

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

The matter of an application under and in terms of Article 126 read together with Article 17 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

1. P. D. A. Panapitiya,
No. 36/2,
Kaduboda,
Delgoda.
2. H. L. H. Gayathri Hewawasam,
No. 36/2,
Kaduboda,
Delgoda.

**SC/FR Application
No. 136/2022**

Petitioners

Vs.

1. Mangala De Soyza Amarasekara,
Chief Inspector of Police,
Officer in Charge,
Police Station,
Kosgoda.
2. Asela Premanath De Silva,
Inspector of Police,
Officer in Charge, Crimes Division,
Police Station,
Kosgoda.
3. Wickrama Dilan Indika De Silva,
Police Sergeant (9476),
Police Station,
Kosgoda.
4. U. M. Amarasiri,
Assistant Superintendent of Police I,

Officer of Assistant Superintendent
of Police,
Ambalangoda.

5. Y. L. Leelawansa,
Senior Superintendent of Police,
SSP's Office,
Elpitiya.
- 5A. Mahesh Kumarasinghe,
Superintendent of Police,
SSP's Office,
Elpitiya.
6. D. S. Wickramasinghe,
Senior Superintendent of Police,
Special Investigation Unit (SIU),
Technical Junction,
Colombo 10.
7. M. D. R. S. Daminda,
Senior DIG Southern Province,
Senior DIG's Office,
Anagarika Dharmapala Mawatha,
Matara.
- 7A. Ajith Rohana,
Senior DIG Southern Province,
Senior DIG's Office,
Anagarika Dharmapala Mawatha,
Matara.
- 7B. Mr.S.C. Medawatta,
Senior DIG Southern Province,
Senior DIG's Office,
Anagarika Darmapala Mawatha,
Matara.
8. C. D. Wickramarathne,
Inspector General of Police,
Police Headquarters,
Colombo 01.
9. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Before :
P. Padman Surasena, J
Janak De Silva, J
K. Priyantha Fernando, J

Counsel :
Geeth Karunaratna with Bhagya Peiris for the Petitioners.
Anoop de Silva, DSG for Respondents.

Argued on : 13.10.2023

Decided on : 31.01.2024

K. PRIYANTHA FERNANDO, J

1. The petitioners in the instant case alleged that the fundamental rights guaranteed to them in terms of Articles 12(1), 13(1), 13(2), 13(5) and 14(1)(g) of the Constitution of Sri Lanka had been infringed due to the actions and or inactions of the respondents. At the hearing of this application, this Court was inclined to grant leave for the alleged violations of Articles 12(1), 13(1), 13(2) and 14(1)(g) of the Constitution. The Court was also inclined to grant interim relief prayed for as per prayers (c), (d) and (e) of the petition dated 08.04.2022.

The Petitioners' version

2. The 1st and the 2nd petitioners in this case (hereinafter sometimes referred to as the petitioners) are husband and wife. The 1st petitioner has been a police constable (No. 28442) attached to the Vice Branch of the *Kosgoda* Police Station.
3. The petitioners state that, during the 1st petitioner's tenure in the police force, he has carried out his duties vigilantly providing the fullest support to *Mr. Bandara*, who was the Officer in Charge

(OIC) of the Vice Branch in the *Kosgoda* Police Station. The 1st respondent has been the OIC of the police station, the 2nd respondent has been the OIC of the crimes division and the 3rd respondent has been a sergeant attached to the said police station. The petitioners state that, the 1st-3rd respondents have at times pressured the 1st petitioner to release several suspects who were involved in his investigations relating to drug trafficking offences. However, he has disregarded these unlawful interferences of the 1st-3rd respondents and carried out his duties. The petitioners state that, this course of events has led the 1st-3rd respondents to develop an animosity with him.

