

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

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

SC / FR / 326 / 2017

J. K. G. Anupama Senaratne,
295, Puwakpitiya,
Henegama Western Province.

PETITIONER

-Vs-

1. **Mr. MC. A, Thilakarathne,** Secretary.
2. **Mr. K. Sarath Gunathilaka,**
Hon. Chairman.
3. **Mr. A. W. C. Ariyadasa,**
Member.
4. **Mr. Sunil Fernando,**
Member.

5. Mr. S. K. Liyanage,

Member.

6. Mr. K. Paramalingham,

Member.

7. Mr. J. Paranamana,

Member.

The 1st to 7th Respondents of the Provincial
Public Service Commission Western Province,
109, 2nd Floor,
Main Street,
Battaramulla.

8. Mr. Ranjith Somawansa,

Hon. Minister.

9. Mr. J. A. D. L. Hemachandra,

Co-ordinating Secretary for the Minister.

10. Mr. S. G. Wijayabandu,

Secretary.

The 8th to 10th Respondents of the Ministry
of Education, Cultural and Arts, Sports and

Youth Affairs and Information Technology
Western Province.

11. Mr. Sunil Hettirarachchi,

Secretary,
Ministry of Education,
Isuru Paya,
Battaramulla.

12. Mr. K. C. Logeswaran,

Hon. Governor of the Western Province,
Secretariat of the Western Province, 109, 5th
Floor,
Rotunda Tower,
Galle Road,
Colombo 03.

13. Hon. Attorney General,

Attorney General's Department, Hulftsdorp,
Colombo 12.

DEFENDANTS

1A. Mr. Thilak Senerath,

Secretary,

2A. Mr. U. R. de Silva, PC,

Chairman.

3A. Ms. Kanthi Wijetunga,

Member,

4A. Ms. Chaturika Wijesinghe,

5A. Ms. Ruwani Y. Hapuarachchi,

6A. Mr. N. Sivahumaran,

Member.

7A. Mr. Samsudeèn Liyuvdeen,

Member.

The 1A to 7A Respondents of Provincial

Public Service Commission Province,

628, 10th Floor,

Jana Jaya City Building,

Nawala Road,

Rajagiriya.

8A. Mr. Nihal Ranasinghe,

Secretary,

Ministry of Education,

Isuru Paya,

Battaramulla.

9A. Mr. Roshan Goonetilleke,

Hon. Governor of the Western Province,

Governor's Office of the Western Province,

10th Floor,

204, Denzil Kobbekaduwa Mawatha,

Battaramulla.

10A. Ms. N. Charmaine Madurusinghe,

Member,

Provincial Public Service Commission

Western Province,

109, 2nd Floor,

Main Street,

Battaramulla.

ADDED RESPONDENTS

Before: A.H.M.D. Nawaz, J.
Kumudini Wickremasinghe, J. &
Mahinda Samayawardhena, J.

Counsel: Pulasthi Hewamanna with Githmi Wijenarayana for the Petitioner on behalf of the Legal Aid Commission.

Viveka Siriwardhane, PC, ASG with Sureka Ahmed, SC for the Respondents.

Argued on: 05.12.2023

Decided on: 30.03.2026

A.H.M.D. Nawaz, J.

1. The Petitioner, Ms. W.M. Samanmali Weerasinghe, a graduate of the University of Ruhuna holding a Bachelor of Sciences degree in Nursing, filed this Fundamental Rights application invoking the jurisdiction of this Court under Article 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka 1978 ('the Constitution'). She alleges that the 1st Respondent, the Provincial Public Service Commission of the Western Province ('WPPSC'), in declining to appoint her to Grade 3.1 of the Sri Lanka Teacher Service as a teacher of Science, has violated her fundamental rights guaranteed under Article 12 (1) and 12 (2) of the Constitution.
2. Leave to proceed was granted by this Court under Article 12 (1) of the Constitution. The Respondents, through their written submissions filed on 09 February 2023, raised several preliminary objections including a *time bar* under Article 126 (2) of the Constitution, and submitted that no fundamental rights of the Petitioner have been infringed.
3. Having carefully considered the pleadings, the documentary evidence, the written submissions tendered by both parties, and the oral arguments made before this Court, this Court is of the view that the Petitioner's application ought to be dismissed. The reasons for this conclusion are set out in full below.

