them even more attractive to the labour market.

14) By way of a motion filed on 7th July 2025, the learned Deputy Solicitor General has tendered a report dated 31st January 2025 submitted by the Public Service Commission to the Cabinet of Ministers relating to the recruitment of graduates to the Public Service. Referring to the issues arising from mass graduate recruitment schemes as a solution to the problem of high unemployment among educated youth and the adverse consequences of such programmes, the report points out that, "*in a market economy driven by the private sector, mass recruitment of educated youth to the Public Service only results in creation of unproductive cadres in the Public*

Service at the expense of the tax payer while depriving the private sector of much needed supply of educated labour for expansion of businesses and enhancing productivity."

15) The time is certainly ripe for the issue of unemployment among graduates to be addressed at a policy level and to find solutions which are sustainable in the long term, including the restructuring of the University system and its syllabi. Unless addressed at a holistic level, this issue will continue with unemployed graduates agitating for employment. Burdening the Consolidated Fund by over-employment in the public sector can only result in the unresourceful expenditure of public funds and dampening economic development.

16) It is one such initiative of the Government, taken for political expediency soon after the Presidential election in November 2019 and before the next Parliamentary election, as opposed to a decision based on the genuine desire to address the requirements of the public sector, that has given rise to this application.

Cabinet Memorandum and decision

17) On 5th February 2020, the President presented a Cabinet Memorandum [**1R1**] in which he stated as follows:

"රැකියා විරහිත උපාධිධාරීන් හා ඩිප්ලෝමාධාරීන් රැකියාගත කිරීම"

1.2 **නිදහස් අධ්‍යාපන ක්‍රියාවලිය** හේතු කරගෙන දිවයින පුරා පිහිටුවා ඇති විශ්ව විද්‍යාල හා උසස් තාක්ෂණ ආයතන ප්‍රධානකොට ඇති උපාධි, ඩිප්ලෝමා පිරිනමනු ලබන ආයතනවලින් උපාධි සහ ඩිප්ලෝමා ලබා ඇති තරුණ තරුණියන් රට වෙනුවෙන් කැපවෙන වැඩ කිරීමේ සංස්කෘතියකට අනුගත කිරීමෙන් විරුකියාවෙන් පෙළෙන තරුණ තරුණියන්ගේ මානසික අසහනය දුරුකර ඔවුන්ගේ ආර්ථිකය ශක්තිමත් කිරීමටත්, එතුලින් රට සංවර්ධනය කිරීම උදෙසා තරුණ ජවය යොදා ගැනීමටත් හැකියාව ඇත.

1.3 ඉතිහාසය පුරා අවස්ථා කිහිපයකදී උපාධිධාරීන් රැකියාගත කිරීමට කටයුතු යොදා තිබුනද දිවයින පුරා රජයේ ආයතනවල විශාල වශයෙන් පුරප්පාඩු පවති. විශේෂයෙන් ග්‍රාමීය දුෂ්කර ප්‍රදේශවල රජයේ නිලධාරීන්ගේ හිඟය නිසා ග්‍රාමීය ජනතාව රජයේ සේවාවන් ලබා ගැනීමේදී ඉමහත් අපහසුතාවකට පත්වන අවස්ථා දුලබ නොවේ. ගතානුගතික පරිපාලන සංස්කෘතියෙන් ඔබ්බට ගොස් **ජනතාව ඉලක්ක කරගත් සේවා සැපයීමේ ක්‍රමවේද සකස් කිරීම සඳහා පවතින ක්‍රමවේද ධනාත්මක ආකාරයෙන් වෙනස් කිරීම සඳහා තරුණ පරපුරේ හැකියාවන් සහ කුසලතාවයන් යොදා ගැනීමට අවශ්‍ය කටයුතු කළ හැකිය.** වසර 2012 සිට මේ දක්වා රැකියා විරහිත උපාධිධාරීන් 50,000 කට ආසන්න පිරිසක් සිටින බවට නිරීක්ෂණය වී ඇත."

18) Thus, it appears from 1R1 that through the Scheme, the Government '*sought to*' address the issue of people living in rural areas not having access to public services as a result of the deficiency of public servants in those areas and thereby provide a better public service to the rural masses of this Country by engaging the unemployed educated youth.

19) The President thereafter sought and obtained the approval of the Cabinet of Ministers for the following:

> "3.2 දිස්ත්‍රික්ක මට්ටමින් 2019.12.31 දිනට උපාධිය සමත් හා උපාධියට සමාන අධ්‍යාපන සුදුසුකමක් ලෙස විශ්ව විද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් පිලිගනු ලබන සුදුසුකම් සපුරා ඇති තරුණ තරුණියන් උපාධිධාරී අභ්‍යාසලාභීන් ලෙස වසරක පුහුණු කාලයකට යටත්ව පහත දැක්වෙන ආයතන යටතේ බඳවා ගැනීමටත්,
>
> 3.3 පුහුණු කාලයෙන් අනතුරුව වසර 05 ක කාලයක් මුල් පත්වීම් ලද ස්ථානයේම රැකියා ගත කිරීමටත් ස්ථාන මාරු වසර 05 කින් අනතුරුව දිස්ත්‍රික්/පළාත් මට්ටමින් ලබාදීමටත්, යන ඉහත 3.1, 3.2 සහ 3.3 යෝජනා සඳහා අමාත්‍ය මණ්ඩල අනුමැතිය අපේක්ෂා කරමි."

20) Although the Scheme proposed and approved by the Cabinet of Ministers comprised of training for a period of one year and employment thereafter, it is clear from the subsequent correspondence that there was no assurance of employment given to those who successfully completed the training programme.

21) I must perhaps state that even if recruitment to the Public Service was promised upon the completion of the said training programme, as stressed by this Court time and again, such recruitment to the Public Service must be done through the relevant Schemes of Recruitment based on objective criteria and enforced through transparent and competitive processes which should include competitive examinations, thus allowing those who are eligible an opportunity of competing on a level playing field, rather than selecting one category of persons – i.e., unemployed graduates – and giving them the opportunity of joining the Public Service without following due process and without any competition.

22) That meritocracy shall be the governing criteria in admission to the public sector was highlighted by this Court in **Fernando and others vs Chamal Rajapakse and others** [SC FR Application No. 112/221; SC minutes 29th May 2025] where Kodagoda, PC, J stated as follows:

> "*Time and again, this Court has highlighted the need for recruitment to the public sector to be carried out in a transparent manner and founded upon principles relating to meritocracy, so that the public service comprises of the most suitable persons recruited for each and every job. It is to ensure objectivity in selections and transparency, that the recruitment process should be regulated by a well developed Scheme of Recruitment. Schemes for recruitment should be developed and implemented having due regard to the requisite knowledge, skills and experience necessary for each such job. Such schemes if implemented in terms of such scheme itself and objectively, would ensure that selections are based on merit and would be sans arbitrariness and discrimination. This Court, including in the cases of W.P.S. Wijerathna v. Sri Lanka Ports Authority and Others [SC/FR Application No. 256/2017, SC Minutes 11.12.2020] and K.M.R. Perera v. Dharmadasa Dissanayake and Others [SC/FR Application No. 55/2017, SC Minutes 21.01.2022], has highlighted the need for formulation of Schemes of Recruitment (SOR) for every job and the need for consistent and objective application of the provisions of such schemes for the purpose of selecting suitable persons to fill vacancies in the public sector. In that regard, this Court has also referred to the right to equality with regard to gaining employment in the public sector, and the requirement for the process of selection to be void of any discrimination, favouritism, malice, prejudice, subjectivity and nepotism. The grant of employment in the public sector should not be founded upon personal or political favouritism or in return for monetary or other considerations*."

