

**Petition**

**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 Writ of Certiorari and/or Prohibition and/or Mandamus  
Under and in terms of Article 140 of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.**

**Case No :**

- 1) Thudugala Mudalige Pubudu Sandun  
Thudugala,**  
50, Ayesha Watta, Yakalla,  
Ibbagamuwa
- 2) Singakkarage Sajeewa Chamikara,**  
49/27/1, Niyandagala,  
Pannipitiya.
- 3) Wijethunga Appuhamilage Herman Kumara,**  
Irabadagama, Sandalankawa.
- 4) Rajapakse Mudiyanseelage Chintaka Pradeep  
Rajapakse,**  
No 25A11, Rukmalgama, Pannipitiya,  
Kottawa,
- 5) Dandeniya Gamage Ashila Niroshini**  
No 62, Baseline Road, Aweriwatta,  
Katunayaka

**Petitioners**

**Vs.**

- 1) Hon. Pawithra Devi Wanniarachchi,**  
Minister of Health, Nutrition and Indigenous Medicine,  
“Suwasiripaya”, No 382, Rev. Baddegama  
Wimalawansa Thero Mawatha, Colombo 10.
- 2) Ms. Gangani Liyanage,**  
Government Printer,  
Department of Government Printing,  
Danister De Silva Mawatha, Colombo 08,
- 3) Hon. Attorney General,**

Attorney General Department,  
Hulftsdorp St, Colombo.

**Respondents.**

**TO: HIS LORDSHIP THE HONOURABLE PRESIDENT AND THEIR LORDSHIPS AND LADYSHIPS, THE OTHER HONOURABLE JUDGES OF THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.**

**On this    October of 2020.**

The **petition** of the petitioners above named appearing by **Randima Tennakoon,,** their Registered Attorney-at-Law, states as follows;

- 01)** To begin with, the petitioners states that the petitioners are public spirited person and they file this case on behalf of the citizens of sri Lanka and on behalf of them, and the fifth petitioner lives within the Gampaha district where the Corona cluster spreading fast thus this application is a public interest litigation.
- 02)** The petitioners respectfully submit to Your Lordships that there is a high importance to enact the basic guidelines under the Quarantine and prevention of diseases Act No 03 of 1897, as amended.
- 03)** The petitioners further state that, the said **Corona virus as an epidemic disease** intensively spreading among the public. It is in the **public interest of the public in sri Lanka and the interest of the petitioners** to safe guard public petitioners and their relatives this application is filed and a mandatory duty imposed in the first respondent to make regulation and to publish in the gazette as to the various aspect of the disease.

**THE PETITIONERS**

- 04)** The petitioners are the citizens of Sri Lanka and having an interest about the prevention of COVID 19.

**RESPONDENTS.**

- 05)** The **1<sup>st</sup> Respondent** is the Minister of Health, Nutrition and Indigenous Medicine, and responsible for formulating and implementing national policy on health, nutrition, indigenous medicine and other subjects which come under its purview and has **the authority to publish the regulations under the Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897.**

- 06) The **2<sup>nd</sup> Respondent** is the Head of the Department of Government of Printing and the official printer and publisher for the government of Sri Lanka.
- 07) The **3<sup>rd</sup> Respondent** is the Honorable Attorney General of Sri Lanka and the provide necessary legal advice with regard to enactment of new laws and amendments to the existing laws.

**GROUNDS FOR THIS APPLICATION**

- 08) The Petitioners respectfully submits to Your Lordships Court that the Director of World Health Organization (WHO) on March 30 determined that the outbreak of COVID-19 constitutes a public health emergency of international concern and issued interim guidance for quarantines of individuals.
- 09) The Petitioners further submits to Your Lordships Court that, since the Sri Lanka is affected by the COVID 19, effective and efficient guideline and the regulations are required to address the legal issues relating to the said COVID 19.
- 10) The petitioners state that, the gazette No 1720/1 dated 22<sup>nd</sup> August 2011 was published to register all patients should be referred to the District Chest Clinic for registration.

**(the said gazette is marked hereto as "A" and pleaded as part and parcel of this petition.)**

- 11) The Petitioners respectively submits to Your Lordships Court that the 1<sup>st</sup> respondent has passed the gazette dated 2167/18 dated 25<sup>th</sup> March 2020, **declaring that the Coronavirus Disease 2019 (COVID -19) be a quarantinable disease.**

**(The relevant gazette is annexed hereto as "B" and pleaded as part and parcel of this petition)**

- 12) The petitioners state that
- a. In terms of Section 02 and 03 of the Quarantine and prevention of diseases Act No 03 of 1897, the minister (1st Respondent) has to make regulations as provided in section 3 of the said act.
  - b. The **said powers are not restricted to the items given in Section 03 of the Quarantine and prevention of diseases Act No 03 of 1897**, but it comes within the **General powers of the 1<sup>st</sup> Respondents.**

- c. In terms of the Section 04 of the said Act, whoever violates the said regulations would be charged under the Quarantine and prevention of diseases Act No 03 of 1897, in **the primary Courts.**
- d. To facilitate to make regulations in terms of health services act section 3 specified that there must be a person or person act as the director of health services in terms of health services act.
- e. In terms of section 4 of health services act, there shall be a health counsel consisted of director, three deputy directors not more than seven medical practitioners shall recommend and advice minister on matters referred to the council.