4. The facts pertinent to this application, as disclosed by the pleadings and the documents marked and tendered to Court, are as follows.

The Advertisement and the Examination

5. On 11 August 2014, the WPPSC published a newspaper advertisement (**P3**) calling for applications from graduates for recruitment to fill vacancies in the Sri Lanka Teacher Service of the Western Provincial Public Service in various subject streams including Science. The advertisement, critically, contained the following provision in its concluding paragraph;

"The Western Province Provincial Public Service Commission retains the final right to make a decision with regard to any matter covered or not covered by this notice, including filling the vacancies in entirety or in part or not filling the vacancies at all."

6. This reservation of discretionary power is of central importance to the present application.
7. The Petitioner applied in response to the said advertisement. In December 2014, the competitive written examination was held and the Petitioner sat the examination. Having scored 120 marks, she qualified to be called for the interview stage of the selection process. By letter dated 4 January 2017 (**P6**), the Petitioner was summoned to attend an interview. The interview was conducted on 26 January 2017. That letter explicitly stated that the interview was being held to check whether the candidates possessed the requisite qualifications for appointment.

Rejection and the Petitioner's Subsequent Representations

8. Following the interview, the WPPSC declined to appoint the Petitioner. On 31 January 2017, the Petitioner filed appeals to the WPPSC and to the Governor of

the Western Province. On 6 March 2017, the Coordinating Secretary wrote to the Secretary of the WPPSC highlighting that three applicants had appealed and that the Minister of Education had directed the WPPSC to give special attention to the matter.

9. By letter dated 27 March 2017 (P10), the 1st Respondent formally communicated the WPPSC's decision to the Petitioner. It was clearly stated therein that the subjects covered by the curriculum of the Bachelor of Sciences degree in Nursing awarded by the University of Ruhuna are not subjects related to those taught by teachers of Science in schools. This formed the basis of the rejection of the Petitioners.
10. Undeterred, the Petitioner then pursued a number of other avenues seeking redress. On 29 March 2017 she filed a complaint before the Human Rights Commission of Sri Lanka (HRC/1196/17). She filed a further complaint before the HRC on 18 May 2017 (HRC/1690/17). She invoked the Right to Information Act, exercised her right to petition the Ombudsman, wrote to a Member of Parliament, and corresponded with the Governor of the Western Province, the Ministry of Education, and the Presidential Secretariat.
11. Notwithstanding these representations, each authority consistently maintained the same position. On 24 April 2017, the Secretary of the Ministry of Education informed the Governor's Secretariat of the Western Province that a nursing degree focuses on specialised clinical areas and does not cover the comprehensive subject matter of the school curriculum; accordingly, nursing graduates are ineligible for teaching positions in the Science stream. On 9 May 2017, the Governor's Secretariat relayed this position to a Member of Parliament. On 20 July 2017, the Ministry of Education again confirmed to the Western Province Governor's Secretariat that Science teachers must have studied Biology, Chemistry, or Physics as main subjects.

12. The WPPSC itself, at its meeting held on 30 September 2016 (**R1**), had already formally reaffirmed its position that the subjects covered under the Nursing degree curriculum were not subjects related to those taught by Science teachers in schools.