Calling for applications

23) Acting in terms of the approval granted by the Cabinet of Ministers, applications were invited by way of a notice published on 20th February 2020 [**P5**] from Sri Lankan citizens who had satisfied the following eligibility criteria:

(a) Should have completed a first degree programme recognised by the University Grants Commission [vide P2] or Diploma Programme recognised by the University Grants Commission or an equivalent qualification as at 31st December 2019;

(b) Should not be more than 35 years of age as at 31st December 2019;

(c) Should be a permanent resident in the Divisional Secretary's division from where the application is presented. This requirement has been inserted to address the lack of public servants in remote parts of the Country and relates to the objective sought to be achieved by 1R1.

24) There are two matters that I wish to advert to, which arise from P5.

25) The first is that applications were not limited to those with degrees, but even those with diplomas and equivalent qualifications approved by the University Grants Commission were eligible to apply under the Scheme.

26) The second is that even though 1R1 refers to the system of free education, P5 did not draw a distinction between those who had obtained degrees from Sri Lankan universities as opposed to foreign universities, thus permitting any unemployed graduate to apply for a placement under the Scheme.

27) The Petitioners claim that they possessed the aforementioned eligibility requirements in P5 and had accordingly submitted their applications, together with a copy of the degree certificate and the results sheet as required by P5.

28) It is admitted that the 26th – 66th Petitioners and other applicants who were eligible under the Scheme were issued letters of appointment as Graduate Trainees [**P7**] on 27th February 2020, with each letter reading as follows:

> "රැකියා විරහිත උපාධිධාරීන් හා ඩිප්ලෝමාධාරීන් රැකියාගත කිරීම සම්බන්ධව අංක PS/CM/OMC/15/2020 හා 2020.02.05 දිනැති අමාත්‍ය මණ්ඩල සන්දේශය හා ඒ සම්බන්ධයෙන් වූ අංක අමප/20/0312/201/008 හා 2020.02.13 දිනැති අමාත්‍ය මණ්ඩල තීරණය පරීදි, ඔබ විසින් ඉදිරිපත් කරන ලද අයදුම්පත සලකා බලා ඔබ උපාධිධාරී අභ්‍යාසලාභියෙකු වශයෙන් වහාම ක්‍රියාත්මක වන පරිදි වර්ෂයක කාලයක් සඳහා තෝරාගත් බව සතුටින් දන්වමි.

ඔබ මෙම අභ්‍යාසලාභී පත්වීම භාරගන්නේ නම් මෙම ලිපිය ලැබී දින තුනක් ඇතුලත පුහුණුව සඳහා වාර්තා කොට ප්‍රාදේශිය ලේකම් මගින් මා වෙත ලිඛිතව දැන්විය යුතුය.

මෙම ලිපිය ලැබුන දින සිට දින හතක් ඇතුලත පුහුණුව සඳහා වාර්තා කිරීමට ඔබ අපොහොසත් වුවහොත් ඔබගේ අභ්‍යාසලාභී පත්වීම භාරගැනීම ඔබ ප්‍රතික්ෂේප කලා සේ සලකා කටයුතු කරනු ඇත. පසුව ඉදිරිපත් කෙරෙන ඉල්ලීම් කිසිදු හේතුවක් නිසාවත් සලකා බලනු නොලැබේ.

ඔබගේ ජාතික හැඳුනුම්පත, උප්පැන්න සහතිකය, ග්‍රාම නිලධාරී විසින් නිකුත් කරනු ලබන පදිංචිය සනාථ කිරීමේ සහතිකය, උපාධි සහතිකය, විස්තරාත්මක ප්‍රතිඵල ලේඛනය (උපාධි සහතිකය හෝ විස්තරාත්මක ප්‍රතිඵල ලේඛනය විශ්ව විද්‍යාලය විසින් මෙතෙක් නිකුත් කර නොමැති නම් අදාල විශ්ව විද්‍යාලයේ ලේඛනාධිකාරී විසින් ප්‍රතිඵල සනාථ කරමින් නිකුත් කර ඇති ලිපිය), ඩිප්ලෝමාධාරියෙකු හෝ රජයේ විශ්ව විද්‍යාලයක උපාධිධාරියෙකු නොවේ නම් උසස් අධ්‍යාපන අමාත්‍යාංශය/විශ්ව විද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් ඔබේ නමට නිකුත් කරනු ලබන ලිපිය සහ නමෙහි වෙනසක් ඇත්නම් ඒ සඳහා දිවුරුම් ප්‍රකාශ, උපැවිදි සහතිකය ආදි අදාල අනෙකුත් ලේඛන මාසයක් ඇතුලත ප්‍රාදේශිය ලේකම් විසින් නියම කරනු ලබන දිනයක ප්‍රාදේශිය ලේකම් වෙත ඉදිරිපත් කල යුතුය.

අභ්‍යාසලාභී කාලය සාර්ථකව අවසන් කිරීමෙන් පසු ඔබ විසින් මනාපය පල කළ ක්ෂේත්‍රයක **පත්වීම ස්ථිර කිරීමට සලකා බලනු ලැබේ.**"

29) No specific reasons have been adduced for the non-selection of the 1st – 25th Petitioners.

30) The Petitioners state that those who received the above letter reported for duty to the respective Divisional Secretaries but all appointments including those of the 26th – 66th Petitioners were temporarily suspended on 5th March 2020 on a directive by the Elections Commission that all recruitment be stayed until the conclusion of the Parliamentary Elections. Be that as it may, the fact that the 26th – 66th Petitioners were issued letters of appointment demonstrates that the Government had not restricted the Scheme to graduates of State universities.

<u>Rejection on the sole basis of being a "foreign degree holder"</u>

31) Parliamentary Elections were held on 5th August 2020. By letter dated 14th August 2020 [**1R6**], an Additional Secretary at the Presidential Secretariat had informed the Secretary, Ministry of Public Services, Provincial Councils and Local Government *inter alia* as follows:

"**විදේශිය විශ්ව විද්‍යාලවලින් නිකුත් කරනු ලබන උපාධි පාඨමාලා සම්බන්ධයෙන් විශ්ව විද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විමසුවිට අදාල ආයතනය පිළිගනු ලැබුවද එම ආයතනයෙන් නිකුත්**

කරනු ලබන උපාධි පාඨමාලාව පිළිනොගන්නා බැවින්ද, අයදුම්කරුවන්ගේ රුකියා විරහිත භාවය කම්කරු දෙපාර්තමේන්තුවේ සේවක අර්ථ සාධක අරමුදලට 2019.02.01 සිට 2020.02.01 දක්වා සක්‍රිය දායකත්වයක් දක්වා ඇතිද යන්න මත **විදේශීය විශ්ව විද්‍යාලවලින් උපාධි ලැබූ අයදුම්කරුවන්** සහ රුකියාවල නිරතවන අයදුම්කරුවන් මූලික සුදුසුකම් නොලැබුවන් ලෙස සලකා ඉවත් කිරීමටද කටයුතු කර ඇත. ඒ අනුව සුදුසුකම් සම්පූර්ණ කරන ලද අයදුම්කරුවන් සංඛ්‍යාව 49,449කි."

32) 1R6 refers to two categories that had been disqualified under the Scheme.

33) The first are those who are already employed as borne out by the contributions made under their name to the Employees Provident Fund, which meant that they were not unemployed graduates, and had therefore not satisfied the basic requirement under the Scheme.