**13)** To minimize the impact of the COVID 19, there are several recommended guidelines issued by the 1<sup>st</sup> Respondent including,

- a. Wear a face mask
- b. Maintain social distance
- c. Working from home instead of at the office
- d. Closing schools or switching to online classes
- e. Visiting loved ones by electronic devices instead of in person
- f. Cancelling or postponing conferences and large meetings

**14)** The petitioners further inform to Your Lordships Court though the said COVID 19 published as a quarantinable deceased, no regulations have been published by the Minister of Health in terms of Section 12 of the Act.

**15)** Further, the petitioners respectfully submit to Your Lordships Court that, to minimize the impact of the COVID 19, many solutions are recommended, no regulations are been made by the respondents to regulate the relevant procedure.

**16)** The petitioners respectfully submit to Your Lordships Court that without the said regulations;

- a. People are not mandatory to wear a mask and most of the people wear the mask improper way.
- b. People are not mandatory to maintain the required social distances.
- c. People are not obeying the given guidelines.
- d. There is no way to punish those who have violated the guidelines.

- 17)** The petitioner states that
- a. Without the quarantine regulations, no effective and efficient mechanism can be established to control the COVID 19.
  - b. Without proper Quarantine Regulations, no proper way to punish these who violates the directions given by the government.
  - c. Without the proper Quarantine regulations, no proper way to adopt the uniformity of the quarantine mechanism.
  - d. Without the proper quarantine law, the wrong does cannot be punished, in terms of law.
- 18)** Further the petitioners inform to Your Lordships Court that once the government located a close contact of the COVID 19 patient,
- a. the authorities are not given a fair time to arrange their belongings.
  - b. The close contacts were taken, without giving at least one-hour notice.
  - c. Sometimes, the children are taken without proper custody or care.
  - d. The media giving unnecessary, publications which gives unnecessary publications to the area, to the person due to the cause of the decease.
- 19)** The petitioners further submit to Your Lordships Court that the conduct of the media is unsatisfactory due to the following reasons.
- a. The media has given unnecessary weight and attention on the 1<sup>st</sup> patient recently discovered from the Garment Factory. But however, she is not the 1<sup>st</sup> patient from the factory.
  - b. The media has given unnecessary weight and attentions to her daughter so that her school and the surrounding people were unnecessarily affected by the conduct of the Society.
  - c. The media has given unnecessary weight and attraction to the university student and several media statements were published.
  - d. The media has given unnecessary weight and attraction to the close relatives of the 1<sup>st</sup> Patient recently recovered from the garment factory and their close contacts.
  - e. The media has given unnecessary attraction and weight to the relatives, victims and its family members and sometimes labeled them as the vector.

- 20) Thus, the petitioners respectfully submit that A mandamus lies on the circumstances of this case lies on the minister to make regulations and gazette it and to appoint a director or acting director of health and a health council in terms of said acts read along with article 12/1 of the constitution.
- 21) Further the petitioners respectfully state that until to date no director of health or health council is appointed.
- 22) The petitioners' further state that though many measures are taken by the 1<sup>st</sup> Respondent to control the Corona Pandemic, without the quarantine regulations, the measures are not valid in terms of Law.
- 23) Further the petitioners respectfully submit to Your Lordships Court that the above **said inaction is illegal and arbitrary, the said inaction is challenged by this application of writ** on the following grounds amongst the grounds that may be urged by counsel at the hearing of this application.
- a. **Whether the respondents' inaction to impose regulations under Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897 is contrary to law.**
  - b. **Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to draft the required regulations relating to the COVID 19 after consulting the relevant authorities, if necessary, under Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897.**
  - c. **Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to issue a regulation/s relating to the COVID 19 under Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897 regulating the Quarantine procedure on identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas.**
  - d. **Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating to the scope of the Quarantine, Home Quarantine, Environmental sanitation of COVID 19 and other related areas.**
  - e. **Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating to elders for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.**
  - f. **Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating to children for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.**

