

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

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

Dr. W. A. M. Udari L. Abeyasinghe
221/A, Wijaya Mawatha, Thaladena,
Malabe.

PETITIONER

Vs.

S.C.F.R. Application No. 81/2021

1. Prof. W. M. Thilakaratne
132/9, Upper Augustawatta,
Uda Peradeniya,
Kandy.
2. Prof. Upul B. Dissanayake
Vice Chancellor,
University of Peradeniya,
Peradeniya.
3. Prof. S. H. P. Parakrama Karunaratne
Deputy Vice Chancellor,
University of Peradeniya,
Peradeniya.
4. Prof. D. K. N. G. Pushpakumara
Dean, Faculty of Agriculture,
University of Peradeniya,
Peradeniya.

5. Dr. M. A. J. C. Marasinghe
Dean, Faculty of Allied Health Science,
University of Peradeniya,
Peradeniya.
6. Prof. O. G. Dayaratna Banda
Dean, Faculty of Arts,
University of Peradeniya,
Peradeniya.
7. Dr. J. A. V. P. Jayasinghe
Dean, Faculty of Dental Science,
University of Peradeniya,
Peradeniya.
8. Prof. G. B. Herath
Dean, Faculty of Engineering,
University of Peradeniya,
Peradeniya.
9. Prof. E. M. A. S. B. Ekanayake
Dean, Faculty of Management,
University of Peradeniya,
Peradeniya.
10. Prof. A. S. Abeygunawardena
Dean, Faculty of Medicine,
University of Peradeniya,
Peradeniya.
11. Prof. S. R. Kodituwakku
Dean, Faculty of Science,
University of Peradeniya,
Peradeniya.

12. Dr. D. M. S. Munasinghe
Dean, Faculty of Veterinary Medicine &
Animal Science,
University of Peradeniya,
Peradeniya.

13. Prof. R. G. S. C. Rajapakse,
Department of Molecular Biology,
Faculty of Science,
University of Peradeniya,
Peradeniya.

14. Prof. C. Wickramagamage,
Department of Crop Science,
Faculty of Agriculture,
University of Peradeniya,
Peradeniya.

15. Most Ven Niyangoda Vijithasiri
Council Member,
University of Peradeniya,
Peradeniya.

16. Mr. G. S. J. Dissanayake
Council Member,
University of Peradeniya,
Peradeniya.

17. Mr. Saman Ratwatte,
Council Member,
University of Peradeniya,
Peradeniya.

18. Mr. Nihal Roopasinghe
Council Member,
University of Peradeniya,
Peradeniya.
19. Dr. D. M. R. B. Dissanayaka,
Council Member,
University of Peradeniya,
Peradeniya.
20. Mr. U. C. Kirindigoda,
Council Member,
University of Peradeniya,
Peradeniya.
21. Mr. Prasanna Gunathilake,
Council Member,
University of Peradeniya,
Peradeniya.
22. Prof. G. H. Peiris,
Council Member,
University of Peradeniya,
Peradeniya.
23. Mr. Mahendra Wijepala
Council Member,
University of Peradeniya,
Peradeniya.
24. Dr. Siril Wijesundera
Council Member,
University of Peradeniya,
Peradeniya.

25. Dr. N. D. Samarawikrama,
Council Member,
University of Peradeniya,
Peradeniya.
26. Mr. Janaka Chaminda Warnakula
Council Member,
University of Peradeniya,
Peradeniya.
27. Prof. A. N. de S. Amaratunga
Council Member,
University of Peradeniya,
Peradeniya.
28. Chairman,
University Grants Commission of Sri Lanka,
Ward Place,
Colombo 07.
29. Hon. Attorney General
Attorney General's Department,
Colombo 12.

1st – 29th RESPONDENTS

30. Prof. T. Madhujith
Vice Chancellor,
University of Peradeniya,
Peradeniya.
31. Prof. R. W. Pallegama
Deputy Vice Chancellor,
University of Peradeniya,
Peradeniya.