34) The second category are those with foreign degrees who have been rejected since their courses of study have allegedly not been recognised by the University Grants Commission. Even though the reason for disqualifying those with foreign degrees is attributed to the University Grants Commission and is a matter within their knowledge, the University Grants Commission has chosen not to file an affidavit explaining their position in spite of such position being contrary to P2, nor have the Respondents submitted any material to this Court from the University Grants Commission to support the above position taken in 1R6.

35) Instead, a motion has been filed on behalf of the University Grants Commission stating that they associate themselves with the position taken up in the affidavit of the 12th Respondent. Thus, quite apart from the bare statement that the University Grants Commission does not approve each programme of study separately, though the relevant institution has been recognized, no reasons have been placed before this Court by the University Grants Commission to support the position taken in 1R6. Thus, on the face of it, the decision to reject foreign graduates is irrational and arbitrary.

36) By way of a public announcement made on 16th August 2020 by the Secretary, Ministry of Public Services, Provincial Councils and Local Government [**P9a**], it was announced that the appointments made on 27th February 2020 have been cancelled

and that (a) a new list of graduates and diploma holders who have satisfied the eligibility criteria set out in P5 and who are thus eligible for appointment, and (b) another list of applicants who have failed to satisfy the above qualifications and are thus not eligible for appointment, have been published on the website of the Ministry.

37) The latter list [**P10**] set out eleven categories under which applications had been rejected of which the fourth category was that the degree has been awarded by a foreign university [**විදේශීය විශ්ව විද්‍යාලයකින් පිරිනමන උපාධියකි**]. A further list [**P11**] containing the names of those who have been rejected, including the Petitioners, was published together with P10. According to P11 too, the sole reason for the rejection of the Petitioners application is due to their degrees being from foreign universities. P11 did not contain any further elaboration.

38) Thus, in the minds of the Petitioners, the unimaginable had happened in that as citizens of this Country enjoying an equal status with other citizens, they were being openly discriminated from participating in a graduate trainee programme in the State sector on the sole basis that their degrees have been awarded by foreign universities and for no other reason. Even though (a) the Cabinet Memorandum submitted by the President and approved by the Cabinet of Ministers had not drawn any distinction between graduates of State universities and foreign graduates, and (b) letters of appointment had been issued in February 2020 to a majority of the Petitioners, an Additional Secretary at the Presidential Secretariat and the Secretary of the Ministry of Public Services, Provincial Councils and Local Government had thought it fit to disqualify all Petitioners solely on the basis that their degrees are from foreign universities. The 12th Respondent has not shown any rational basis to separate these two categories [they being local graduates and foreign graduates] and treat them separately and differently.

39) Probably as a response to the appeal submitted by the Petitioners and other candidates similarly placed, the Secretary, Ministry of Public Services, Provincial Councils and Local Government had issued the following notice on 12th January 2021 [P18]:

"රැකියා විරහිත උපාධිධාරීන් හා ඩිප්ලෝමාධාරීන් රැකියාගත කිරීම යන මැයෙන් අතිගරු ජනාධිපතිතුමා විසින් 2020.02.05 වන දින ඉදිරිපත් කරන ලද අමාත්‍ය මණ්ඩල සංදේශය සහ ඊට අදාළ අමාත්‍ය මණ්ඩල අනුමැතිය සැලකිල්ලට ගැනීමේ දී එමගින් ඉඩ සලසා ඇත්තේ නිදහස් අධ්‍යාපන ක්‍රියාවලිය හේතු කොට ගෙන දිවයින පුරා පිහිටුවා ඇති විශ්වවිද්‍යාල හා උසස් අධ්‍යාප ආයතන මගින් උපාධි/ඩිප්ලෝමා පිරිනමන ආයතනවලින් උපාධි/ඩිප්ලෝමා ලබා ඇති තරුණ තරුණියන් රට වෙනුවෙන් කැපවෙන වැඩ කිරීමේ සංස්කෘතියකට අනුගත කිරීමෙන් විරැකියාවෙන් පෙලෙන තරුණ තරුණියන්ගේ මානසික අසහනය දුරුකර ඔවුන්ගේ ආර්ථිකය ශක්තිමත් කර ඒ තුළින් රට සංවර්ධනය කිරීමට තරුණ ජවය යොදා ගැනීමටත් වේ. එසේම උක්ත වැඩසටහන සඳහා අයදුම්පත් කැඳවන ලද නිවේදනය අනුව ඒ සඳහා අයදුම්කරන අයදුම්කරුවෙකු විශ්වවිද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් පිළිගනු ලබන ප්‍රථම උපාධි පාඨමාලාවක් හෝ එයට සමාන සුදුසුකමක් ලෙස විශ්වවිද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් පිළිගනු ලබන ඩිප්ලෝමාවක් ලබා තිබිය යුතුවේ. **සාමාන්‍යයෙන් විශ්වවිද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් විදේශ උපාධි පිළිගනු නොලබන අතර ඇතැම් විදේශ විශ්වවිද්‍යාල පමණක් උපාධි පිරිනමනු ලබන ආයතන ලෙස පිළිගනු ලබයි.**

එබැවින් ඉහත කරුණු අනුව ඉහත වැඩසටහනට ඉල්ලුම් කරන ලද විදේශ උපාධිධාරීන් සඳහා පත්වීම ලබා දීමට මා වෙත ප්‍රතිපාදන සැලසී නොමැත. කෙසේ වෙතත් උක්ත වැඩසටහන සඳහා විදේශ උපාධි ලබා තිබෙන උපාධිධාරීන් (4096) පමණ අයදුම්කර තිබීමත්, රැකියා අවස්ථා සලසා දෙන ලෙස දිගින් දිගටම ඉල්ලීම් ඉදිරිපත් වී තිබීමත් හේතුවෙන් එම උපාධිධාරීන් හදාරා ඇති විෂය ක්ෂේත්‍ර හඳුනාගෙන රාජ්‍ය සේවයේ අවශ්‍යතාවට සරිලන උපාධිධාරීන් තෝරා දුෂ්කර ප්‍රදේශවල පවතින අධ්‍යාපන, සමාජයිය සහ ආර්ථික සංවර්ධන කාර්යයන් සඳහා දායක කර ගැනීම පිළිබඳව අතිගරු ජනාධිපතිතුමාගේ අවධානය යොමු වී ඇත."

40) P18 contain three grave factual inaccuracies and demonstrates the narrow and warped mindset of the 12th Respondent and others involved in rejecting the Petitioners solely on the basis that they are foreign graduates. The first is, the Cabinet Memorandum and the Cabinet Decision did not seek to distinguish between graduates from State universities and foreign universities. The Cabinet of Ministers was in fact amenable to giving such opportunities even to those who only had diplomas and hence to reject foreign graduates does not stand to reason. The second is the assumption that it is only those who have benefitted from the free education system and passed out from State universities who have the commitment to work for the benefit of the Country. Not only is this ground inaccurate but it is completely devoid of any factual basis and an insult to all those foreign graduates in the Public Service. The third is, it is wrong to state that the University Grants Commission does not recognise degrees awarded by foreign universities when the Government [P2] and the University Grants Commission [P3] have recognised the foreign universities that awarded the degrees to the Petitioners.

41) The Secretary had thereafter invited *inter alia* all those applicants with degrees from foreign universities to submit their details online. The Petitioners claim that they duly complied with the said invitation but did not receive any response. It is in this background that the Petitioners filed this application seeking *inter alia* the following relief:

(a) A declaration that the rejection of their applications on the basis that their degrees have been awarded by foreign universities is irrational and arbitrary;

(b) A declaration that the fundamental rights of the Petitioners guaranteed by Articles 12(1) and 14(1)(g) have been violated by the Respondents;

(c) A direction to the 1st – 13th Respondents to recruit the Petitioners as trainee graduates with effect from 16th August 2020.

