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

In the matter of an application for Orders in the nature of Writs of Certiorari and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Kalubandanage Rushith Thamodya
Sarath Kumara,
No. 33, Deiyannewela Road,
Kandy.

PETITIONER

C.A. Case No. WRT/0616/25

Vs.

1. Lt. Col. M.R.P. Mayadunne,
   Principal,
   Vidyartha Vidyalaya,
   Kandy.

2. Hon. Harini Amarasuriya,
   Minister of Education,
   Ministry of Education,
   "Isurupaya",
   Battaramulla.

3. K.M.G.S.N. Kaluwewa,
   Secretary to the Ministry of Education,
   "Isurupaya",
   Battaramulla.

4. Anura Abeywickrama,
   Director of Education,
   Physical Education and Sports,
   Ministry of Education,
   "Isurupaya",
   Battaramulla.

5. D.W.M. Nimmana,
   Secretary,
   Sri Lanka Schools Rugby Football Association,
   Principal, Kiriporuwa Vidyalaya,
   Eheliyagoda.

RESPONDENTS

AND NOW

1. Weerasinghe Arachchige Ranjith Priyantha Weerasinghe,
   No. 43/16,
   Royal Gardens, Rajagiriya.

2. Pitigala Arachchige Siriwadena Pitigala,
   No.65/11, A.A. Dharmasena Mawatha,
   Kandy.

3. Kallora Mudiyanselage Kirishantha Niroshana Bandara
   No.50/B/4, Girakanga Road,
   Pilapitiya, Kiribathkumbura.

4. Samarathunga Liyana Mohottige Don Anushka Samaratunga
   No.54, Gammana Road, Maharagama.

5. Rajapakshe Walimini Mudiyanselage
   Beligahakotuwe Kapila Krishantha
   Rajapakshe,
   No.59/E, Dewalagama Road, Gunnepana.

6. Nilan Bandara Ekanayake,
   No.10/1 A, Galagedara Lane,
   Yatiwawala, Katugasthota.

7. Gardiye Hewawasam Lokuhallinage
   Rangika Prasad,
   No.87, Balagolla, Kengalle.

8. Dadagolle Gedara Chandana Thilaka
   Jayamanna,
   No.35, Manikhinne Watta,
   Manikhinne.

9. Merenchige Dilan Shamalka
   Gunasinghe.
   No. 35/3, Mapanawathura Lane,
   Kandy.

INTERVENIENT PETITIONERS

Vs

Kalubandanage Rushith Thamodya Sarath
Kumara,
No:33, Deiyannewela Road,
Kandy.

PETITIONER - RESPONDENT

Vs

1. Lt. Col. M.R.P.Mayadunne
   Principal,
   Vidyartha College,
   Kandy.

2. Hon. Harini Amarasuriya
   Minister of Education, Ministry of Education,
   "Isurupaya",
   Battaramulla.

3. K.M.G.S.N. Kaluwewa
   Secretary to the Ministry of Education,
   "Isurupaya",
   Battaramulla.

4. Anura Abeywickrama
   Director of Education, Physical Education and Sports,
   Ministry of Education,
   "Isurupaya",
   Battaramulla.

5. D.W.M.Nimmana,
   Secretary,
   Sri Lanka Schools Rugby Football Association,
   Principal, Kiriporuwa Vidyalaya,
   Eheliyagoda.

RESPONDENT-RESPONDENTS

BEFORE : K.M.G.H. KULATUNGA, J

COUNSEL : Varun Senadhira with Sandamali Manathunga and Umayanka Kurian instructed by Indika Bandara Abeykoon for the Petitioner.
Dr. Sunil Abeyrathne with Dulshi Hemachandra Dalmmi Adikar E. Perera for the 1st to 9th Intervenient Petitioner instructed by Buddhika Alagiyawanna.
Manohara Jayasinghe, DSG for the Respondent.

SUPPORTED ON : 18.06.2025

DECIDED ON : 18.06.2025

ORDER ON INTERVENTION

K.M.G.H. KULATUNGA, J

1. An application for intervention is made by the 1st to the 9th intervenient petitioners, who are past students of Vidyartha College, Kandy, who claim to have set up the Rugby Development Board voluntarily, to provide financial and other assistance to rugby players. Further, the 1st and 2nd intervenient petitioners are also the President and Secretary of the Old Boys' Association (OBA) of Vidyartha College, Kandy. It is also further averred that the petitioner had been assisted by providing Rs. 30,000.00 a month to provide essential supplementary food and other needs which are said to be required for rugby players.