32. Prof. S. S. Kodituwakku
Dean, Faculty of Agriculture,
University of Peradeniya,
Peradeniya.
33. Prof. M. D. M. L. D. K. Yatawara
Dean, Faculty of Allied Health Science,
University of Peradeniya,
Peradeniya.
34. Dr. E. M. P. C. S. Ekanayake
Dean, Faculty of Arts,
University of Peradeniya,
Peradeniya.
35. Prof. B. M. H. S. K. Banneheka
Dean, Faculty of Dental Science,
University of Peradeniya,
Peradeniya.
36. Prof. U. I. Dissanayake
Dean, Faculty of Engineering,
University of Peradeniya,
Peradeniya.
37. Prof. P. S. K. Nanayakkara
Dean, Faculty of Medicine,
University of Peradeniya,
Peradeniya.
38. Prof. R. G. S. C. Rajapakse
Dean, Faculty of Science,
University of Peradeniya,
Peradeniya.

39. Dr. P. G. A. Pushpakumara
Dean, Faculty of Veterinary Medicine &
Animal Science,
University of Peradeniya,
Peradeniya.
40. Prof. R. H. Kuruppuge
Dean, Faculty of Management,
University of Peradeniya,
Peradeniya.
41. Prof. B. C. Jayawardena
Council Member,
University of Peradeniya,
Peradeniya.
42. Prof. D. D. K. S. Karunanayake
Council Member,
University of Peradeniya,
Peradeniya.
43. Mr. Saliya Dharmawardane
Council Member,
University of Peradeniya,
Peradeniya.
44. Prof. Kapila Gunawardena
Council Member,
University of Peradeniya,
Peradeniya.
45. Mrs. Nirodha Kalansooriya
Council Member,
University of Peradeniya,
Peradeniya.

46. Mr. E. M. G. Ekanayake
Council Member,
University of Peradeniya,
Peradeniya.

47. Mr. Mohan Weerakoon
Council Member,
University of Peradeniya,
Peradeniya.

48. Dr. R. H. S. Samaratinga
Council Member,
University of Peradeniya,
Peradeniya.

49. Snr. Prof. Lakshman Dissanayake
Council Member,
University of Peradeniya,
Peradeniya.

50. Dr. D. M. D. V. Jayampathi
Council Member,
University of Peradeniya,
Peradeniya.

30th – 50th ADDED RESPONDENT

51. Prof. B. C. Jayawardena
Dean, Faculty of Agriculture,
University of Peradeniya,
Peradeniya.

52. Prof. Pradeep Bandaranayake
Agricultural biotechnology Centre,
University of Peradeniya, Peradeniya.

53. Prof. B. G. L. T. Samaranayke,
Dean, Faculty of Engineering,
University of Peradeniya,
Peradeniya.
54. Dr. A. W. kalipahana
Dean, Faculty of Veterinary Medicine,
University of Peradeniya,
Peradeniya.
55. Prof. Kapila Goonesekera
Council Member,
University of Peradeniya,
Peradeniya.
56. Prof. Oliver Illeperuma
Council Member,
University of Peradeniya,
Peradeniya.
57. Prof. Vasanthi Thevanesam
Council Member,
University of Peradeniya,
Peradeniya.
58. Prof. Vijaya Kumar
Council Member,
University of Peradeniya,
Peradeniya.
59. Prof. S. T. B. Amunugama
Council Member,
University of Peradeniya,
Peradeniya.

60. Dr. Praneeth Wickramarachchi
Council Member,
University of Peradeniya,
Peradeniya.

61. Mr. Lal Wijenayake
Council Member,
University of Peradeniya,
Peradeniya.

62. Mr. H. M. P. Punchi Banda
Council Member,
University of Peradeniya,
Peradeniya.

63. Mr. Nimal Wickramasinghe
Council Member,
University of Peradeniya,
Peradeniya.

64. Mrs. Ranjani Jayakodi
Council Member,
University of Peradeniya,
Peradeniya.

65. Ms. Kumari ranatunge
Council Member,
University of Peradeniya,
Peradeniya.

66. Mr. Tissa G. Marahela
Council Member,
University of Peradeniya,
Peradeniya.

51st – 66th ADDED RESPONDENTS

Before : **Janak De Silva, J.**
Achala Wengappuli, J.
K. Priyantha Fernando, J.

Counsel : Ermiza Tegal with Linuri Munasinghe for the Petitioner
Saliya Pieris, P.C., with Jagaseesha Ranasinghe for the
1st Respondent

Sureka Ahmed, SSC for the 28th to 66th Respondents

Written submissions : 02.06.2025 and 12.01.2026 by the Petitioner

17.06.2025 and 12.01.2026 by the 1st Respondent

12.01.2026 by the 28th – 66th Respondents

Argued on : 09.12.2025

Decided on : 08.05.2026

Janak De Silva, J.