4. On 02.11.2021, at about 11:00 a.m. while the 1st petitioner was waiting in the hall next to the Vice Branch of the *Kosgoda* police station, the 1st-3rd respondents have made an accusation that the 1st petitioner was consuming illicit drugs while waiting in the reading hall of the police premises. The OIC of the Vice Branch has been away on official duty in *Ambalangoda* on this day. At about 2:00 p.m. on the same day, the 1st petitioner has been informed to come to the office of the 1st respondent. On his way there, the 3rd respondent has uttered the words “මල්ලී උඹ මෙහෙ ඇවිල්ලා දැගලුවා වඩියි, බලාගනින් උඹට මොකද වෙන්තේ කියලා, උඹේ ජොබ් එකට කෙලින්වා”. The 1st and the 2nd respondents have also made similar remarks to the 1st petitioner.
5. The 4th respondent who was the Assistant Superintendent of Police (ASP) of the *Ambalangoda* division has come to the office of the 1st respondent and threatened him in foul language stating “ආ.. තෝද මිනිහා, ඉදපත් මම උඹට කෙලෝලා ගන්නම්, තොගේ ජොබ් එකට මං කෙලින්වා, තෝ හිරේ තමයි යවන්නේ.”. The 1st petitioner states that this has been a well-planned conspiracy by the respondents in order to frame him. The 1st petitioner states that, almost all the senior officers were involved in this accusation. He has been in shock and as he could not defend himself, he has immediately left the *Kosgoda* police station.
6. When the 1st petitioner returned home, he was informed that the 1st and the 2nd respondents have arrived at his residence along with a few other police officers and has taken his wife (the 2nd

petitioner) and their son who was nine months of age at the time to the *Kosgoda* police station. They have not been given a reason for their arrest and have been detained at the police station for more than five hours. The 2nd petitioner has been subject to questioning and the 1st and the 2nd respondents have also tried to record a statement from the 2nd petitioner to the effect that the 1st petitioner is consuming illicit drugs. The 2nd petitioner has lodged a complaint in the Human Rights Commission (HRC) with regard to her arrest and it has received the attention of the HRC.

7. The 1st respondent filed a B-report on 03.11.2021 [P-4A] before the learned Magistrate of *Balapitiya* under the case bearing no. 42474, stating that he received a complaint from the 2nd respondent that the 3rd respondent has informed him that the 1st petitioner was consuming heroin in the reading hall of the police station. It was stated in the B-report that this constitutes an offence under section 09 of the Poisons Opium and Dangerous Drugs Ordinance No. 13 of 1984. Whatever that was discovered in searching the premises has been made productions and the 1st respondent has also moved the Magistrate's Court to call for a Government Analyst Report.
8. The petitioners state that, subsequent to the filing of charges under B 42474, by letter dated 02.11.2021 [P-9] issued by the 4th respondent who was the Assistant Superintendent of Police (ASP), the 1st petitioner has been interdicted from the police service with immediate effect. Thereafter, the 1st petitioner has received a letter dated 24.12.2021 [P-11] informing him that an inquiry would be held regarding his interdiction and that the 1st respondent should be reported to the office of the 4th respondent to make a statement. However, the 1st petitioner has not attended the said inquiry.
9. The 1st petitioner, upon getting to know that a B-report has been filed against him, has on his own appeared for a '*Drug abuse screening profile, urine, rapid test*' on 07.11.2021 and obtained a report [P-5] from the *Nawaloka Laboratory Colombo*. This test identifies whether any person has consumed any illicit substance three months prior to the date of testing. The said report

indicated that no illicit substance has been detected. Thereafter, on 10.11.2021 by filing a motion to the case no. 42474 the 1st petitioner has surrendered himself to the Magistrate Court of *Balapitiya*. The learned Magistrate has enlarged him on bail but was ordered to be produced before the Judicial Medical Officer (JMO) of *Balapitiya* in order to discover if the 1st petitioner has been consuming any illegal substance. The JMO's report [P-4B] which has been issued on 25.11.2021 was negative and indicated that there was no use of any illegal substance by the 1st petitioner. The report that was called by the learned Magistrate from the Government Analyst [P-4C] has been issued on 19.01.2022. The said report also indicated that no illicit substance has been identified.

