

**PALITHA**  
**v.**  
**O.I.C., POLICE STATION, POLONNARUWA AND OTHERS**

SUPREME COURT.  
KULATUNGA, J., RAMANATHAN, J.,  
AND WIJETUNGA, J.  
SC APPLICATION NO. 880/92.  
MAY 04, 1993.

*Fundamental Rights – Constitution, Articles 13 (1) and (2) – Dismissal of application induced by wrong information – Inherent power of Court to vacate dismissal.*

The petitioner's application was dismissed on wrong facts given by the respondents to the prejudice of the petitioner.

**Held :**

The Court has inherent power to set aside its order by way of remedying the injustice caused to the petitioner and grant relief.

**Cases referred to :**

1. *Wijeyesinghe v. Uluwita* 34 NLR p. 362 at p. 364.
2. *Ganeshanathan v. Goonewardena* [1984] 1 Sri LR p. 319 at p. 329.

APPLICATION for relief for infringement of Fundamental Rights guaranteed by Article 13 of the Constitution.

Petitioner absent and unrepresented.

S. *Rajaratnam*, S.C. for respondents.

May 04, 1993.

**KULATUNGA, J.**

On 12.02.1993 this application was dismissed, on the Court being informed by the State Counsel that the petitioner was due to be released on 30.04.1993, after rehabilitation. However, due to a typographical error, the order made by this Court stated that the petitioner had been so released on 30.04.1992.

Subsequently the Commissioner-General of Rehabilitation, by letter dated 02.04.1993, informed this Court that the petitioner had not been sent for rehabilitation but he was still in detention at the Pelawatta Detention Camp. According to the letter of the Commissioner-General of Rehabilitation, this communication was made in consequence of a request by M. G. Jinadasa, the father of the petitioner, to release the petitioner.

State Counsel now confirms that the petitioner was not sent for rehabilitation even after the Attorney-General had, on 19.02.1993, communicated to the 3rd respondent the fact that the Court had been informed that the petitioner was due to be rehabilitated. This communication had been dispatched by registered post.

State Counsel states that the petitioner has since been released directly from the Pelawatta Detention Camp on 30.04.1993.

Considering the fact that the order of this Court dated 12.02.1993 was made on wrong facts given to the prejudice of the petitioner, we set aside the said order by way of remedying the injustice caused to the petitioner (notwithstanding the failure of his Counsel to appear in Court though noticed, which failure appears to be due to the short notice given to him) – vide *Wijeyesinghe v. Uluwita*, <sup>(1)</sup> and *Ganeshanatham v. Goonewardene* <sup>(2)</sup>, on the inherent power of Courts to set aside such orders.

On the merits, we find that the petitioner was 22 years of age at the time of his arrest. The petitioner states that he was carrying on an occupation as a mechanic. He has been in detention from 08.11.1989.

The respondents have not filed any objection to this application.

We grant the petitioner a declaration that his rights under Articles 13 (2) and (4) have been infringed, and direct the State to pay a sum of Rupees seventeen thousand five hundred (Rs. 17,500) to the petitioner as compensation.

It is hoped that in future this Court will not be furnished with incorrect information as happened in this case. Counsel representing the respondents are cautioned to obtain written

confirmation of information given to them by the respondents. The Registrar is directed to forward copies of this order to the 3rd and 4th respondents for appropriate action in that regard.

**RAMANATHAN, J. – I agree.**

**WIJETUNGA, J. – I agree.**

*Case restored and relief granted.*

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