The Petitioner's Degree Curriculum

13. The academic transcript of the Petitioner [**P2(a)**] demonstrates that the subjects read at the University of Ruhuna for the Bachelor of Sciences degree in Nursing, across all seven semesters and the final examination, were the following: current trends and issues in Nursing; Pharmacology; Pathology; Nutrition and Dietetics; Community Health Nursing; trends and issues in Nursing and Management in Nursing; Clinical Nursing; Nursing Research Project; Basic Health Science (Anatomy, Physiology, Biochemistry); Social Medicine and Psychology; Basic Epidemiology; Community Health Nursing; Psychiatric and Mental Health Nursing; Clinical Nursing (Medical and Surgical Nursing); Nutrition and Dietetics; Nursing Ethics and Forensic Nursing; Health Education, Health Promotion and Health Assessment; Microbiology and Parasitology; Clinical Nursing (Gynecological, Obstetric and Pediatric Nursing); and other related nursing subjects.

14. It is abundantly clear from this curriculum that the Petitioner has not studied Biology, Chemistry, or Physics as main or independent subjects. In her Bachelor of Sciences degree in Nursing at the University of Ruhuna she had not studied any of the core scientific disciplines that constitute the Science stream at the Advanced Level of the G.C.E. examination. The Nursing degree, whilst undeniably a degree of distinction and professional value, is oriented entirely toward clinical nursing practice and does not equip its graduates with the subject-matter knowledge required to teach Science at the Advanced Level in schools.

15. The Petition in the present application bears the date 11 September 2017, and was filed in this Court on 20 September 2017. The Petitioner contends, *inter alia*, that

she was discriminated against in comparison to other nursing degree holders who had been appointed as Science teachers in other provinces, particularly the Sabaragamuwa Province, and relies upon a letter of appointment allegedly issued to another such candidate in the Central Province [P7(b)].

Preliminary Objection: Application Filed Out Of Time

16. At the outset, this Court must address the preliminary objection raised by the Respondents that the present application has been filed in violation of the mandatory time limit prescribed by Article 126 (2) of the Constitution. Article 126 (2) reads as follows:

*"Where any person alleges that any such fundamental right or language right relating to such person has been infringed or is about to be infringed by executive or administrative action, he may himself or by an attorney-at-law on his behalf, **within one month thereof**, in accordance with such rules of court as may be in force, apply to the Supreme Court by way of petition in writing addressed to such Court praying for relief or redress in respect of such infringement..."*

17. The one-month period prescribed by this article is mandatory and jurisdictional in character. It is not a procedural formality susceptible to extension by any act of the petitioner; it is a condition precedent to the exercise of this Court's extraordinary jurisdiction.

18. The governing principle was authoritatively stated by Fernando J. in *Gamaethige v. Siriwardena*¹, where His Lordship held;

¹ (1988) 1 SLR 384

"If a person is entitled to institute proceedings under Article 126 (2) in respect of an infringement at a certain point in time, the filing of an appeal or application for relief, whether administrative or judicial, does not in any way prevent or interrupt the operation of the time limit."

19. His Lordship further affirmed that the pursuit of other remedies, whether judicial or administrative, does not prevent or interrupt the running of the one-month period. This principle has been consistently applied by this Court and is well-settled law.
20. In the present case, the Petitioner's own position is that she attended the interview on 26 January 2017 and was informed at the interview itself that others with degrees in Nursing had previously been rejected with regard to the position for which she had applied. She was aware, at the very latest by the letter of 27 March 2017 (**P10**), that her application had been formally rejected and that the WPPSC had concluded that her degree was ineligible for the position of Science teacher.
21. Taking the most generous view of the Petitioner, and identifying 27 March 2017 as the date of the executive or administrative action complained of, the one-month period within which she was entitled to invoke Article 126 (2) would have expired on 27 April 2017. The present Petition, however, was only filed in this Court on 20 September 2017, approximately five months and twenty-three days after the decision of the 1st Respondent was communicated to the Petitioner.
22. The Petitioner's recourse to the Human Rights Commission, the Ombudsman, the Ministry of Education, the Governor's Secretariat, and various other administrative bodies in the intervening period does not, on the clear authority of ***Gamaethige v. Siriwardena*** (supra), stall or interrupt the operation of the constitutional time bar. Each of those administrative representations was a matter for the Petitioner's own election and cannot be permitted to expand the jurisdiction of this Court beyond what the Constitution prescribes. There was not

a scintilla of evidence that the Human Rights Commission was possessed of this matter by way of a pending inquiry.