10. The 1st petitioner has lodged a complaint at the HRC which initiated an inquiry and called explanations from the 1st-4th respondents. However, the 1st-4th respondents have not provided any explanation to the HRC. The 1st petitioner has also lodged a complaint to the Special Investigations Unit (SIU) of the Sri Lanka Police, which has proceeded to record statements from the 1st-4th respondents.
11. While the case no. 42474 was pending, the learned Magistrate of *Balapitiya* has ordered the 1st petitioner to give a statement to the *Kosgoda* police. On 10.11.2021, when the 1st petitioner arrived at the police station, the 1st respondent has ordered the 3rd respondent who was the main witness in case no. 42474 to record his statement. The 3rd respondent has refused to record any statements implicating the 3rd respondent and when the 1st petitioner objected to this unfair manner of recording his statement, another police officer has recorded the 1st petitioner's statement.
12. Based on the 1st petitioner's statement regarding the unfair procedure, and his assertion that he would take legal action against the 1st and the 3rd respondents who would have to face repercussions, the 1st respondent has filed a B-report bearing no. 44910 [P-7] in the Magistrate's Court of *Balapitiya* on 31.01.2022. The B-report has been filed on the basis that the

actions of the 1st petitioner constitutes an offence under the sections 344 and 486 of the Penal Code, read with Assistance to and Protection of Victims of Crime and Witnesses Act No. 04 of 2015.

13. The learned Magistrate by order dated 09.03.2022 [P-4D] has discharged the 1st petitioner from case no. 42474 on the basis of the JMO's Report and the Government Analyst's Report.

The respondents' version

14. None of the respondents except for the 1st respondent have filed objections or affidavits denying the position of the petitioners.
15. The 1st respondent in his affidavit has deposed that, on 02.11.2021 he has been informed that the 1st petitioner has been using an illicit substance in the reading hall of the police premises. Upon rushing to the reading hall, the 1st respondent has discovered two empty polythene packets which were similar to the polythene packets used for packing Crystal Methamphetamine (ice), a lighter, a rolled currency note along with four blue coloured pills in the drawer of the cupboard that was situated close to where the 1st petitioner was seated. Thereafter, the 1st respondent has taken these items into custody and has also informed the ASP of the area (4th respondent). The 4th respondent has arrived at the police station and instructed the 1st respondent to arrest the 1st petitioner and produce him before a JMO. However, at this instance, the 1st petitioner has run away from the premises. The notes on the information book have been marked [R-1] to substantiate this position.
16. According to the affidavit of the 1st respondent, he has then proceeded to the 1st petitioner's residence along with a team of police officers in order to arrest the 1st petitioner. However, as the 1st petitioner was not present, the police have recorded a statement [R-2] from his wife (2nd petitioner). Thereafter, a B-report bearing no. 42474 has been filed by the 1st respondent in the Magistrate's Court. On 02.11.2021, the 4th respondent has interdicted the petitioner in terms of section 31.6 of Chapter

XLVIII of Volume II of the Establishment Code. On 10.11.2021 the 1st petitioner has come to the police station of *Kosgoda* to make a statement as ordered by the learned Magistrate. In this instance, the 1st petitioner has threatened the 3rd respondent and consequently a further B-report bearing no. 44910 has been filed by the 1st respondent.

Alleged violation of fundamental rights in respect of the 2nd petitioner.

17. It was the position of the petitioners that the 2nd petitioner and their son were subjected to arbitrary arrest by the 1st and the 2nd respondents on 02.11.2021. They further state that, arresting the 2nd petitioner without providing a valid reason or without a female police officer being present to achieve the ulterior motives of the 1st-4th respondents were arbitrary, illegal, and violative of the fundamental rights guaranteed to her in terms of Article 12(1) and 13(1) of the Constitution.
18. The 1st respondent in his affidavit took the position that, he along with a team of police officers had in fact gone to the residence of the petitioners and had proceeded to record a statement from the 2nd petitioner. This statement has been produced as [R-2]. However, the 1st respondent does not mention of any arrest carried out in respect of the 2nd petitioner or their son and neither is there any denial of such arrest. It is also vital to note that the 2nd respondent has also not denied going to the residence of the petitioners and arresting the 2nd petitioner.
19. Article 13(1) of the Constitution reads,

“No person shall be arrested except according to the procedure laid down by law. Any person arrested shall be informed of the reason for his arrest”
20. The 2nd petitioner in this case alleges that she and her son were arrested and detained at the police station for five hours and was subject to questioning. The documents pertaining to the inquiry

regarding the complaint made by the 1st petitioner to the Special Investigations Unit (SIU) has been submitted to Court as per the document dated 24.10.2023, signed by Senior Superintendent of Police, Director of Discipline, *K.R. Nishantha De Silva*. The position of the 2nd petitioner has been corroborated by the statement of Police Constable *K.D. Madhuka Nayanjith Gunathunga* in the investigation that has been carried out by the SIU. He has stated that he saw the 2nd petitioner with her child at the Police Station. It is admitted that a statement has been recorded by the police, which has been produced as [R-2]. However, the 1st respondent in his affidavit does not specify the place in which the statement was recorded. The document marked [R-2] seems to specify that the statement was made at the residence of the petitioners. When considering the facts of this case as a whole, I am inclined to believe the version of the 2nd petitioner.

