

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

*In the matter of an Application for Writs of
Certiorari and Prohibition under Article
140 of the Constitution*

Maskeliya Plantations PLC
310, High Level Road,
Navinna, Maharagama.

**CA (Writ) Application No.
337/2020**

PETITIONER

1. Sri Lanka Tea Board
No. 574, Galle Road, Colombo 03.
2. Jayampathy Molligoda Chairman,
No. 574, Galle Road, Colombo 03.
3. Anura Siriwardena
Director General,
No. 574, Galle Road, Colombo 03.
4. E. A. J. K. Edirisinghe
Tea Commissioner,
No. 574, Galle Road, Colombo 03.

RESPONDENTS

Before: M. T. MOHAMMED LAFFAR, J.

Counsel:

Dr. Romesh De Silva P. C. with Niran Anketell, instructed by Sanath Wijewardane for the Petitioner.

M. Gunetilleke P. C., A. S. G with Navodi De Zoysa, S. C. for the Respondents

Argued on : Disposed by way of written submissions

Written Submissions on : 15.07.2024 (by Petitioners)
08.07.2024 (by Respondents)

Decided on : 27.11.2024

MOHAMMED LAFFAR, J.

The Petitioner has instituted this action seeking writs of *Certiorari* and *Prohibition* challenging the decision of the Respondents, to cancel the registration of the Craig Estate Tea Factory, which is owned and operated by the Petitioner. The Petitioner seeks the annulment of this decision and an order prohibiting the Respondents from imposing restrictions on licensed tea brokers regarding the sale of tea produced by the factory.

The dispute arose following a surprise inspection carried out by the Respondents on 17 July 2020, during which tea samples were collected. The Respondents alleged that these samples contained ferrous sulphate above allowable limits. This inspection led to an inquiry on 14 August 2020, which concluded with the cancellation of the factory's registration under Section 8(2) of the Tea Control Act No. 51 of 1957. The Petitioner contends that these actions were procedurally flawed, breached principles of natural justice, and lacked substantive justification.

The Craig Estate Tea Factory, established in 1988, has long been recognized for producing premium-quality tea. Its products have consistently received high ratings and accolades, including certifications such as ISO 22000/2005 Food Safety Certification and Rainforest Alliance Certification. The Petitioner asserts that the actions of the Respondents have caused significant financial and reputational damage and argues that the decision to cancel the factory's registration was taken arbitrarily and without proper adherence to due process.

Having heard the Petitioners at the outset this court had granted the interim relief sought on 16.09.2020.

The Petitioner's Contention

The Petitioner, Maskeliya Plantations PLC, contends that the inspection, inquiry, and subsequent decision to cancel the registration of the Craig Estate Tea Factory were procedurally and substantively flawed.

The Petitioner submits that the surprise inspection conducted on 17 July 2020 lacked transparency. While tea samples were collected in the presence of representatives from the factory, the sealing and labeling of these samples were done in secrecy, without allowing the factory's agents to witness or verify the process. The Petitioner argues that this compromised the chain of custody, raising doubts about the authenticity and integrity of the samples. The Petitioner further contends that these samples were sent for laboratory analysis without its knowledge or consent and that no laboratory reports were provided to the Petitioner during the process.

The inquiry held on 14 August 2020 is described by the Petitioner as being fundamentally deficient and conducted in violation of natural justice. The Petitioner states that it received only two days' notice for the inquiry, which was insufficient to prepare a defence. During the inquiry, no specific charges were formally communicated, and the Petitioner was not given access to laboratory reports or other evidence used against it. The Petitioner also emphasizes that it was denied the opportunity to cross-examine witnesses, including the officials who conducted the inspection and any technical experts who analyzed the samples.

The Petitioner highlights that the inquiry was conducted by the Deputy Tea Commissioner, an official of the Sri Lanka Tea Board, thereby violating the principle of *nemo iudex in causa sua* (no one should be a judge in their own cause). The Petitioner submits that the inquiry was inherently biased and conducted in a manner that deprived it of a fair hearing. Furthermore, the findings of the inquiry relied heavily on an alleged confession by a temporary employee, R. Prajoth Shanukshan, which the Petitioner asserts is unreliable and was obtained under questionable circumstances.