23. On this ground alone, the application is liable to be dismissed. The application has been filed manifestly out of time and this Court lacks jurisdiction to entertain it.

24. However, given that leave to proceed was granted by this Court, and in the interests of a complete determination of the matter, this Court proceeds to address the merits of the application.

Article 12 of The Constitution And The Doctrine Of Reasonable Classification

25. Article 12 (1) of the Constitution provides;

"All persons are equal before the law and are entitled to the equal protection of the law." Article 12 (2) provides: "No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds."

26. The right to equality guaranteed by Article 12 (1) does not, however, mandate identical treatment of all persons in all circumstances. ***It prohibits discrimination between equals; it does not prohibit reasonable differentiation between persons who are not similarly circumstanced.*** The classic doctrine of reasonable classification, which this Court has consistently recognised, permits the State and its instrumentalities to draw distinctions provided those distinctions are founded upon an intelligible differentia and bear a rational nexus to the object sought to be achieved.

27. In ***Perera v. Jayawickrema***², this Court observed;

² (1985) 1 SLR 285

"Discrimination can exist only where two persons or two subjects are treated in different ways. It arises only from two dissimilar treatments and not from similar treatments."

28. This formulation is of fundamental importance. Where, as in the present case, all applicants holding a degree in Nursing were uniformly treated alike namely, all were rejected on the same ground that there is no differential treatment and therefore no discrimination.

29. Further, in *Perera v. Monetary Board of the Central Bank and Others*³, in the context of recruitment and promotion in the public sector, this Court stated that persons are entitled to complain only if they were insidiously or arbitrarily treated by or in the selection process. The selection process under challenge in the present application was not arbitrary; it was based on a clear, consistent, and educationally rational criterion: that a candidate for the post of Science teacher must hold a degree which equips him or her with the subject knowledge required to teach the Science stream at the Advanced Level.

30. The Indian Supreme Court's formulation of the doctrine of reasonable classification, which has been persuasive authority in this jurisdiction, provides that the classification must satisfy a two-pronged test: first, it must be founded on an intelligible differentia that distinguishes persons grouped together from those left out; and second, that differentia must have a rational relation to the object sought to be achieved by the impugned act or provision - see *State of West Bengal v. Anwar Ali Sarkar*⁴. This Court is satisfied that both prongs are met in the present case.

31. The object of the selection exercise was to appoint qualified graduates to teach subjects in the Science stream; Biology, Chemistry, and Physics - to students

³ (1994) 1 SLR 152

⁴ AIR 1952 SC 75

preparing for the most competitive public examination in the country, the G.C.E. Advanced Level. The intelligible differentia applied by the WPPSC was possession of a degree in which Biology, Chemistry, or Physics featured as a main subject. Those with such degrees were grouped as eligible; those without were not. This is a classification founded entirely on subject-matter competence and academic preparation, which bears the most obvious and direct rational nexus to the object of appointing competent Science teachers.

No Violation Of Article 12; The Decision Was Neither Arbitrary Nor Capricious

32. In *Sharma Transport v. Government of A.P.*⁵, the expression 'arbitrarily' was defined as meaning;

"In an unreasonable manner, as fixed or done capriciously or at pleasure, without adequate determining principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone."

33. On the contrary, the decision of the WPPSC was arrived at through a deliberate, principled, and institutionally supported process. The WPPSC formally reaffirmed its position at its meeting of 30 September 2016 (R1). It sought and received the opinion of the line Ministry of Education, which clearly and repeatedly stated in letters dated 24 April 2017, 20 July 2017, and in response to queries from the Governor's Secretariat, the Presidential Secretariat, and the Ombudsman - that nursing graduates do not meet the eligibility criteria for appointment as Science teachers because their degree curriculum does not cover the subjects taught in the Science stream in schools.