21. There exists no justification which allows the arrest of family members of a person against whom an order for arrest has been made. Therefore, the arrest that has been carried out in respect of the 2nd petitioner is arbitrary. In light of the above, as there exists no justification for the 2nd petitioner to be detained simply for the purposes of questioning, it is my position that the 2nd petitioner and her son has been arrested and detained contrary to the first limb of Article 13(1) of the Constitution. Although I see no reason to consider the second limb of Article 13(1) in an instance where I have already found it to be infringed, I am inclined to state that even if the reason for arrest had been informed, in the peculiar circumstances of this case, the reason itself would be contrary to law.

22. Article 12(1) of the Constitution sets out that *“all persons are equal before the law and are entitled to the equal protection of the law.”* While a violation of Article 13(1) of the Constitution does not automatically make it a violation of Article 12(1) in every instance, in the circumstances of this case, the manner in which Article 13(1) has been violated has also deprived the 2nd petitioner of the ‘equal protection of the law’ guaranteed in terms of section 12(1) of the Constitution.

23. Therefore, in considering the circumstances of this case, and the document [R-2], I am of the view that the 1st and the 2nd respondents have violated the rights guaranteed to the 2nd petitioner in terms of Articles 12(1) and 13(1) of the Constitution.

Alleged violation of fundamental rights in respect of the 1st petitioner.

The Malicious prosecutions

24. It was the position of the petitioners that the malicious prosecutions that were carried out against the 1st petitioner by the respondents were a violation of the fundamental rights guaranteed to the 1st petitioner in terms of Articles 12(1), 13(1) and 13(2) of the Constitution. It was also alleged that these actions of the respondents were arbitrary, unlawful, malicious and amounts to an abuse of power.
25. It was the position of the petitioners that the charges that were levelled against the 1st petitioner in case no. 42474 was based on a fabricated incident by the 1st-3rd respondents, which is clear when considering the report of the JMO [P-4B] and the report of the Government Analyst [P-4C] which indicated negative for any illicit substance. It was also their position that, the B-report no. 42474 that was filed by the 1st respondent was maliciously made as a means of exacting revenge from the 1st petitioner as there existed an animosity between the 1st petitioner and the 1st-3rd respondents.
26. The petitioners allege that by the time the 1st petitioner was discharged by the order of the learned Magistrate dated 09.03.2022 [P-4D], the good reputation of him and his family has been ruined as the false news naming the 1st petitioner as a drug addicted police constable has been circulated through several newspapers and the mainstream media.

27. The petitioners further state that, although the HRC has initiated an inquiry, the 1st-4th respondents have failed to provide any explanation to the HRC and are deliberately absconding from the inquiry of the HRC, as they have no justification for the arbitrary acts committed by them.
28. The petitioners allege that, the action in case no. 44910 filed in terms of sections 344 and 486 of the Penal Code, read with Assistance to and Protection of Victims of Crime and Witnesses Act that has been filed against the 1st petitioner, is a clear malicious prosecution by the respondents and such actions by the respondents are arbitrary. The petitioners further allege that the B-report no. 44910 marked [P-7] is a belated report as it has been filed three months after the alleged incident.
29. The fact that the 1st petitioner uttered the words to the effect that he would take legal action against the officers who were involved in the malicious and illegal actions carried out against him is admitted. However, the petitioners state that those words do not constitute an offence in terms of sections 344 and 486 of the Penal Code read with the Assistance to and Protection of Victims of Crime and Witnesses Act No. 04 of 2015. It was further alleged that this action has been instituted in order to incarcerate the 1st petitioner. The petitioners also alleged that the B-report bearing no. 44910 [P-7] has been maliciously filed immediately after the receipt of the JMO's report [P-4B] and the Government Analyst's report [P-4C] which cleared the 1st petitioner from the case bearing no. 42474.
30. The petitioners also take the position that, the order of the 1st respondent in making the 3rd respondent record the statement of the 1st petitioner relating to a case where the 3rd respondent was the main eyewitness is a grave violation of natural justice.