42) I have already stated in paragraph 20 that although the Scheme approved by the Cabinet of Ministers contemplated a segment of training for a period of one year followed by employment, subsequent correspondence appears to have limited the Scheme to the training component, even though employment may have been offered to some of those who were selected. In any event, and as I have already stated, I am not inclined to advocate recruitment to the Public Service other than through the relevant Schemes of Recruitment. Thus, the violation of Article 14(1)(g) does not arise in this application, and I shall limit this judgment to the alleged violation of Article 12(1).

Article 12(1) of the Constitution

43) Article 12(1) provides that, "*All persons are equal before the law and are entitled to the equal protection of the law*."

44) As pointed out by my brother, Kodagoda, PC, J in **W.P.S.Wijerathna v Sri Lanka Ports Authority and others** [SC (FR) Application No. 256/2017; SC minutes of 11th December 2020]:

"*It is well settled law that, at the core of Article 12 of the Constitution is a key concept, namely the concept of 'equality'. The concept of equality is founded upon*

the premise that, all human beings are born as equals and are free. Equality confers equal value, equal treatment, equal protection and equitable opportunities to all persons, independent of or notwithstanding various demographic, geographic, social, linguistic, religious and political classifications based on human groupings prevalent in contemporary society, some of which are immutable or born to and others acquired."

"The principle which underlines Article 12 is that, ***equals must be treated equally, operate equally on all persons, under like circumstances****. Article 12 guarantees equality among equals. It is violated both by unequal treatment of equals and equal treatment of the unequal. Indeed, the concept of equality does not involve the idea of absolute equality among human beings. Thus, equality before the law does not mean that persons who are different shall be treated as if they were the same. Article 12 does not absolutely preclude the State from differentiating between persons and things. The State has the power of what is known as 'classification' on a basis of rational distinction relevant to the particular subject dealt with.* ***So long as all persons falling into the same class are treated alike****, there is no question of discrimination and there is no question of violating the equality clause.* ***The discrimination that is prohibited is treatment in a manner prejudicial as compared to another person in similar circumstances****. So long as classification is based on a reasonable and a justifiable basis, there is no violation of the constitutional right to equality. What is forbidden is invidious (unfair / offensive / undesirable) discrimination.* ***The guarantee of equal protection is aimed at preventing undue favour to individuals or class privilege, on the one hand, and at hostile discrimination or the oppression of equality on the other.*** *Since the essence of the right guaranteed by Article 12 and the evils which it seeks to guard against are the avoidance of designed and intentional hostile treatment, or discrimination on the part of those entrusted with the administering of the same, a person setting up grievances of denial of equal treatment must establish that between persons similarly circumstanced, some were treated to their prejudice and the differential treatment had no reasonable relevance to the object sought to be achieved."* [emphasis added]

45) Kodagoda, PC, J went on to state as follows:

"*As former Chief Justice Parinda Ranasinghe has pointed out in Ramuppillai v Festus Perera, Minister of Public Administration, Provincial Councils and Home Affairs and Others [(1991) 1 Sri LR 11; at page 19], Article 12 requires that,*

(i) among equals, the law should be equal and it should be equally administered,

(ii) like should be treated alike,

(iii) all persons are equal before the law and are entitled to the equal protection of the law,

(iv) no citizen shall be discriminated against on grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds,

(v) equality of opportunity is an instance of the application of the general rule underlying Article 12,

(vi) whilst Article 12 does not confer a right to obtain State employment, it guarantees a right to equality of opportunity for being considered for such employment,

(vii) what is postulated is equality of treatment to all persons in utter disregard of every conceivable circumstance of difference as may be found amongst people in general,

(viii) it prohibits class legislation, but that reasonable classification is not forbidden, and

(ix) in instances where a classification exists, it must appear that not only that a classification has been made, but also that the classification is one based on some reasonable ground or some difference which bears a just and proper relation to the purpose of the classification."

46) While in terms of Article 12(1), the basis of classification must generally be so drawn that those who stand in substantially the same position in respect of the law are treated alike and discrimination of persons in one class or who are similarly

circumstanced shall be avoided, Article 12(1) does not prohibit equals from being classified differently provided there exists a "reasonable basis" to do so.

47) As stated by Chief Justice Ranasinghe in **Ramuppillai v. Festus Perera, Minister of Public Administration, Provincial Councils and Home Affairs and Others** [supra; page 20]:

> "*Equal protection carries with it, of necessity, the doctrine of classification, for inequalities and disabilities whether natural, social or economic may have to be taken into account if justice and fairness is to be achieved as a final result;*
>
> *The principle of equality does not mean that every law must have universal or uniform application to all persons irrespective of differences inherent by nature's attainment or circumstances:*
>
> *The State must be allowed to classify persons or things for legitimate purposes;*
>
> *Whilst "reasonable classification" is permitted without doing violence to the equal protection of the laws, such classification must be based upon some real and substantial distinction bearing a reasonable and just relation to the things in respect of which such classification is imposed;*
>
> *In order to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that the differentia must have a rational relation to the objects sought to be achieved by the Act;*
>
> *What is necessary is that there must be a nexus between the basis of the classification and the object of the act;*
>
> *Article 12 nullifies sophisticated as well as simpleminded modes of discrimination;*
>
> *The classification to be acceptable must be based on some real or substantial distinction bearing a just and reasonable relation to the object sought to be attained;*
>
> *In any permissible classification, mathematical nicety or perfect equality is not expected*."

48) A similar view was expressed by Kodagoda, PC, J in **J.G. Mangala and another v Amitha Jayasundera, Commissioner General of Examinations and others** [SC (FR) Application No. 286/2024; SC minutes of 31st December 2024] when he stated as follows:

> "*Indeed, it is trite law recognised consistently by this Court, that equals must be treated equally. Equals cannot be classified and treated unequally.* ***Classification unless founded upon intelligible criteria to facilitate a lawful objective and the intended purpose for which power has been conferred, violates the right to equality and therefore Article 12****. However, as held by this Court on numerous occasions, equality, which is a concept based on the firm foundation of the Rule of Law, does not totally forbid classification. However, such classification must be 'reasonable' in the eyes of the law. A classification, which is (a) not arbitrary, (b) is reasonable, and (c) is otherwise lawful, can be regarded as being valid and permissible and as not violating the fundamental right to equality. That would be if such classification is founded upon intelligible and reasonable differentia aimed at facilitating the purpose for which the power has been conferred and is to be exercised. Furthermore, there should be a reasonable and rational nexus between the purpose (object) that is sought to be achieved and the basis of the classification*." [emphasis added]

49) In **Wickremasinghe vs Ceylon Petroleum Corporation and others** [2001 (2) Sri LR 409; at pages 416-417], Chief Justice Sarath Silva stated that:

> *"The question of reasonableness of the impugned action has to be judged in the aforesaid state of facts. The claim of each party appears to have merit when looked at from the particular standpoint of that party. But, reasonableness, particularly as the basic component of the guarantee of equality, has to be judged on an objective basis which stands above the competing claims of parties.*
>
> *The protection of equality is primarily in respect of law, taken in its widest sense and, extends to executive or administrative action referable to the exercise of power vested in the Government, a minister, public officer or an agency of the Government. However, the Court has to be cautious to ensure that the application*

of the guarantee of equality does not finally produce iniquitous consequences. A useful safeguard in this respect would be the application of a basic standard or its elements, wherever applicable. The principal element in the basic standard as stated above is reasonableness as opposed to being arbitrary. In respect of legislation where the question would be looked more in the abstract, one would look at the class of persons affected by the law in relation to those left out. In respect of executive or administrative action one would look at the person who is alleging the infringement and the extent to which such person is affected or would be affected. But, the test once again is one of being reasonable and not arbitrary. Of particular significance to the facts of this case, the question arises as to the perspective or standpoint from which such reasonableness should be judged. It certainly cannot be judged only from a subjective basis of hardship to one and benefit to the other. Executive or administrative action may bring in its wake hardship to some, such as deprivation of property through acquisition, taxes, disciplinary action and loss of employment. At the same time it can bring benefits to others, such as employment, subsidies, rebates, admission to universities, schools and housing facilities. It necessarily follows that reasonableness should be judged from an objective basis.