- g. Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating to minors for identification, isolation, sending them to the compulsory quarantine, locating the close contacts and other relevant areas of the COVID 19.
- h. Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating to the people who arrive from for identification, isolation, sending them to the compulsory quarantine, locating the close contacts and other relevant areas of the COVID 19.
- i. Whether there is a necessity for compelling the 1<sup>st</sup> Respondent to impose regulations relating establishing quarantine stations and regulating and managing them aircraft and vessels and the goods loaded and unloaded from them persons traveling on the railway or otherwise isolating diseased persons, removal of diseased persons from hospital, cleaning and disinfecting drains, rooms, buildings and other places, regulating prescribing the officers, prescribing the reporting by the house holder or occupying any house or premises prescribing mode of services or delivery of notice, in terms of Section 03 of the Quarantine and prevention of diseases Act No 03 of 1897.
- j. Whether there is a necessity to issue a mandate in the nature of Writ of Mandamus compelling the 1<sup>st</sup> Respondent to appoint the Director General of Health.
- k. Whether there is a necessity to issue a mandate in the nature of Writ of Mandamus compelling the 1<sup>st</sup> Respondent to forward the said regulations made under the Ordinance to the 2<sup>nd</sup> Respondent.
- l. Whether there is a necessity to issue a mandate in the nature of Writ of Certiorari quashing the regulation which is not in conformity with the provisions of the the Quarantine and prevention of diseases Act, are not the regulation duly made or promulgated in terms of this act.

- 24) The Petitioners respectfully reserves the right to add further parties or to add further documents depending upon the disclosures made by the Respondents.
- 25) The petitioners made the 3<sup>rd</sup> Respondent, Hon. Attorney General because of the seriousness of the issue and for the purpose of assisting the Court.
- 26) The **petitioners** state that the petitioners have not previously invoked the Jurisdiction of Your Lordships' Court in relation to this matter.

Wherefore **the petitioners** pray that Your Lordships' Court be Pleased to:-

- a) To issue notices on the Respondents of this application;

- b) To issue a mandate in the nature of **Writ of Mandamus**
- I) Compelling the 1<sup>st</sup> Respondent to promulgate and or make regulation relating to the COVID 19 after consulting the relevant authorities, if necessary, under Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897.
  - II) Compelling the 1<sup>st</sup> Respondent to issue a regulation/s relating to the COVID 19 under Section 02 of the Quarantine and prevention of diseases Act No 03 of 1897 regulating the Quarantine procedure on identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas.
  - III) Compelling the 1<sup>st</sup> Respondent to impose regulations relating to the scope of the Quarantine, Home Quarantine, Environmental sanitation of COVID 19 and other related areas.
  - IV) Compelling the 1<sup>st</sup> Respondent to impose regulations relating to elders for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.
  - V) Compelling the 1<sup>st</sup> Respondent to impose regulations relating to children for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.
  - VI) Compelling the 1<sup>st</sup> Respondent to impose regulations relating to minors for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.
  - VII) Compelling the 1<sup>st</sup> Respondent to impose regulations relating to the people who arrive from for identification, isolation, sending them to the compulsory quarantine, locating the close contracts and other relevant areas of the COVID 19.
  - VIII) Compelling the 1<sup>st</sup> Respondent to impose regulations relating establishing quarantine stations and regulating and managing them aircraft and vessels and the goods loaded and unloaded from them persons traveling on the railway or otherwise isolating diseased persons, removal of diseased persons from hospital, cleaning and disinfecting drains, rooms, buildings and other places, regulating prescribing the officers, prescribing the reporting by the house holder or occupying any house or premises prescribing mode of services or delivery of notice, in terms of Section 03 of the Quarantine and prevention of diseases Act No 03 of 1897.
- c) To issue a mandate in the nature of **Writ of Mandamus** compelling the 1<sup>st</sup> Respondent to appoint the health council under the provisions of the health services act.



- d) To issue a mandate in the nature of **Writ of Mandamus** compelling the 1<sup>st</sup> Respondent to appoint the Director General of Health.
- e) To issue a mandate in the nature of **Writ of Mandamus** compelling the 1<sup>st</sup> Respondent to forward the said regulations made under the Ordinance to the 2<sup>nd</sup> Respondent.
- f) To issue a mandate in the nature of **Writ of Mandamus** compelling the 2<sup>nd</sup> Respondent to gazette the aforesaid regulations forthwith.
- g) If the regulations put forward are contrary to the said act, issue a mandate in the nature of **Writ of Mandamus** directing the 1<sup>st</sup> Respondent to make, vary or amend existing directions relating to the prevention of COVID 19 to comply with the Section 2 of the Quarantine and prevention of diseases Act.
- h) To grant costs and such other and further relief as to Your Lordship's Court shall seem meet.

**Attorney at law of for the petitioners**