34. The decision was not the act of one officer acting on a whim. It was a considered institutional decision, confirmed by the line Ministry of Education at the highest levels, and is entirely consistent with the content of the Petitioner's own academic

⁵ (2002) 2 SCC 188

curriculum. When the subjects listed in the Petitioner's academic transcript are examined against the subjects taught by Science teachers in schools; Biology, Chemistry, Physics - the disconnect is self-evident and irrefutable. The WPPSC's conclusion was not arbitrary; it was the only rational conclusion available on the evidence before it.

35. It is pertinent that the Petitioner was not the only candidate holding a nursing degree to be rejected. As conceded in paragraph 8 of the Petition itself, the members of the interview panel informed the Petitioner at the interview that others with degrees in Nursing had previously been rejected with regard to the position for which she had applied. The written submissions of the Respondents further confirm that five candidates, including the Petitioner, were rejected on the same basis **(R2)**. The WPPSC has consistently maintained the policy of not accepting a degree in Nursing for teaching appointments in the Science stream.

36. The Petitioner therefore cannot claim to have been the victim of any differential or discriminatory treatment. All applicants in her class those holding a nursing degree were treated uniformly. The principle in *Perera v. Jayawickrema* (supra) is accordingly engaged: discrimination arises from dissimilar treatment of those who are similarly circumstanced, not from the application of a uniform policy.

37. The newspaper advertisement **(P3)** upon which the Petitioner relies as founding any legitimate expectation on her part itself negates that very claim. It is expressly stated in the final paragraph of the advertisement that the WPPSC reserves the final right to make a decision with regard to any matter covered or not covered by the notice, including filling the vacancies in entirety or in part or not filling the vacancies at all.

38. This Court is of the view that this reservation is unambiguous and fully effective as a matter of administrative law. The invitations to apply contained in a public advertisement issued in the exercise of a statutory power do not in themselves

create binding legal commitments or generate enforceable legitimate expectations as to the outcome of the selection process. The Petitioner's invitation to an interview was explicitly stated to be for the purpose of checking whether she possessed the requisite qualifications. The interview was not an assurance of appointment or even of eligibility.

39. The doctrine of legitimate expectation, as recognised in Sri Lankan jurisprudence, requires that the expectation be founded on a clear, unambiguous, and unqualified representation. - see *Council of Civil Service Unions v. Minister for the Civil Service*⁶, adopted with approval in this jurisdiction. The advertisement in the present case contained precisely the opposite: an explicit and unqualified reservation of the WPPSC's right to make the final decision on any matter. No legitimate expectation of appointment, or even of eligibility, could lawfully be founded upon it.

40. The Petitioner placed considerable reliance upon the fact that nursing graduates have been appointed as Science teachers in other provinces, particularly in the Sabaragamuwa Province, and refers to an appointment letter allegedly issued in the Central Province [P7(b)]. This argument, in the respectful view of this Court, is misconceived and must be rejected for the following reasons.

41. First, the Provincial Public Service Commissions are constitutionally and institutionally distinct bodies. Each Provincial Public Service Commission operates under its own mandate, within its own provincial context, and in the exercise of its own independent discretion. The existence of separate Provincial Public Service Commissions for each province is not merely a formal arrangement: it reflects the constitutional design under the 13th Amendment, which devolves the administration of the public service including the teacher service to the province. To require uniformity of selection criteria across all provinces would be to render the entire scheme of provincial devolution meaningless.