The Petitioner also challenges the substantive basis of the decision to cancel its registration. It argues that the Respondents improperly relied on prior allegations from 2017, which were compounded without prejudice and did not result in any conviction or finding of guilt. The Petitioner asserts that such compounded allegations should not have been considered in the present decision. Moreover, independent laboratory reports obtained by the Petitioner confirm that the tea produced at the Craig Estate Tea Factory met premium quality standards during the relevant period.

Finally, the Petitioner underscores the severe economic consequences of the Respondents' actions, causing substantial financial losses and jeopardizing the livelihoods of its employees. The Petitioner contends that the decision was disproportionate, arbitrary, and motivated by improper considerations.

The Respondents' Contention

The Respondents, including the Sri Lanka Tea Board and its officials, maintain that their actions were lawful, necessary, and conducted in accordance with the Tea Control Act No. 51 of 1957. They argue that the inspection, inquiry, and subsequent cancellation of the Craig Estate Tea Factory's registration were justified to ensure compliance with quality standards in the tea industry and protect the reputation of Sri Lankan tea exports.

The Respondents assert that the surprise inspection on 17 July 2020 was conducted in line with standard procedures and revealed the presence of ferrous sulphate above permissible levels in the tea samples. They contend that the collection, sealing, and dispatch of these samples were carried out transparently and that any allegations to the contrary are unfounded. The laboratory reports confirming the contamination were relied upon in good faith, and the Respondents argue that these findings provided sufficient grounds for initiating an inquiry.

The Respondents defend the conduct of the inquiry, asserting that adequate notice was given to the Petitioner and that the inquiry process adhered to procedural requirements. They argue that the Petitioner's representatives were present during the inquiry and had the opportunity to make representations. The alleged confession by a temporary employee of the Petitioner, which implicated the factory in the use of ferrous sulphate, is presented by the Respondents as credible evidence supporting the findings of the inquiry.

The Respondents further contend that the decision to cancel the registration of the Craig Estate Tea Factory was taken in accordance with Section 8(2) of the Tea Control Act and was based on the findings of both the inspection and the inquiry. They argue that the cancellation was a necessary measure to address serious violations of quality standards and that the Petitioner had previously been implicated in a similar violation in 2017.

In response to the Petitioner's claim that it lacked alternative remedies, the Respondents submit that the Petitioner could have appealed the decision to the Minister under Section 37(1)(e) of the Tea Control Act. They argue that this statutory remedy provided an adequate avenue for the Petitioner to challenge the decision and that the failure to pursue this remedy weakens the Petitioner's case for judicial review.

The Respondents reject the Petitioner's allegations of bias and impropriety, maintaining that their actions were motivated solely by the need to uphold quality standards and ensure compliance with the law. They emphasize the importance of preserving the reputation of Sri Lankan tea in the international market and argue that the cancellation of the factory's registration was a proportionate and necessary response to the violations detected.

Observations of the Court:

Procedural Fairness and Transparency

The cornerstone of administrative decision-making is adherence to the principles of natural justice, including transparency, fairness, and an opportunity to be heard. The actions of the Respondents, from the inspection stage to the conclusion of the inquiry, reveal significant procedural lapses that undermine the legality of the decision to cancel the registration of the Craig Estate Tea Factory.

The surprise inspection conducted on 17 July 2020 raises substantial concerns regarding the integrity of the process. The Petitioner has demonstrated that while its representatives were present during the inspection, the collection, sealing, and dispatching of tea samples were conducted without allowing these representatives to verify or witness the chain of custody. This lack of transparency casts doubt on the authenticity and reliability of the samples subsequently analyzed. The Respondents failed to rebut these claims effectively, offering no evidence to establish a credible chain of custody for the samples. Such deficiencies undermine the reliability of the inspection process and violate the principle that administrative actions must be conducted transparently to ensure fairness.

The inquiry conducted on 14 August 2020 was similarly flawed. The Petitioner was provided with only two days' notice, which was insufficient to prepare a defense or secure representation. No formal charges were communicated, and the Petitioner was not provided access to laboratory reports or any other material evidence relied upon by the Respondents. These failures deprived the Petitioner of the opportunity to understand the allegations, challenge the evidence, and cross-examine witnesses. The principle of *audi alteram partem*—a fundamental tenet of natural justice requiring that parties be heard—is conspicuously absent in the inquiry process. Furthermore, the inquiry was conducted by the Deputy Tea Commissioner, an agent of the Respondents, in clear contravention of the principle of *nemo iudex in causa sua* (no one should be a judge in their own cause).