2. According to Dr. Sunil Abeyrathne, the learned Senior Counsel for the intervenient petitioners, the substantive basis for the application for intervention is that the petitioners are interested parties, and the name of the 1st intervenient petitioner has been mentioned as a

person who has harassed the petitioner. Apart from the oral submissions, there is no reason or legal basis expressly averred in the petition justifying the intervention.

3. The petitioner-respondent, the petitioner in the main application, is seeking a writ to quash the refusal by the 1st respondent to grant his consent for the petitioner-respondent to participate in rugby at Kingswood College, Kandy, which school he joined recently. Rules make no provision for the intervention in writ applications. There have been two schools of authorities on the issue of interventions in writ applications. I find that the following decisions hold that intervention cannot be allowed: (1) **M.D. Chandrasena and two others vs. S.F. de Silva** 63 NLR 143; (2) **Harold Peter Fernando vs. The Divisional Secretary of Hanguranketha and two others** 2005 BLR 120; (3) **Tyre House (Pvt) Ltd. vs. Director General Customs** CA Application No. 730/95, CAM 05.06.1996; and (4) **C.A. Writ Application No.586/ 2007** 2012 BLR 310.

4. Similarly, the contra view was taken by allowing and entertaining applications for intervention in the following decisions: (1) **Mahanayake Thero, Malwatte Vihare vs. Registrar General et al** (1937) 39 NLR 186; (2) **Jetwing Hotel Management Service (Pvt) Ltd. vs. Securities and Exchange Commission and others** CA Writ 293/2009; and (3) **Jayawardane vs. Minister of Health and others** CA Writ 978/2008.

5. I observe that the case of **Chitra Weerakoon and Another vs. Bandaragama Pradeshiya Sabhawa**, CA/WRT/586/2007, CAM 22.11.2011, a decision of a Divisional Bench of three judges of the Court of Appeal, held that the Court of Appeal Rules do not provide for third-party interventions in prerogative writs and that applications for such interventions are not possible. Then also, the Supreme Court in **M. D. Chandrasena and Others vs. S.F. De Silva**

63 NLR 143, also upheld this position against entertaining and allowing applications for intervention by third parties.

6. Getting back to the present application, the intervenients do not claim to be necessary parties. They simply say that they are interested parties in the sense of having financially supported the petitioner-respondent and their interest in rugby of Vidyartha College. The main application pending before this Court is between the Principal of Vidyartha College and the petitioner on the refusal of the Principal to grant his "No Objection Letter" for the petitioner-respondent to participate in rugby upon being admitted to Kingswood College, Kandy.

7. As I see, the intervenient petitioners are not necessary parties to that application. Their claim of being interested is based on financial assistance and their interest in advancing rugby in Vidyartha College does in no way, legally, make them entitled to intervene in this application. Every interested person having some interest or desire *per se*, to my mind, is not as a matter of law entitled to intervene. The intervenient petitioners have failed to expressly aver any ground or basis that warrants the consideration of their application for intervention.

8. In the case of **Tyre House (Pvt) Ltd. vs. Director General Customs** (supra), Justice Dr. Ranaraja, whilst holding that intervention cannot be allowed in writ applications in the absence of specific rules providing for and permitting third parties to intervene in such applications went on to observe that such intervenients, having no common interest with the petitioner, cannot be considered as being aggrieved persons. In the present application too, the 9 intervenients intend to support the 1st respondent. It has been the view of Justice Ranjith Silva in **Chitra Weerakoon and Another vs. Bandaragama Pradeshiya Sabhawa** (supra), that a Court cannot permit outsiders to offer the respondents in a writ application 'moral support' or 'cheer'

such respondents along in his battle with the petitioner. In the present application, in the absence of direct any averment or material to establish that the intervenients are necessary parties, and of any prejudice that may be caused by the final relief, they are merely attempting to support the 1st respondent and cheer him along with his battle with the petitioner.

9. No doubt, there have been instances where this Court has allowed and entertained applications for intervention in writ matters. As I observe, to succeed in an application for intervention, such intervening parties should clearly aver and satisfy the Court that they are akin to necessary parties and that the final relief will have a direct bearing, prejudice them, and affect them substantially. The only tangible concern of the intervenient petitioners is that they have incurred certain expenses and 'invested' in the petitioner in the development of his rugby skills. This *per se* will not entitle the intervenient petitioners to succeed in an application of this nature. If the intervenients may suffer any form of financial loss, the remedy lies elsewhere. Accordingly, I see no basis in law or otherwise to allow this application for intervention.

10. Accordingly, the application for intervention is refused and rejected.

JUDGE OF THE COURT OF APPEAL