⁶ [1985] AC 374

42. Second, the Western Province occupies a unique position in the national educational landscape. As submitted by the Respondents and not seriously contested, the Western Province maintains the highest educational standards in the country. The number of suitably qualified graduates available for appointment in the Western Province that is, graduates who have studied Biology, Chemistry, or Physics as main subjects is far greater than in any other province. There is, accordingly, no educational necessity or administrative justification for lowering the qualification threshold in the Western Province in the way that may have been administratively permissible in provinces with a less abundant supply of appropriately qualified candidates.
43. Third, the decision of the Sabaragamuwa Provincial Public Service Commission or the Central Provincial Public Service Commission to accept certain nursing graduates on the basis that they had studied Science as a main subject does not bind, and cannot be used as a measure against, the WPPSC. Indeed, the Respondents' written submissions reveal that in **P7(b)** - the appointment letter from the Central Province relied on by the Petitioner - it is specified that the applicant was appointed based on the interview conducted, which confirmed that she had read Science as the main subject in her degree. No such finding was made in respect of the Petitioner in the present case, and rightly so, given the curriculum of her degree.
44. The comparison between the Petitioner and a candidate who has been appointed in another province is therefore not a comparison between equals. ***The principle that the equal protection clause protects against discrimination only between those who are equally circumstanced is directly applicable.*** The Petitioner is not in the same position as a nursing graduate who studied Science as a main subject; she is not in the same position as an applicant in a province where the supply of qualified graduates is limited; and she is not subject to the jurisdiction of a different province's Public Service Commission. The inter-provincial comparison fails to establish discrimination on any of these grounds.

45. The WPPSC, in reaching its decision, consulted the Western Provincial Ministry of Education by letter dated 2 May 2017 (**R3**). The Western Provincial Ministry of Education forwarded the matter to the Secretary of the line Ministry by letter dated 16 May 2017 (**R4**). The Ministry of Education, in response to several queries including from the Governor's Secretariat and the Presidential Secretariat (**R5, R6, R7, R8, R9**), categorically and repeatedly clarified that a nursing degree cannot be considered eligible for a teaching appointment in the Science stream. The Ministry explained that Science teacher candidates must have studied Biology, Chemistry, or Physics as a main subject.

46. The WPPSC thus did not act in isolation or on the basis of an uninformed or self-serving assessment. It acted in accordance with the clear and consistent guidance of the line Ministry of Education. An administrative body that acts in accordance with the guidance of its relevant line ministry, after due consultation, and on the basis of a rational and educationally sound criterion, cannot be said to have acted arbitrarily or capriciously. There is no basis upon which this Court should substitute its own view for that of the expert body on a question of academic curriculum relevance.

47. This Court reiterates that the doctrine of legitimate expectation cannot avail the Petitioner. The conditions for a legitimate expectation to arise are well-established: there must be a clear, unambiguous, and unqualified representation by a public authority that it will act in a certain way, upon which the applicant has reasonably relied to his or her detriment - see *M.R.C.C. Ariyaratne and Others v. N.K. Illangakoon and Others*⁷; *R v. North and East Devon Health Authority ex parte Coughlan*⁸.

48. In the present case, no such representation was made. The advertisement contained an express reservation of the WPPSC's right to make the final decision. The letter calling the Petitioner for interview was expressly qualified as an

⁷ SC / FR / 444 / 2012 Decided on 30 July 2019

⁸ [2001] QB 213

exercise to assess whether she possessed the requisite qualifications. No officer of the WPPSC at any stage represented to the Petitioner that she was eligible for appointment or would be appointed. The mere act of calling a candidate for interview in the context of a selection process that explicitly reserves the right to assess qualifications at the interview stage cannot found a legitimate expectation of appointment.

49. Furthermore, in the context of the equal protection guarantee under Article 12, the doctrine of legitimate expectation cannot be invoked to compel an administrative body to perpetuate a practice that is itself questionable or to extend it across provincial boundaries where different bodies with different mandates are making their own decisions. The Petitioner's submission that she has a legitimate expectation arising from appointments made in other provinces by different administrative bodies is without any foundation in law.

Discrimination Only Between Equals: The Governing Principle

50. This Court is firmly of the view that the fundamental rights guarantee under Article 12 operates as a protection against discrimination between persons who are equally circumstanced, and not as a guarantee of equal treatment between persons whose situations are materially different. This principle was recognised in *Perera v. Jayawickrema* (supra) and is consistently applied.

