

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

ScSD 25/16

In the matter of the ordinary exercise of jurisdiction of the Supreme Court under Article 121 of the constitution of the Democratic Socialist Republic of Sri Lanka read with Rule 63 of the Supreme Court Rules of 1978 against the Bill titled "Right to Information Bill"

Nuwan Ballantudawa

415/34, Off High Level Road, Gangodawila,
Delkanda, Nugegoda, Sri Lanka.

Petitioner

Vs

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

**TO: HIS LORDSHIP THE CHIEF JUSTICE AND THE OTHER
HONOURABLE JUDGES OF THE SUPREME COURT OF THE
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

On this 31st March 2016

The Petition of the Petitioner above named appearing by H. M. Thillakarathne, Attorney at law, states as follows;

- 1 The Petitioner is a citizen of Sri Lanka and an Attorney at Law of the Supreme Court of Sri Lanka. He is also functioning as the international co-ordinator of the Global Sri Lankan Forum, a voluntary organisation, composed of Associations of Sri Lankan expatriates living in Australia, New Zealand, UK, Canada, USA and Middle East. He is also an executive committee member of the 'Jathika Ekamuthuwa', which is an umbrella organization of over 50 Nationalist Associations which are dedicated -inter alia- to uplift the spiritual and living standards and values of Sri Lankans and to promote and protect national solidarity, integrity and Unitary state of Sri Lanka.

2. The Petitioner is making this Application to the Supreme Court as a person living in Sri Lanka and also as a citizen having sufficient and reasonable public interest with regard to the grievances pertaining to this application.
3. The Honorable Attorney General is made a Respondent to this application in terms of Article 134(1) of the Constitution.
4. The Petitioner states that a bill titled "**Right to Information Bill**" (hereinafter sometimes referred to as "the Bill") was presented to the Parliament and placed on Order Paper of the Parliament on **24th March 2016** (True copies of the English and Sinhala texts of the said Bill and the order paper are annexed hereto marked **X, Y and Z** respectively and pleaded as part and parcel of the Petition).
5. The Petitioner states that the long title of the proposed Act states that;

"An Act to Provide for the Right of Access to Information; To specify grounds on which access may be denied; To establish the Right to information Commission; To appoint Information officers; to set out the procedure and for matters connected therewith or incidental thereto".


6. The Petitioner states that clauses 5, 7, 11, 12, 13, 14, 15, 16, 19, 23, 24, 25, 26, 27, 31, 32, 35, 37, 38, 39, 42 and 43 infringes Articles 3, 4, 9, 12, 14, 14A, 15, 41A, 41A, 41B, 41C, 41D, 41E, 41F, 41G, 55, 178, 165 of the Constitution.
7. The Petitioner states that;
 - a. The Right to Information Commission (RIC) is vested with Judicial Power, in as much as their principal duties are of a judicial nature which includes the power to give directions, hold inquiries and prosecute Public Authorities.
 - b. RIC consists of persons nominated by Non-Government Organizations, BAR Association and Private Media Personnel who will have access even to information which the law seeks to prevent the public from having access to. The members of the commission will have access to information even with regard to defense of the state and national security.
 - c. Members of the RIC are holders of paid office under the Republic and therefore would be "Public Officers" within the meaning of Article 170 therefore members of the RIC cannot be appointed by the President.
 - d. Restrictions placed on access to information regarding "Overseas Trade Agreements" is in violation of Article 14, 14A and 15 of the constitution in as much as the said Articles does not permit restrictions to be place with

regard to matters pertaining to economy. These restrictions have been placed purely to restrict access to information regarding I.T.C.A proposed to be enacted between Government of Sri Lanka and Government of India. The clause/clauses imposing such restrictions also infringes the Sovereignty of the People, who shall have inalienable right to have access to and participate in matters in relation to decisions taken by the Government affecting their lives and rights and therefore such clauses are in violation of Article 3 and 4 of the Constitution.

- 8 The Petitioner has delivered a copy of this petition to the Honorable Speaker, in compliance with Article 121 of the Constitution.
9. The Petitioner has not previously invoked the Jurisdiction of Your Lordships Court in respect of this matter.

WHEREFORE the Petitioner prays that Your Lordships' Court be pleased to;

- (a) **Hear the Petitioner;**
- (b) **Declare that clauses 5, 7, 11, 12, 13, 14, 15, 16, 19, 23, 24, 25, 26, 27, 31, 32, 35, 37, 38, 39, 42 and 43 of the Bill infringes Articles 3, 4, 9, 12, 14, 14A, 15, 41A, 41B, 41C, 41D, 41E, 41F, 41G, 55, 178, 165 of the Constitution;**
- (c) **Declare that the said Bill shall become law only if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present) and approved by the People at Referendum by virtue of Articles 83 of the Constitution and a certificate is endorsed thereon by the President in accordance with Article 80 of the Constitution;**
- (d) **Grant costs;**
- (e) **Grant such other and further reliefs as Your Lordships' Court shall seem meet.**


Attorney at Law for the Petitioner

M. M. THILAKARATHNA
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