When applied to the sphere of the executive or the administration the second element of the basic standard would require that the impugned action, is based on discernible grounds that have a fair and substantial relation to the object of the legislation in terms of which the action is taken or the manifest object of the power that is vested with the particular authority.

Therefore, when both elements of the basic standard are applied it requires that the executive or administrative action in question be reasonable and based on discernible grounds that are fairly and substantially related to the object of the legislation in terms of which the action is taken or the manifest object of the power that is vested with the particular authority. The requirements of both elements merge. If the action at issue is based on discernible grounds that are fairly and substantially related to the object of the legislation or the manifest object of the power that is vested in the authority, it would ordinarily follow that the action is reasonable. The requirement to be reasonable as opposed to arbitrary would in

this context pertain to the process of ascertaining and evaluating these grounds in the light of the extent of discretion vested in the authority."

50) These decisions of this Court establish three important matters. The first is that equals must be treated alike. The second is that while Article 12(1) does not prohibit equals from being classified differently the classification must be founded upon an *intelligible differentia* which distinguishes persons or things that are grouped together from others left out of the group, with the differentia having a rational relation to the object sought to be achieved. The third, which in fact is an iteration of the second but viewed and stated differently, is that the differentiation in question must be reasonable and based on discernible grounds that are fairly and substantially related to the object that is sought to be achieved.

51) As emphasized by Bhagwati, J in the case of **Ajay Hasia v Khalid Mujib** [(1981) AIR 487 (SC)], the doctrine of classification was the formula adopted by the judiciary for determining whether the legislative or executive action in question is arbitrary and therefore constitutes a denial of equality. This aspect of construing the right to equality was recognized by the Supreme Court of India starting with the case of **Royappa v State of Tamil Nadu** [1974 AIR 555 (SC); at page 583], where Bhagwati, J explained that:

"*Equality is a dynamic concept with many aspects and dimensions and it cannot be 'cribbed, cabined and confined' within traditional and doctrinaire limits. From a positivistic point of view,* ***equality is the antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies;*** *one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Ar.14 [equality clause], ... Art. 14 strike(s) at arbitrariness in State action and ensure fairness and equality of treatment.*" [emphasis added]

52) While the classification doctrine continues to hold its relevance, judicial reasoning has increasingly focused on the denial of the equal protection of the law occasioned by the arbitrary and unfettered exercise of discretionary administrative power. For instance, a violation founded on the basis of abuse of administrative discretion and

without reference to the classification doctrine was found in the case of **Gunaratne and others v Ceylon Petroleum Corporation and others** [(1996) 1 Sri LR 315] where the Court emphasized that the principle of equality before the law embodied in Article 12 is a necessary corollary of the concept of the Rule of Law which underlies the Constitution and therefore Article 12 prohibits arbitrary, capricious and/or discriminatory action. The Court went on to hold that the "*powers **vested in the State, public officers, and public authorities are not absolute or unfettered, but are held in trust for the public**, to be used for the public benefit, and not for improper purposes*." [emphasis added; Pages 324, 325]

53) Similarly, Bandaranayake, J [as she then was] in **Ariyawansa and others v The People's Bank and others** [(2006) 2 Sri LR 145], emphasized 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*." [emphasis added; page 152]

54) In **A.A. Sarath and others v Commissioner General of Excise and others** [SC (FR) Application No. 661/2012; SC Minutes 14th July 2016], Chief Justice Sripavan, clearly emphasised the inter-relationship between the right to equality and maintaining the rule of law in the following manner:

> *"The Constitution enshrines and guarantees the Rule of Law and Article 12(1) of the Constitution is designed to ensure that each and every authority of the State, acts bona fide within the limits of its power and when the Court is satisfied that there is an abuse or misuse of power, and its jurisdiction is invoked, it is incumbent on the Court to afford justice to the persons who suffered in consequence of abuse or misuse of such power by the State officials*."

55) Having cited Perera v Cyril Ranatunga Secretary Defence and Others [(1993) 1 SLR 39], Chief Justice Sripavan went on to hold that:

> *"… it is well settled that **the absence of arbitrary power is the first essential component by the Rule of Law.** The Rule of Law from this point of view, means that decisions should be made, based on known principles and rules and such decisions should be predictable whereby a citizen should know where he stands in*

relation to such decisions. If the action of the Executive is not based on valid relevant principles applicable alike to all similarly situate and is based on extraneous or irrelevant considerations it would be denial of the doctrine of equality enshrined under Article 12(1) of the Constitution. It may even amount to "mala Fide" exercise of power." [emphasis added]

56) Thus, as explicitly stated in **Wickremasinghe v Ceylon Petroleum Corporation and others** [supra] and reiterated in **W.P.S. Wijerathna v Sri Lanka Ports Authority and others** [supra], the judicial reasoning has evolved into a synthesized position on the applicability of the right to equality that "*if legislation or the executive or administrative action in question is 'reasonable' and 'not arbitrary', it necessarily follows that all persons similarly circumstanced will be treated alike, being the end result of applying the guarantee of equality*."

57) Therefore, the demand that stems from the maintenance of the rule of law that the power vested in the State should not be used in an arbitrary manner, which in effect gives rise to the principle that powers vested in the State are held in public trust and for the public benefit, and that power must be exercised for the purpose for which such power has been conferred, have ultimately made the guarantee of equality to be reconceptualized as a bulwark against the arbitrary exercise of state power, as opposed to merely serving as a guarantee against discrimination.

58) This brings me to the grounds placed by the Respondents to justify the rejection of the Petitioners from the Scheme.

The basis for the rejection of foreign graduates

59) I have stated at the outset that the Scheme was proposed by the President [1R1] and approved by the Cabinet of Ministers [1R2 and 1R4]. While at the beginning, the Scheme had been implemented by the Presidential Secretariat, the implementation of the Scheme had thereafter been handed over to the Ministry of Public Services, Provincial Councils and Local Government in August 2020.

60) I have before me an affidavit dated 27th October 2022 filed by the Secretary, Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government.

Although he did not hold that post at the relevant time and was not involved with the Scheme, he has sought to explain in that affidavit the reasons for having rejected foreign graduates from the Scheme. I must state that these reasons were not divulged at the time the decision was taken in August 2020 and as I have already noted, the only reason for the rejection of the Petitioners from the Scheme as evidenced by P10 and P11 was their degrees being from foreign universities. Nothing more, nothing less.

61) Based on the factual position pleaded in the said affidavit, the learned Deputy Solicitor General presented the following grounds to justify the decision to reject foreign graduates:

(a) The Cabinet decision reflects the policy of the Government;

(b) The Cabinet decision seeks to give effect to Free Education;

(c) The local institute affiliated with the foreign university is not recognised by the University Grants Commission;

(d) The programme of study followed by the Petitioners have not been recognised by the University Grants Commission;

(e) Applicants under the Scheme do not possess the basic qualifications.