51. The Petitioner, as a holder of a nursing degree the curriculum of which does not include the Science subjects taught at the Advanced Level, is not in the same position as a holder of a degree in which Biology, Chemistry, or Physics is a main subject. She is not similarly circumstanced to those who were appointed as Science teachers. The classification drawn by the WPPSC between those whose degrees are relevant to the teaching of Science in schools and those whose degrees are not is a reasonable classification, founded on an intelligible differentia (subject-matter relevance to the Science teaching position), which bears a direct rational nexus to

the legitimate aim of appointing competent Science teachers for Advanced Level students in the Western Province.

52. The Petitioner and a candidate with a degree in Physics, Chemistry, or Biology are simply not equals for the purpose of appointment as a Science teacher. To hold that they must be treated the same would be to hollow out the very concept of merit-based selection and to deprive the concept of 'equal protection of the law' of its proper meaning. ***Equal protection does not require the treatment of unequals as equals.*** The maxim is "*equality among equals*", not "*equality regardless of differences.*"

53. In the circumstances, this Court holds as follows;

- a. The present application has been filed in this Court on 20 September 2017 in respect of a decision communicated to the Petitioner by the 1st Respondent on 27 March 2017. The application is accordingly filed approximately five months and twenty-three days after the accrual of the cause of action, far in excess of the one-month period prescribed by Article 126 (2) of the Constitution. On this preliminary ground alone, the application ought to be dismissed. The pursuit of administrative remedies before the Human Rights Commission, the Ombudsman, the Governor's Secretariat, and other bodies does not stall or interrupt the constitutional time bar, as authoritatively decided in ***Gamaethige v. Siriwardena***⁹.
- b. On the merits, no violation of the Petitioner's fundamental rights under Article 12 (1) or 12 (2) of the Constitution has been established.
- c. The decision of the Western Provincial Public Service Commission to decline to appoint the Petitioner to the post of

⁹ (1988) 1 SLR 384.

Science teacher was neither arbitrary nor capricious. It was founded on a rational, principled, and educationally sound assessment that the curriculum of the Petitioner's Bachelor of Sciences degree in Nursing does not equip her with the subject knowledge required to teach the subjects of the Science stream at the Advanced Level of the G.C.E. examination.

- d. The classification applied by the WPPSC - distinguishing between graduates whose degrees are relevant to the teaching of Science in schools and those whose degrees are not - is a reasonable classification within the meaning of Article 12 of the Constitution. It is founded on an intelligible differentia and bears a direct rational nexus to the object of appointing competent Science teachers, thereby satisfying the standard articulated in the doctrine of reasonable classification.
- e. The Petitioner was not subjected to differential or discriminatory treatment. She was treated uniformly with all other applicants holding nursing degrees, each of whom was assessed on the same criterion and rejected on the same basis.
- f. The comparison between the treatment of the Petitioner by the WPPSC and the treatment of applicants in other provinces by different Provincial Public Service Commissions does not disclose any constitutional discrimination. Each Provincial Public Service Commission exercises its discretion independently within its own constitutional mandate and provincial context. The Western Province, with its uniquely high standard of education and abundance of suitably qualified graduates, is entitled to maintain a standard of selection that reflects those realities.
- g. No legitimate expectation of appointment or eligibility was created in favour of the Petitioner. The advertisement expressly

reserved the right of the WPPSC to make the final decision; the interview was expressly convened to assess qualifications; and no unqualified or unconditional representation of eligibility was made to the Petitioner at any stage.

54. In the circumstances, the Petitioner's fundamental rights application is hereby **dismissed**. This Court makes no order as to costs.

Judge of the Supreme Court

Kumudini Wickremasinghe, J.

Judge of the Supreme Court

I agree.

Mahinda Samayawardhena, J.

Judge of the Supreme Court

I agree.