The Petitioner is a Dental Surgeon and a Senior Lecturer (Grade II) at the Department of Oral Pathology, Faculty of Dental Science, University of Peradeniya. At the time of filing this application, the Petitioner was a Lecturer (Probationary) at the aforementioned Department and was reading for her M.Phil. at the same department and Faculty. The incident forming the subject matter of this application happened when she was an Assistant Lecturer under the supervision of the 1st Respondent who was also her co-supervisor of the M.Phil.

On 02.07.2018, the Petitioner's mother made a written complaint to the 2nd Respondent, Vice Chancellor of the University of Peradeniya, against the 1st Respondent complaining

of the sexual harassment and emotional abuse of the Petitioner which is said to have happened during the period 01.07.2017 to 30.04.2018.

On 26.09.2018, the 2nd Respondent appointed a preliminary committee of investigation to look into the allegation of sexual harassment and emotional abuse by the 1st Respondent. The committee recommended conducting a formal disciplinary inquiry. A charge sheet was issued to the 1st Respondent on 18.01.2019 and later amended on 16.05.2019. The 1st Respondent answered the charge sheet on 24.05.2019.

The 2nd Respondent appointed a Formal Inquiry Committee (Committee) comprising three members by letters dated 03.06.2019 and 02.07.2019. The formal inquiry commenced on 08.07.2019 and concluded on 29.09.2019. The Committee found the 1st Respondent guilty of charges 03, 04 (a) and (b), 05 – 11. The Committee found him not guilty for charges 01, 02, 04 (c) and (d).

By letter dated 20.07.2020, the Petitioner was informed by the 2nd Respondent that the formal inquiry report was tabled before the Council of the University of Peradeniya (Council) at its 493rd meeting held on 30.05.2020 and that the Council had decided to reject the Committee report against the 1st Respondent. The basis of rejection was that the Committee purportedly did not give adequate attention to the delay in making the formal complaint of sexual harassment in the first instance. The letter went on to state that no action will be taken against the 1st Respondent and that the Council is of the view that the Petitioner may seek redress in an appropriate forum.

Petitioner stated that she did not want to make a criminal complaint in this regard as she wanted to settle this matter through the University system itself.

On 24.08.2020, the Petitioner sent an email to the 29th Respondent, the Chairman of the University Grants Commission (UGC), regarding the decision of the Council. By email dated 28.08.2020, the Chairman of the UGC informed the Petitioner that the UGC has requested the Council to reconsider their decision. Upon the Petitioners' inquiry, she was informed

by email dated 18. 11. 2020, that the Council had decided at its 497th meeting held on 19.09.2020 to stand by its earlier decision.

On 02.12.2020, the Petitioner lodged a complaint with the Human Rights Commission of Sri Lanka by email. As the Petitioner had no other efficacious remedy available, the jurisdiction of this Court was invoked by way of this application on 23.03.2021.

The Petitioner alleges that the decision of the Council to stand by its earlier decision is based on irrelevant considerations and violates the legitimate expectation of the Petitioner. Accordingly, the Petitioner claims that the said decision is null and void as it is illegal, ultra vires, arbitrary and unreasonable. This inaction of the 2nd to 28th Respondents (Council) has resulted in the infringement of the Petitioner's fundamental rights as guaranteed by Articles 11, 12(1) and (2) of the Constitution.

The Petitioner further prays to direct the 2nd to 28th Respondents (the Council), to accept the findings of the formal inquiry and make a decision regarding suitable disciplinary action against the 1st Respondent and to direct the said Respondents to take appropriate measures to enforce and raise awareness of the University of Peradeniya's policy on Sexual or Gender Based Harassment and Sexual Violence for staff and students, including conducting mandatory annual seminars for all academics and staff and grant compensation in a sum deemed as just and equitable.

Leave to proceed has been granted under Articles 11 and 12(1) of the Constitution.

The 28th to 66th Respondents have raised a preliminary objection that the application is time barred.

Time Bar

The Petitioner became aware on or about 20.07.2020 that the Council has decided to reject the findings of the Committee. Her subsequent attempts to pursue the matter through the Chairman, UGC is not a statutorily mandated procedure.