Policy decision

62) The first ground is that "*the reason for ruling out foreign degree holders as a qualifying criterion is a policy decision".* This is a reflection of the position pleaded by the 12th Respondent that "*the policy decision of the Government was to give recognition to unemployed youth who have obtained UGC recognised degrees from local universities*" and that, "*accepting foreign degrees without evaluating the same would be contrary to the policy objectives of the State on this project.*"

63) To my mind, this is a red herring thrown at our way, expecting this Court to defer to the decision to reject foreign graduates as aforesaid on the basis that it is a policy decision of the Government, and gives rise to the question, what is a policy decision?

64) In **Mawamanne Sominda Thero and another v Secretary, Ministry of Human Resources Development, Education, and Cultural Affairs and others** [(2004) 3 Sri LR 355; at page 361], Bandaranayake, J [as she then was] stated as follows:

> "*The Concise Oxford Dictionary refers to a matter of policy as the 'course or general plan of action to be adopted by government, party or a person'. Professor Galligan, on the other hand, defines a decision of policy in the following words (Due Process and Fair Procedures, Clarendon Press, Oxford, 1996, pg 454),*
>
> > *"A decision of policy is one where the authority has to draw on general considerations of a social, economic or ethical kind in deciding an issue, where the decision is likely to affect a range of groups and interests."*
>
> *Accordingly, the general norm in the definition of 'a policy matter' would be for the action taken to be for the common good. As pointed out by Professor Galligan (supra) while interests and claims of individuals and groups are ingredients to be added to the cauldron of policy making the final decision should reach beyond particular concerns to a broader sense of the interests of all". The necessity for the generalisation therefore would be the essential ingredient in defining 'policy' and this is clear as one examines the meaning given to the said word in the Oxford Companion to Law, where it reads thus:*
>
> > *"The general consideration which a governing body has in mind in legislating, deciding on a course of action or otherwise acting (David Walker; Clarendon Press Oxford, 1980. pg.965)."*
>
> *Therefore, **a policy decision necessarily will have to be applicable in general and cannot be interpreted to include specified persons***." [emphasis added]

65) While it is a matter of fundamental importance that policy decisions of the Executive must conform to the rule of law and should not infringe fundamental rights including but not limited to Article 12, it is naïve on the part of the 12th Respondent to expect this Court to accept his position that policy decisions can be taken so lightly without any evaluation of the issue that is being addressed and without any rational basis for confining its application to a specified category of citizens.

66) Be that as it may, it perhaps warrants reiteration that unemployment in general and unemployment among graduates in particular has been a pressing issue in this Country for many decades. While a permanent solution to this issue has not been found, successive Governments have sought to provide stopgap and temporary solutions by resorting to the easiest measure available to it, that being to provide employment in the Public Service. These measures have proved to be misconceived and impractical and has caused *inter alia* severe stress on the public finance system of this Country, as recent events have amply demonstrated. The Report of the Public Service Commission that was tendered by the learned Deputy Solicitor General has set out in detail the adverse consequences that the Country has had to face as a result of such ill-conceived actions.

67) Thus, the underlying issue continues to be neglected and unresolved. I am of the view that stopgap measures contained in 1R1 cannot and should not be categorised as policy decisions, for the reason that providing training to 50,000 graduates in State institutions as a one-off measure cannot be classified as a policy decision. This is clearly borne out by two factors. The first is that 1R1 did not provide for a specific plan to thereafter provide employment. The second is that the decision in 1R2 has been taken by the Executive mindful of the fact that they are about to face the electorate in the near future. The political expediency that was sought to be achieved through the Scheme is clearly evident, and it is an insult to this Court for the 12th Respondent to claim that the decision to reject foreign graduates reflects a policy decision of the Executive.

68) However, if one were to overlook the fact that the decision was taken for political expediency and using a magnifying glass look for an object that was sought to be achieved by the Scheme, that "object" can be found in paragraph 1.3 of 1R1, which reads as follows:

> "ග්‍රාමීය දුෂ්කර ප්‍රදේශවල රජයේ නිලධාරීන්ගේ හිඟය නිසා ග්‍රාමීය ජනතාව රජයේ සේවාවන් ලබා ගැනීමේදී ඉමහත් අපහසුතාවකට පත්වන අවස්ථා දුලබ නොවේ. ගතානුගතික පරිපාලන සංස්කෘතියෙන් ඔබ්බට ගොස් ජනතාව ඉලක්ක කරගත් සේවා සැපයීමේ ක්‍රමවේද සකස් කිරීම සඳහා පවතින ක්‍රමවේද ධනාත්මක ආකාරයෙන් වෙනස් කිරීම සඳහා තරුණ පරපුරේ හැකියාවන් සහ කුසලතාවයන් යොදා ගැනීමට අවශ්‍ය කටයුතු කළ හැකිය."

69) To my mind, the most that can be said with regard to an object for the Scheme was that it was being implemented in order to provide a better public service to the rural masses of this Country, which, if it had been taken genuinely, is certainly laudable. If such is the intended purpose, a decision to limit the Scheme to graduates of State universities as a means of achieving that intended purpose is completely irrational in the absence of any reasonable basis. Beyond that, attempting to defend such an irrational decision under the blanket cover of a "policy decision" and thereby preventing the Court from intervening is something which cannot be condoned.

70) It may not be the duty of this Court to give directions to the Respondents as to how they shall perform their functions or how the selection process should be carried out in terms of the Scheme in order to achieve an intended object. Nevertheless, as the bulwark against the arbitrary exercise of State power, it's the duty of this Court to intervene if the Respondents' actions are unreasonable, capricious, arbitrary and thus violative of the guarantee of equality of the Petitioners. This Court cannot fold its hands and turn a blind eye towards the above action of the Respondents. What this Court would not desist from holding is that a particular impugned instance of the exercise of executive power amounts to an abuse of power due to its infringement with the principles contained in the fundamental rights chapter of the Constitution and is therefore unlawful.

Cabinet decision and Free Education

71) Relying on the words, "නිදහස් අධ්‍යාපන ක්‍රියාවලිය" in 1R1, the second ground urged on behalf of the Respondents was that the Scheme was limited to those who have come through the free education system that has formed the bedrock of the education system of this Country since the 1940's.

72) Given the "object" that was sought to be achieved, the necessary inference that can be drawn from this argument is that those who did not have the benefit of the free education system, whether it was by choice or otherwise, are not suitable to be in the Public Service of this Country as they do not share the same patriotism as those who have come through the free education system.

73) While this is furthest from the truth, I must perhaps state that the system of free education and State employment should be treated as distinct categories and should not under any circumstance be conflated. To do otherwise is a blatant violation of the guarantee of equality of those who have not had the benefit of the free education system.

74) I say so for three reasons.

75) Firstly, it is common ground that the free education system continues to provide primary, secondary and tertiary education to thousands of our children. The irrationality of limiting the Scheme to those who have benefitted from the free education system is clearly reflected when one poses the question, **who is a beneficiary of free education**. On one corner of the spectrum would be those who have had their entire primary and secondary education in a State school and have thereafter graduated from a State university. On the other corner would be those who have had their entire education in private schools and non-State universities.

76) There can be many different categories in-between these two groups. There are those students who are admitted to a State school in Year 1 and who continue right until their Advanced Level examination at that school but who do not gain admission to a State university and therefore decide to pursue their higher education either in a foreign university as internal students or through an institution affiliated to a foreign university. Similarly, there are students who have had their entire primary and secondary education in a private school and who, on the strength of their results at the Advanced Level examination secure admission to a State university. Thus, to rely on limiting the Scheme to products of free education is irrational.

