

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA.**

In the matter of an application for the grant  
of Writs of *Certiorari* and *Mandamus* under  
and in terms of Article 140 of the  
Constitution.

**P.L.D.A.S. Panagoda,**  
*No: 55/2, Vijaya Place,*  
*Vijaya Road, Gampaha.*

**PETITIONER**

CA (Writ) Application No: 316/2014

Vs.

**1(b). Warakagoda Vidanalage Pradeep**

**Priyankara Yasarathna,**

Chief Secretary, Western Province,

Chief Secretary's Office,

*"Srasvathi" Mandiraya,*

No. 32, Sri Marcus Fernand Mawatha,

Colombo 07.

**2. N. Nilwala,**

Secretary,

Ministry of Agriculture,

Agrarian Development,

Minor Irrigation Industries, Environment,

Arts and Cultural Affairs (Western

Province), P.O. Box 566,

Sir Marcus Fernand Mawatha,

Colombo 07.

**3. W.D.R.P. Chithrangani,**  
Director- Irrigation,  
Western Province,  
Provincial Irrigation Director's Office,  
No. 25, Maligawa Road,  
Rathmalana.

**RESPONDENTS**

**Before** : P. Padman Surasena, J. (P/CA)

&

A.L. Shiran Gooneratne J.

**Counsel** : J.C. Weliamuna, PC for the Petitioner.

Manohara de Silva, PC with Rajitha Hettiarachchi for the  
Respondents.

**Argued on** : 14/03/2018

**Written Submissions of the Petitioner filed on:** 06/04/2018

**Judgment on** : 05/07/2018

**A.L. Shiran Gooneratne J.**

The Petitioner has invoked the jurisdiction of this Court, inter alia, seeking a mandate in the nature of writ of Certiorari to quash the decision of the 2<sup>nd</sup> Respondent to interdict the Petitioner contained in letter marked P11, and also to quash the decision taken by the 2<sup>nd</sup> Respondent to withdraw the letter marked P13,

as contained in document marked P11, and a mandate in the nature of writ of Mandamus compelling any one or more of the Respondents to re-instate the Petitioner as the District Irrigation Engineer-Gampaha.

When this case was taken up for argument, both parties agreed to dispose of this application by way of written submissions. The Petitioner has filed written submissions, however, the Respondents have not filed their written submissions as per their undertaking.

It is observed that, initially when this application was supported, the Court has issued an interim order suspending the operation of the decisions contained in letters marked P11 and P15, however, the Court after inquiry, has vacated the said interim relief on the basis of non-disclosure of all relevant and material facts to Court by the Petitioner at the time of supporting this application.

The substantive relief sought by this Petition, is to quash the interdiction of the Petitioner by impugned letter dated 02/08/2014, marked P11. Taking into consideration the findings contained in P14, the decision to interdict the Petitioner by the 2<sup>nd</sup> Respondent contained in letter marked P11, has been withdrawn by the impugned letter marked P15. Therefore, the relief sought by the Petitioner to quash the decision taken by the 2<sup>nd</sup> Respondent contained in the letter marked P11, is futile at this stage.

In prayer (e), the Petitioner is seeking a mandate in the nature of writ of Mandamus to compel the Respondents to re-instate the Petitioner as the District

Irrigation Engineer- Gampaha. It is an admitted fact that the Petitioner has been re-instated after the withdrawal of the letter of interdiction. In the written submissions filed of record, the Petitioner states that “the letter of interdiction was removed and the Petitioner was re-instated and thereby transferred by the letter dated 26-05-2015 (Ref: CSO/ADM/09/34/26)”. The said letter has not been pleaded in the Petition nor was it placed before Court, subsequently. Therefore, in the absence of any evidence in support, this Court is unable to consider the factual position contemplated by the said letter, in order to grant the relief sought for.

In the written submissions filed of record, it is observed that the Petitioner is presently aggrieved that after his re-instatement, back wages, increments and other allowances amounting to over Rs. 800,000/- has not been paid to-date and for the humiliation suffered in the eyes of the public due to the said transfer. However, the grievances complained of as stated above, as a result of facing a disciplinary inquiry are contended by the Petitioner for the first time in his written submissions filed of record. It is observed that the Petition has been clearly limited to challenge the interdiction of the Petitioner. Therefore, at this stage, the Court cannot expand the scope of the pleadings of the Petitioner to bring in facts, which have not been supported by the affidavit filed of record.

*Judicial Remedies in Public Law, Clive Lewis, Fifth Edition, at page 422,*  
states,

*“the fact that the applicant has suffered no prejudice as a result of the error complained of may be a reason for refusing him a remedy. It is*

*necessary to keep in mind the purpose of the public law principal that has technically been violated, and ask whether that underlying purpose has in any event been achieved in the circumstances of the case. If so, the court may decide that the breach has caused no injustice or prejudice and there is no need to grant a remedy.”*

Document marked P13, reveals that the Petitioners appeal for reinstatement has been duly considered by the 1<sup>st</sup> Respondent. Therefore, the Petitioner has not been denied of the opportunity of having her objections in the matter considered.

Therefore, in all the above circumstances, the Petitioners grievance has been adequately considered and the breach complained of has been remedied by the 1<sup>st</sup> Respondent and therefore, I see no reason for this Court to intervene in this matter.

Petition is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

**P. Padman Surasena, J. (P/CA)**

I agree.

PRESIDENT OF THE COURT OF APPEAL