In any event, the Chairman, UGC informed the Petitioner by email dated 18.11.2020 that the Council had decided to stand by their former decision.

It is in this context that the time bar objection must be examined.

The Petitioner contended that the failure on the part of the Council to act on the findings of the report of the Committee is a continuing violation. Moreover it was contended that within one month of the intimation by the Chairman, UGC that the Council was standing by its earlier decision, the Petitioner made a complaint to the Human Rights Commission.

The notion of a continuing violation was discussed at length by Marsoof, J. in ***Lake House Employees' Union v. Associated Newspapers of Ceylon*** [S.C.F.R. Application No. 637/2009, S.C.M. 17.12.2014]. While Court held the application to be time barred, it borrowed language from the United States' Supreme Court in defining a continuing violation as "a series of separate acts that collectively constitute" a single, continuing violation, and accordingly held that in such cases, the "***cause of action accrues on the day on which the last component act occurred***".

In ***Demuni Sriyani de Soyza v. Dharmasena Dissanayake, Chairman, PSC***, [S.C.F.R. Application No. 206/2008, S.C.M. 09.12.2016, at p. 15], Prasanna Jayawardena, P.C. J., held that, with respect to a continuing violation, it should be asked till when did the alleged violation continue, and if the petition had been filed after more than one month from that date, whether the petitioner had "established that, they were unable to invoke the jurisdiction of this Court due to circumstances which were beyond their control and that, there has been no lapse, fault or delay on their part."

In this case, the decision by the Council to reject the findings of the Committee against the 1st Respondent was intimated to the Petitioner on or about 20.07.2020. The steps she took thereafter are not in terms of any procedure set out in the law and cannot in my view interrupt the running of time for purposes of Article 126 of the Constitution.

In any event, the Petitioner made a complaint to the Human rights Committee only on 02.12.2020. No material has been placed before Court showing what further steps, if any, the Human Rights Commission took on the complaint.

In ***Kandambi v. State Timber Corporation and Others*** [S.C.F.R. 452/2019, S.C.M. 14.12.2022], I examined the effect of making a complaint to the Human Rights Commission on the application of the time bar. I held (at page 9) that:

*“[...] the correct position is that a petitioner must show evidence that the Human Rights Commission of Sri Lanka has conducted an inquiry regarding the complaint or that an inquiry is pending. Simply lodging a complaint is inadequate. **[Subasinghe v. Inspector General of Police, SC (Spl) 16/1999, S.C.M. 11.09.2000; Kariyawasam v. Southern Provincial Road Development Authority and 8 Others (2007) 2 Sri.L.R. 33; Ranaweera and Others v. Sub-Inspector Wilson Siriwardene and Others (2008) 1 Sri.L.R. 260; K.H.G. Kithsiri v Faizer Musthapha, (S.C.F.R. 362/2017, S.C.M. 10.01.2018); Wanasinghe v. Kamal Paliskara and Others, (S.C.F.R. 216/2014, S.C.M. 23.06.2021)]**.”*

This the Petitioner has failed to do. Therefore, I am compelled to uphold the time bar objection raised by the 28th to 66th Respondents.

Just and Equitable Jurisdiction

Nevertheless, Sripavan, C.J., in ***Noble Resources International Pte Limited v. Hon. Ranjith Siyambalapitiya*** [S.C.F.R. 394/2015, S.C.M. 24.06.2016 at page 10], held as follows;

“The Parties filed their written submissions on the Preliminary Objections raised. While I must acknowledge with gratitude my indebtedness to the learned Counsel for the great assistance rendered, the Court has to examine the arguments objectively and dispassionately. The Court is mindful that the fundamental rights provisions in the Constitution must be interpreted having regard to the

constitutional objectives and goals and in the light of the action taken by the Governmental Authority at a given point of time. As it is essential to the maintenance of the rule of law that every organ of the State must act within the limits of its power and carry out the duty imposed upon it in accordance with the provisions of the Constitution and the law, the Court cannot close its eyes and allow the actions of the State or the Public Authority go unchecked in its operations, in the public interest. If the Petitioner with a good case is turned away, merely because he is not sufficiently affected or the Petitioner has no "locus standi" to maintain this application, that means that some Government Agency is left free to violate the law and this is not only contrary to the public interest but also violate the Rule of Law, the object of which is to protect the citizens from unlawful governmental actions. It will be a travesty of justice if, having found as a fact that a fundamental right has been infringed or is threatened to be infringed, the Court yet dismisses the application on a preliminary objection raised by the Respondents..."