77) Secondly, Sri Lanka has a high literacy rate with a good primary and secondary education system, of which we are proud. The State schools form the backbone of the free education system of our Country providing all children in the country an equal opportunity to receive formal education. However, there's a noteworthy disparity between geographical regions in terms of distribution of facilities between rural and urban State schools. This disparity has created competition among parents to send their children to the most popular urban schools governed by the State, and

is reflected by the competition that exists in securing admission of a child to Year 1 of a school that has better facilities and the competition that prevails to pass the Year 5 scholarship examination and thereafter get into a popular State school.

78) The reality in this modern and competitive era is that parents want the best possible education for their children and are willing to spend every cent for the sake of their children's education. The inability to find a State school of their choice to meet their aspirations leaves parents with no option but to look at private schools and international schools that may offer the same local syllabus as State schools and where students of those schools sit for the same Ordinary Level and Advanced Level examinations as those students who have had the privilege of studying at State schools.

79) While family ties also play a significant role in the selection of schools, statistics reveal, for instance, that Anglican and Catholic parents are more likely to select private schools due to their religious values and attitudes. Moreover, the level of income of the parents, the occupation of the parents, and the desire of the parents to send the child to the same school they attended may also result in a child attending a private or an international school. Therefore, whether to become a beneficiary of the free education system at the primary and/or secondary level of education is sometimes a choice.

80) Thus, despite the fact that primary and secondary education has been obtained from a government school or a non-government school, these graduates are citizens of Sri Lanka, and an artificial distinction must not be drawn between them nor should they be ostracized for life, just because they are not beneficiaries of the free education system of this Country.

81) Thirdly, free education does not stop at the secondary level and those who obtain a minimum aggregate at their Advanced Level examinations are eligible to be admitted to a State university. However, this eligibility does not transform itself into actual admission for the reason that the number of vacancies that are available in State universities is limited. It is not every student who is eligible for admission to a State university on the strength of their results at the Advanced Level examination who

will be successful in being admitted to a State university. The latest statistics published by the University Grants Commission based on the results of the academic years 2020/21, 2021/22 and 2022/23 show that 77.4%, 74.6% and 73.7%, respectively, of **those who were eligible for university admission were not selected to a State university**, for the simple reason that the number of placements available in State universities are limited.

82) Therefore, the fault lies not with ineligibility but due to the State not being able to provide each eligible applicant a placement in a State university due to economic constraints. Even though successive Governments have endeavoured to increase the number of universities and the number of students who can be admitted to State universities, the statistics show that much more needs to be done.

83) What then is the solution to those students? They are certainly entitled to look at alternative means of achieving and securing a better future and to pursue their higher education in a foreign university or at a local institute that is affiliated to a foreign university, with the latter being recognised by the University Grants Commission. The fact that they have secured undergraduate level education overseas or through institutes affiliated to foreign universities by mobilizing private funds without burdening the State and are keen to join the Public service should in fact be viewed favourably.

84) It is manifestly unjust to say that it is their misfortune that they did not get admission to a State university. The failure to get admission to a State university cannot be held against them for the rest of their lives, downgrading them to second class citizens simply because the State did not have sufficient vacancies in its universities to accommodate them. To deprive them of an opportunity of securing training or employment in the State sector would be the final nail on the coffin for these citizens.

85) Therefore, the fact that 1R1 refers to products of free education cannot and should not mean that it is only those who have been beneficiaries of the system of free education that can enter the State sector, nor should it mean that it is only those who have secured a degree from a State university who can secure employment in

the State sector. To hold otherwise would be to uphold a brazen violation of Article 12(1).

86) In this case, except the 25th – 29th Petitioners who studied in India on scholarships awarded by the Ministry of Higher Education and the Indian High Commission in Sri Lanka, and the 7th – 9th, 19th, 42nd, 52nd, 58th and the 61st Petitioners who were internal students at a foreign university, the rest of the Petitioners have followed their course of study in Sri Lanka conducted by institutions that are affiliated with foreign universities recognised by the University Grants Commission. To classify the Petitioners any differently from students who have secured their degrees in State universities without any rational basis would be unreasonable, arbitrary and violative of Article 12(1) of the Constitution.

Recognition of the local institute

87) Bearing in mind that all foreign graduates, irrespective of those who had studied as internal students at a foreign university or who had followed a programme of study at a local institution that was affiliated to a foreign university were rejected as a group, I shall now consider the third ground that was urged on behalf of the Respondents, that being the University Grants Commission has only recognised the university that awarded the Petitioners their degrees since they have been listed in the ACU Yearbook and/or the International Handbook of Universities but that the "*local institutions through which the degree was offered*" are not recognised by the University Grants Commission.

88) To my mind, this constitutes a wholly untenable proposition which undoubtedly satisfies the extremely high threshold for unreasonableness stipulated by Lord Greene in **Associated Provincial Picture Houses Ltd v Wednesbury Corporation** [1948 (1) KB 223]. Quite apart from this position being different to what is stated in 1R6, if it's the decision of the Government that the "*local institutions through which the degree was offered*" are not recognised, the University Grants Commission and the Ministry of Higher Education **must state so publicly and immediately**. Furthermore, if the quality of the education imparted by these local institutions is inadequate, that is a matter that the State must take note of and take remedial action

including the formulation of a policy and suitable guidelines, instead of allowing hundreds of thousands of innocent youth to spend vast amounts of money including valuable foreign currency over their degrees and later claim that the local institution through which the degrees were awarded cannot be recognised.

89) In any event, the above reason does not apply to the 7th – 9th, 19th, 42nd, 52nd, 58th and the 61st Petitioners who were internal students at a foreign university. Nor does it apply to the 25th – 29th Petitioners who were offered scholarships by the Ministry of Higher Education to study at Indian universities as internal students. The Respondents have in fact admitted that 163 applicants have obtained their degrees pursuant to scholarships offered by the Government of Sri Lanka, which goes to demonstrate that while the above explanation is an afterthought on the part of the Respondents, the explanation is nothing but irrational and arbitrary.

Recognition of the programme of study

90) The fourth ground urged by the learned Deputy Solicitor General was that in any event, the University Grants Commission has only recognised the foreign university concerned and has not recognised the "relevant programme of study" followed by the Petitioners. It was submitted further that this has been expressly made clear in the letters issued by the University Grants Commission to each of the Petitioners [P3], by the insertion of the following paragraph at the end of the letter:

> "*This letter does not indicate the authority of the degree certificate or indicate that the student has registered and followed the course in the University. The authenticity of the degree certificate should be verified from the University.*"

91) While the above rider has no relevance at all to the validity or recognition of the programme of study, if a programme of study is not recognised, the University Grants Commission must state so, instead of misleading the Petitioners by issuing P3. In any event, I must also state that it was up to the Ministry of Public Services to have verified the authenticity of the degree certificate from the relevant foreign university instead of having rejected those with degrees awarded by foreign universities simply because their degrees were from foreign universities.

Applicants not possessing the basic qualifications

92) Having decided by P9a to reject all foreign graduates, by P18 the Ministry requested those foreign graduates who had applied to submit details of the qualification that they had acquired. The fifth ground urged on behalf of the Respondents is that out of the 2523 who responded to P18 including the Petitioners, 136 applicants have obtained their degrees within one or two years, whereas degree programmes offered by State universities are of a minimum three-year duration. Although this data was obtained after the applications of foreign graduates had been rejected in its entirety, and cannot be considered as a reason for their rejection, this position certainly has merit and I will not fault the Respondents if an application had been rejected on this basis. However, the Respondents have not stated that any of the Petitioners come within this category of persons whose degrees are less than three years.