These procedural deficiencies are not merely technical lapses but go to the root of the decision-making process, rendering it fundamentally unfair and invalid. The violations of natural justice identified in this case are well-established grounds for judicial intervention, as reaffirmed in numerous precedents, including *University of Ceylon v. Fernando* (1960) 61 NLR 505 and *Kahatagaha Mines v. Fernando*, 78 NLR 273.

Substantive Reasonableness

The Respondents' decision to cancel the registration of the Craig Estate Tea Factory must also be evaluated for substantive reasonableness. Administrative decisions must not only comply with procedural requirements but must also be proportionate, rational, and based on relevant considerations.

The decision in this case relied on two primary factors: the alleged detection of ferrous sulphate in tea samples and a prior allegation of adulteration in 2017. Both factors, upon closer examination, fail to justify the extreme sanction imposed.

First, the alleged presence of ferrous sulphate in tea samples is based on laboratory reports that were not disclosed to the Petitioner during the inquiry. The Petitioner has consistently maintained that it was denied access to these reports, both at the inquiry stage and during subsequent proceedings. Independent laboratory reports submitted by the Petitioner confirm that the tea produced at the relevant time met premium quality standards. In the absence of an opportunity to scrutinize the Respondents' reports or challenge their findings, the reliance on these reports lacks credibility and fairness.

Second, the reliance on prior allegations from 2017 is improper. The Respondents have acknowledged that these allegations were compounded without prejudice, meaning that they did not result in a conviction or finding of guilt. Such compounded charges cannot form the basis for punitive action in subsequent proceedings. To consider these past allegations as evidence of repeated misconduct is not only legally untenable but also demonstrative of a prejudiced approach by the Respondents.

Finally, the consequences of the decision to cancel the factory's registration are disproportionately severe. The factory would effectively shut down, causing significant financial losses and jeopardizing the livelihoods of its employees. Such drastic measures must be justified by compelling evidence of wrongdoing, which is absent in this case. The Respondents' actions, therefore, fail the test of proportionality and reasonableness, as articulated

and established in *Associated Provincial Picture Houses Ltd v. Wednesbury Corporation* [1948] 1 KB 223.

Adequacy of Alternative Remedies

The Respondents argue that the Petitioner had an alternative remedy in the form of an administrative appeal to the Minister under Section 37(1)(e) of the Tea Control Act. While it is true that statutory remedies must generally be exhausted before seeking judicial review, this rule is not absolute. Judicial intervention is warranted where statutory remedies are inadequate or where procedural violations amounting to illegality are evident. Further, availability of administrative remedy does not exclude judicial review.

In the present case, the statutory remedy was insufficient for several reasons. First, it did not provide for interim relief, meaning that the Petitioner's factory would have remained closed during the pendency of the appeal. Second, the procedural violations and breaches of natural justice identified in this case render the Respondents' decision unlawful and beyond the scope of mere administrative appeal. These factors justify the invocation of the Court's writ jurisdiction, as reaffirmed in *Somasunderam Vanniasingham v. Forbes* (1993) 2 Sri LR 362.

Conclusion

This Court finds that the actions of the Respondents, from the surprise inspection to the inquiry and the subsequent decision to cancel the registration of the Craig Estate Tea Factory, were marred by significant procedural and substantive deficiencies. The inspection lacked transparency and compromised the integrity of the evidence. The inquiry was conducted in violation of fundamental principles of natural justice, denying the Petitioner an adequate opportunity to defend itself. The decision to cancel the factory's registration was disproportionate and based on improper and irrelevant considerations.

The procedural flaws and substantive unreasonableness of the Respondents' actions render their decision invalid. Furthermore, the statutory remedy cited by the Respondents is inadequate in the circumstances, justifying judicial intervention.

Accordingly, this Court issues a *Writ of Certiorari* quashing the decision and documents marked P5, P6, and P8, thereby nullifying the cancellation of the Craig Estate Tea Factory's registration as prayed for in prayers (f), (g), (h) and (i) of the Petition.

Prayer (j) is not granted as the relief sought is overly broad and does not pertain specifically to the circumstances or developments arising from the incident under consideration. This Court cannot restrain the Respondents from lawfully and duly performing their duties as mandated by the applicable legal framework.

Application allowed. No costs.

JUDGE OF THE COURT OF APPEAL