Sripavan, C.J., went on (at page 25) to state as follows:

"The application is therefore liable to be dismissed on the First Preliminary Objection subject, however, to the following direction issued by Court to the Third Respondent in terms of Article 126(4) of the Constitution.

It would be appropriate to quote the observation made by Wanasundera, J. in Jayanetti vs. The Land Reform Commission (1984) 2 S.L.R. 172 at 179

".... we are empowered after such inquiries, as we consider necessary to grant such relief or make such direction in the case as we may deem just and equitable. This is an extensive jurisdiction and it carries with it all implied powers that are necessary to give effect and expression to our jurisdiction. We would include within our jurisdiction, inter alia, the power to make interim orders and to add persons without whose presence questions in issue

cannot be completely and effectually decided. In fact, our present decision in no way widens the ambit of Article 126 but seeks to articulate its real scope and to make the remedy more effective”

In the words of Md Faizal Karim J, in the case of SSA Bangladesh Ltd. Vs. Engineer, Mahmud – ul Islam 9 BLC (AD)(2004), “The judiciary has an important role to play not only preventing or remedying the wrong or illegal exercise of power by the authority but has a duty to guide the nation in shaping its destiny within the framework of the law and the Constitution. The Court of law would always jealously guard against any abuse or misuse of power/authority by the State functionary in dealing with the State property.””

Thereafter, Sripavan, C.J., went on to make (at page 26) the following directions:

“(a) The Third Respondent may terminate the contract entered into with the 22nd Respondent for the supply of Coal to the Lakvijaya Coal Power Plant after giving reasonable’ notice to the said Respondent; and

(b) call for fresh bids in terms of the law, for the supply of Coal for the said power plant following competitive Bidding procedure.”

Therefore, ***Noble Resources case [supra]*** establishes that even where no infringement or imminent infringement has been found, this Court is vested with the power to issue just and equitable directions.

It is important to bear in mind that the 1st Respondent did not at any point of time seek to impugn the report of the Formal Inquiring Committee which found him guilty of several charges. These charges are as follows:

Charge No.03

During the period relevant to 15 July 2017 to 30th April 2018 and or during a nearby period you have engaged in cyber stalking via your mobile phone bearing number 077 3438477 and thereby

committed acts of misconduct stated in Sections 2:2:4, 2:2:5, 2:2:6 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No.04

During the period relevant to 1st July 2017 to 30th April 2018 and or during a nearby period you have committed following sexual harassments to Dr. Udari Abeysinghe and thereby committed acts of misconduct stated in Sections 2:2:4, 2:2:5, 2:2:6 & 2:2:8 of Chapter XXII. of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code;

- a) Frequent hugging
- b) Stroking her hands & touching her back and legs despite her protestations

Charge No. 05

During the period relevant to 1st July 2017 to 30th April 2018 and or during a nearby period your above harassments have caused a great deal of severe distress to Dr. Udari Abeysinghe both in her private life as well as working life at the time harassment was taking place and thereby committed acts of misconduct stated in Sections 2:2:4, 2:2:5, 2:2:6 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No. 06

By committing one or more or all of the above acts of misconduct you have failed to abide by the Policy on Sexual Harassments & Sexual Violence as approved by the Council of the University and thereby committed acts of misconduct stated in Sections 2:2:4 2:2:5 2:2:6 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No. 07

By committing one or more or all of the above acts of misconduct you have failed to abide by the Code of Conduct for Academic Staff in the University of Peradeniya as approved by the Council of the University and thereby committed acts of misconduct stated in Sections 2:2:6 & 2:2:8 of

Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No. 08

By committing one or more or all of the above acts of misconduct you have violated, the provisions of the Establishment Code of the University rules, by laws, Policies and Regulations of the University and thereby committed acts of misconduct stated in Sections 2:2:6 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No. 09

That by committing one or more or all of the above acts of misconduct you have caused or mental harassment and thereby committed acts of misconduct stated in Sections Abeyasinghe physical 2:2:42:2:5, 2:2:6, 2:2:7 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No. 10

That by committing one or more or all of the above acts of misconduct you have brought your position as well as this University into disrepute and thereby committed acts of misconduct stated in Sections 2:2:4, 2:2:55. 2:2:6 & 2:2:8 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

Charge No.11

That by committing one or more or all of the above acts of misconduct you have breached the trust this University kept in you as a Senior Professor and thereby committed acts of misconduct stated in Sections 2:2:4, 2:2:5 & 2:2: 6 of Chapter XXII of the University Grants Commission Establishments Code punishable under Section 4:1:2 of Chapter XXII of the said Establishments Code.