93) The fact that the duration of the degree program was not an initial concern is further evidenced from P5, which demonstrates that applications were not limited to those with degrees but even to those with diplomas and equivalent qualifications approved by the University Grants Commission which could inevitably contain programmes with a lesser duration than a three-year degree programme. Therefore, the reliance on the requirement of a minimum three-year duration again reflects an afterthought on the part of the Respondents to justify their unreasonable conduct.

94) It has also been pointed out by the Respondents that the degrees and their study modules must closely reflect the degree programmes offered by State universities, probably to ensure that it is relevant to the local context. Here too, I would not have had an issue if this was the real reason for the rejection, but as is now evident, these are all matters that are being raised to justify an irrational and arbitrary decision.

95) I must perhaps emphasise at this juncture that if a scheme of enrolment or recruitment requires an applicant to possess a degree which consists of a study module that is relevant to the local context, it may not be unreasonable to make a classification between the applicants who have obtained their degrees from local/State universities where the degree programmes are aligned with the

requirements of the local context and the applicants who have obtained their degrees from foreign universities where the degree programmes are alien to the local contexts.

96) In such an instance, the creation of a reasonable classification between these two categories of degree holders and/or the imposition of an additional requirement for the foreign degree holders to acquire the necessary qualifications that are relevant to the local context by way of undergoing an examination or by following an additional course of study created for that purpose may not be regarded as an unequal treatment.

97) Therefore, the issue lies not with the creation of a classification, but, with the creation of a classification with no reasonable basis and without a rational nexus to the object that is sought to be achieved. Such an unreasonable classification cannot be accepted at any level.

Creating unequal classifications by exercising favouritism is arbitrary

98) In my view, those who applied as graduates of State universities as well as those who applied as graduates of foreign universities listed in P2 and who have met the necessary requisites provided under P5, are both similarly circumstanced with regard to finding a placement under the Scheme. Therefore, the selections cannot thereafter be carried out based on the whims and fancies of the persons in authority by creating inequal classifications and exercising favouritism of one class over the other.

99) In the case of **W.P.S. Wijeratne v Sri Lanka Ports Authority and others** [supra] Kodagoda, PC, J while emphasizing that exercising arbitrariness and unreasonableness in decision-making in selections, appointments and promotions particularly in Public Sector institutions is inconsistent with the concept of equality, went on to hold that "*recruitment and appointment of persons to positions in the public sector* ***cannot be left to be decided according to the whims and fancies of persons in authority*****".**

100) The consequences of exercising favouritism in selection or recruitment for employment was explained by Amerasinghe, J. in the case of **Perera and Nine others v Monetary Board of the Central Bank of Sri Lanka & Twenty-Two others** [(1994) 1 Sri LR 152], by holding that:

> *"… if society is to be purged of and freed from the related evils of corruption, nepotism and favouritism, public institutions embarking on executive or administrative action in terms of Article 126(1) of the Constitution must be clear of inequalities and/or unevenness."* [page 166]
>
> *" …..those who were both able, by reason of their demonstrable fitness to perform the functions of the post, and willing to serve in accordance with the job description formulated in accordance with the needs of the institution, and in accordance with the terms and conditions of employment, but were not provided with the opportunity of offering their services, are entitled to complain that they were not called upon to apply when other, similarly - placed persons were called upon to apply;* ***persons are entitled to complain if they were unfairly disqualified because the scheme of recruitment was not based on intelligible differentia, the attributes prescribed for eligibility, having no rational relation to the object of recruitment; they are entitled to complain if they were invidiously or arbitrarily treated by or in the selection process. The essence of their complaint would be that their right to equality guaranteed by Article 12(1) of the Constitution has been violated."*** [emphasis added; pages 166 – 167]
>
> *"The use of discretion involves discernment:* ***Selection is not a mere matter of fancy, whim or caprice. Distinctions must not be invidious or biased: Persons who are excluded in a scheme of recruitment or in the selection process must not be excluded on account of their being looked upon with an evil eye. Persons who are selected should not be chosen on account of favouritism or partiality. A justifiable selection cannot be one that is accidental or fortuitous or directed ad hoc to the preference of a certain person, arbitrarily, dependent on the absolute exercise of the will and pleasure or mere opinion or humour of those who make the selections.*** *The selected person must be fit and suitable and qualify for appointment in terms of the formulated criteria and in accordance with the prescribed mode of verification of those criteria……. The law insists on justice and*

this, among other things, means that in the exercise of authority or power there must be just conduct. ***In the exercise of the power of recruitment, just conduct entails the even-handed treatment of those who might be affected by the exercise of a power."*** [emphasis added; pages 164 and 167]

101) In the absence of any classification made by the law itself, a classification can be carried out under the discretion of the public authority, provided it complies with the test of permissible classification which requires the classification to be founded upon an *intelligible differentia* with a rational relation to the object sought to be achieved. However, the contentions brought forth on behalf of the Respondents do not constitute to my mind any such "reasonable basis" to justify the Respondents' decision to create a classification between graduates who obtained their degrees from foreign universities and graduates who obtained their degrees from State universities when considering the granting of a placement under the Scheme. I do not see any rational relation of such action to the "object" that one may argue was sought to be achieved from the Scheme, which is to provide a better public service to the rural masses of this Country by engaging the unemployed educated youth. Instead, the actions of the 12th Respondent are completely arbitrary and unreasonable, violates the 'trust' placed in public officials by the general public, and stands in stark contradiction to the principles of fair play and equal treatment.

102) I may perhaps add that in a report dated 14th June 2021 submitted by the 12th Respondent to the Attorney General, a copy of which was tendered to this Court by motion dated 7th July 2025, the 12th Respondent has acknowledged the fact that the 163 applicants who had secured their degrees through scholarships awarded by the Ministry of Higher Education can be considered for the Scheme. I am however at a loss to understand why no further action was taken, at least with regard to those 163 graduates.

<u>Conclusion</u>

103) In the above circumstances, I declare that the 12th Respondent has violated the fundamental rights of the Petitioners guaranteed by Article 12(1). The 12th Respondent has retired since the filing of this application and while I shall not order costs against the 12th Respondent for that reason even though his narrow minded

and warped decision has affected the career prospects of the Petitioners, I order that the State shall pay each Petitioner a sum of Rs. 5000 as nominal costs.

104) The Petitioners have sought a direction to enrol them as trainee graduates with effect from 16th August 2020. Five years have lapsed since then and it will not serve any useful purpose to issue such a direction at this point of time. However, the Cabinet Memorandum submitted by the learned Deputy Solicitor General indicates that issues relating to the recruitment of graduates to the Public Sector have been considered by the Cabinet of Ministers. Hence, the present Secretary of the Ministry of Public Administration is directed, based on a draft prepared by the Attorney General, to bring the contents and principles contained in this judgment to the attention of the Secretary to the Cabinet of Ministers. He shall thereafter apprise the Cabinet of Ministers of such matters and thereby enable the Cabinet of Ministers to arrive at an appropriate decision to address the injustice caused to the Petitioners by the actions of the 12th Respondent and to offer them suitable redress, bearing in mind that just as much as those who graduate from State universities, the Petitioners too are proud citizens of this Country.

JUDGE OF THE SUPREME COURT

Yasantha Kodagoda, PC, J

I agree.

JUDGE OF THE SUPREME COURT

Achala Wengappuli, J

I agree.

JUDGE OF THE SUPREME COURT