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

In the matter of an Application for Mandates in the nature of Writs of Certiorari, Mandamus and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Sagara Kariyawasam,
General Secretary,
Sri Lanka Podujana Peramuna,
1316, Nelum Mawatha,
Jayanthipura

PETITIONER

CA/ Writ Application No: 309/25

Vs.

Suranga Ambagahatenna
Returning Officer for Kalawana,
Pradeshiya Saba,
Election Office,
Ratnapura

& 15 others

RESPONDENTS

Before: **M. T. MOHAMMED LAFFAR, J (President C/A)- Acting.**
K. P. FERNANDO, J.

Counsel: Appearance not marked for the Petitioners.

Sehan Soyza SSC for the State.

Supported on: 03.04.2025

Decided on: 04.04.2025

MOHAMMED LAFFAR, J. (President of The Court of Appeal- Acting)

The Petitioner is seeking a mandate, *inter alia*, a Writ of certiorari quashing the decision of the 1st Respondent, the Returning Officer for Kalawana Pradeshiya Sabha, marked as P7 rejecting the nomination papers, submitted on behalf of the Sri Lanka Podujana Peramuna in respect of the Pradeshiya Sabhawa of Kalawana. Moreover, the Petitioner is seeking a Writ of Mandamus on the 1st Respondent to accept the nomination papers of the Petitioner, for the Local Government Election, scheduled to be held on 06.05.2025.

We heard the learned Presidents Counsel for the Petitioner in support of this application and the learned Senior State Counsel who is appearing for the Respondents as well.

During the proceedings, the learned Senior State Counsel, after consulting the Honourable Attorney General, informed the Court that the Respondents would not be filing objections and invited the Court to make a final determination based on the submissions of both parties, treating them as final arguments.

The matter, in a nutshell, is that the Petitioner's nomination papers were rejected on the grounds that the declaration submitted under Schedule 7 of the Constitution lacked the jurat portion and the attestation certificate by a Justice of the Peace.

Under Section 28(4) of the Local Authorities Elections Ordinance No. 53 of 1946 (as amended), every candidate must submit an oath or affirmation in accordance with the Seventh Schedule of the Constitution along with their nomination papers. The provision states thus:

> *"(4) The written consent of each candidate and each person being nominated by a recognized political party or an independent group shall be endorsed on the nomination paper and there shall be annexed to the nomination paper, an oath or affirmation, as the case may be, in the form set out in the Seventh Schedule to the Constitution, taken and subscribed or made and subscribed, as the case may be, by every such candidate."*

The required oath or affirmation set out in the 7th schedule of the Constitution is as follows;

[186][SEVENTH SCHEDULE

ARTICLE 157A AND ARTICLE 161(d) (iii)

"I,……..……do solemnly declare and affirm
swear
that I will uphold and defend the Constitution of the Democratic Socialist Republic of Sri Lanka and that I will not, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka."]

It must be emphasized that the law requires candidates to submit an oath or affirmation strictly in terms of the 7th Schedule to the Constitution, permitting no deviation from its prescribed form. A plain reading of the 7th Schedule makes it abundantly clear that it does not mandate a jurat or attestation by a Justice of the Peace.

The learned President's Counsel for the petitioner relied on the Court of Appeal's determination in ***Susil Premajayantha v. Dayananda Dissanayake and others*** (CA/WRT/84/2011, dated 12.05.2011), where Sathya Hettige, P/CA, concurring with Upaly Abeyrathne, J., held that submitting a declaration under the 7th Schedule constitutes sufficient compliance with section 28(4) of the Local Authorities Elections Ordinance.

In contrast, the learned Senior State Counsel cited ***Ven. Weadinigama Wimalathissa thero and others v. Rathnayake and others*** (CA/WRT/86/2020, dated 22.06.2020), where Nawaz, J., with agreement Sobitha Rajakaruna, J., ruled that attestation by a Justice of the Peace and a jurat are mandatory for a valid oath or affirmation. I am unable to agree with the view of Nawaz, J., as it imposes an obligation absent from the Constitution and such creative embellishment of constitutional provisions cannot stand. No Court or man is permitted do such an addition or deviation to the Constitution which is the supreme law of the land. The constitutional provisions are to be adhered as it is.

In those circumstances, without any ambiguity I hold that the oath or affirmation or declaration tendered in accordance with the 3rd schedule of the constitution as it is (without the jurat and attestation by the Justice of Peace) is sufficient compliance of section 28(4) of the Local Authorities Elections Ordinance.

This Court finds that the rejection of nomination papers on overly technical grounds has far reaching consequences. Such actions do not merely affect the individual candidates of the independent group in question, they undermine the fundamental democratic rights of the entire electorate in the constituency. The franchise is a cornerstone of representative democracy, and when nomination papers are arbitrarily rejected, the voters are effectively denied the opportunity to choose their preferred representatives.

Moreover, the rejection of valid candidacies disrupts the integrity of the democratic electoral process. When nomination papers are dismissed on frivolous or excessively rigid technicalities, the democratic process is disturbed. This not only infringes upon the rights of aspiring candidates but also disenfranchises voters who might have otherwise supported them.

In a functioning democracy, electoral laws should facilitate and not obstruct fair participation. While regulatory compliance is necessary, an overly restrictive application of certification requirements risks disenfranchising legitimate candidates and depriving voters of meaningful choice.

Having carefully considered these applications, this Court observes that Returning Officers appear increasingly inclined to reject nominations on minor technicalities and frivolous grounds, an approach wholly inconsistent with legislative intent. The statutory framework governing elections was never designed to empower Returning Officers as obstructive gatekeepers, rather, their proper role is to serve as facilitators of the democratic process. It is imperative that these officials make conscious efforts to interpret electoral provisions liberally, resolve ambiguities in favor of participation. Such an approach is essential to safeguard both the fundamental right to contest elections and the correlative right of electors to choose their representatives freely.

This Court is further mindful of the fact that no candidate or registered political party raised objections before the Returning Officer regarding the declaration as per the 7th schedule of the Constitution. Moreover, for the identification of the candidates in all these applications, the National Identity Card of the candidates have been tendered.

For the foregoing reasons a Writ of Certiorari quashing the decision of the 1st Respondent, Returning Officer, dated 21.03.2025 rejecting the nomination paper submitted on behalf of the Sri Lanka Podujana Peramuna in respect of the Pradeshiya Sabhawa of Kalawana is issued. Furthermore, a mandate in the nature of a Writ of

Mandamus on the 1st Respondent, Returning Officer, to accept the said nomination papers submitted by the Petitioner is also issue. Application allowed. No costs.

This judgment is applicable and binding on all parties in connected applications of bearing Nos. WRT/258, 267, 300, 273, 303, 304, 275, 277, 300, 309, and 330/2025 as well.

President of the Court of Appeal (Actg)

K. P. Fernando, J

I agree.

Judge of the Court of Appeal