These are very serious findings which the 1st Respondent has not sought to impugn. The fact that the Council did not act upon it, does not in any way make it void or a nullity. It is trite law that no administrative order is void or a nullity until there is a formal declaration of it by a court of law. [***McCallum Brewing Company (Private) Limited v. Commissioner General of Excise and Another*** (C.A. Writ 469/2008, C.A.M. 18.12.2019), ***Weerasooriya v. Wijeweera, Director General of Customs and Others*** (C.A. (Writ) 259/2014, C.A.M. 22.06.2020) and ***Hettiarachchi and Another v. Pearl Weerasinghe, The Commissioner General of Labour and Others*** (S.C. Appeal 37/2018, S.C.M. 18.07.2025), ***Ahamed Lebbe Mohamed Saleem and Another v. Nimal G. Punchihewa, Chairman, Elections Commission and Others*** (S.C.F.R. 07/2023, S.C.M. 07.05.2026)].

In ***Brandix Apparel Solutions Limited v. Fernando*** [S.C. Appeal 60/2018, S.C.M. 05.05.2022], I held that:

“It should be noted that it is the duty of an employer to provide a safe and supportive work environment for its employees. The productivity of the employee and the company will not increase unless such an environment exists. Sexual harassment in any form should be dealt with severely because it will otherwise pollute the working environment and affect employee morale.”

It is important to observe that Article 11(1) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Sri Lanka has signed and ratified without any reservation, requires States Parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on basis of equality of men and women, the same rights including the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

The CEDAW General Recommendation No. 19: Violence against Women, in its recommendation on Article 11, states that equality in employment can be seriously

impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Article 14(1)(g) of the Constitution recognizes that a citizen has the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise. The fundamental right to engage in a lawful occupation, profession, trade, business or enterprise is dependent on the creation of an environment free from sexual harassment.

Gooneratne J., in ***Manohari Pelaketiya v. H.M. Gunasekera, Secretary, Ministry of Education and Others*** [S.C. (F/R) 76/2012, S.C.M. 28.09.2016] stated (at page 13) that:

“I observe that continuous abuse and sexual harassment over a period of time would cause physical and mental damage to any human being. It is not possible for a female to resist such abuses unless she is a strong personality who could react and retort to such abuses and harassment and make the abuser to shamelessly withdraw, being exposed to the public at large of his indecency. Continuous threats and abuses could also make a person unwell both physically and mentally. My views expressed on the aspect of abuses would be endorsed by any law abiding citizen, and it should be so.”

This explains the delay in the making of the first complaint. In terms of Article 28(a) and (e) of the Constitution, the exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations and accordingly it is the duty of every

person in Sri Lanka to uphold and defend the Constitution and the law and to respect the rights and freedoms of others. The 1st Respondent has failed to do so.

In view of the findings against the 1st Respondent, made after a fair hearing, which remain valid as at this date, and in the exercise of the just and equitable jurisdiction of this Court, I make the following directions:

- (1) The 1st Respondent is prohibited from accepting any post, whether paid or not or honorary, in any university, educational institute or other academic institution.
- (2) The UGC to issue a direction to all universities and other institutions coming under its purview to abstain from giving any appointment, whether paid or not or honorary, to the 1st Respondent.
- (3) The University of Peradeniya including the Council and respective Respondent are directed to take appropriate measures to enforce and raise awareness of the University of Peradeniya's policy on Sexual or Gender Based Harassment and Sexual Violence for staff and students, including conducting mandatory annual seminars for all academics, staff and students.

JUDGE OF THE SUPREME COURT

Achala Wengappuli, J.

I agree.

JUDGE OF THE SUPREME COURT

K. Priyantha Fernando, J.

I agree.

JUDGE OF THE SUPREME COURT