The Interdiction

31. It was the position of the petitioners that the interdiction of the 1st petitioner by the 4th respondent constitutes a violation of

fundamental rights guaranteed to the 1st petitioner in terms of Article 14(1)(g) of the Constitution.

32. The petitioners state that the interdiction letter [P-9] dated 02.11.2021 has been issued to the 1st petitioner even before filing the case bearing no. 42474 which was on 03.11.2021. Further, the said interdiction letter was issued based on the malicious prosecution carried out in case no. 42474 from which the 1st petitioner was subsequently discharged.

33. The petitioners further state that, the said interdiction letter was tainted with malice and that the 4th respondent has also been involved in the malicious prosecution of the 1st petitioner along with the 1st-3rd respondents.

34. **Alleged violation of Article 13(1) and 13(2) of the Constitution.**

At the argument of this appeal, the learned Deputy Solicitor General (DSG) for the respondents took the position that the fundamental rights guaranteed to the 1st petitioner in terms of section 13(1) of the Constitution could not have been violated in the instant case, as the 1st petitioner has himself claimed that he surrendered to the Magistrate's Court.

35. It is vital to note that, Article 17 of the Constitution recognises the entitlement of every person to apply to the Supreme Court under Article 126, when there is an infringement or imminent infringement by executive or administrative action of a fundamental right to which such person is entitled.

36. Article 126(1) of the Constitution sets out that,

*“The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or **imminent infringement** by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV”*

[Emphasis mine]

37. In the instant case, the interdiction of the 1st petitioner clearly shows that the respondents were preparing to arrest the 1st petitioner. Further, there is no denial of the same on the part of the respondents. Therefore, in these circumstances, I take the view that there was an imminent infringement of Article 13(1) of the Constitution in respect of the 1st petitioner.

38. Article 13(2) of the Constitution sets out that,

“Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law, and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.”

39. I am unable to see how the rights guaranteed to the 1st petitioner in terms of Article 13(2) of the Constitution is infringed in the instant case.

40. **Alleged violation of Article 12(1) of the Constitution.**

Article 12(1) of the Constitution sets out that,

“All persons are equal before the law and are entitled to the equal protection of the law.”

41. In ***Wijerathna v. Sri Lanka Ports Authority [2020] SC (FR) Application No. 256/2017 - SC Min. 11.12.2020*** His Lordship Kodagoda J. explains the concept of equality as provided within Article 12(1) of the Constitution as follows,

“The concept of ‘equality’ was originally aimed at preventing discrimination based on or due to such immutable and acquired characteristics, which do not on their own make human being unequal. It is now well accepted that, the ‘right to equality’ covers a much wider area, aimed at preventing other ‘injustices’ too, that are recognized by law. Equality is now a right as opposed to a mere privilege or an entitlement,

and in the context of Sri Lanka a 'Fundamental Right', conferred on the people by the Constitution, for the SC F/R 231/2018 JUDGEMENT Page 8 of 17 purpose of curing not only injustices taking the manifestation of discrimination, but a host of other maladies recognized by law."

42. Article 12(1) of the Constitution captures within its realm, decisions made *mala fide* for an improper purpose. In the case of ***Karunathilake v. Dayananda Dissanayake [1999] 1 Sri.L.R. 157*** it was held by the Supreme Court that postponing provincial council elections had been done for a collateral purpose and such *mala fide* actions violated Article 12(1) of the Constitution. When considering the 1st petitioner's case, it is clear when perusing the report of the JMO and the report of the Government Analyst, that the case no. 42474 has been filed by the 1st respondent in order to frame the petitioner as both the reports have returned a negative result for any illicit substance.
43. Malice on the part of the 1st-3rd respondents can be clearly observed, as a further B-report bearing case no. 44910 has been filed by the 1st respondent on the basis that the 1st petitioner threatened the 3rd respondent who was the main witness in case no. 42474. It must be noted that the basis upon which the B-report no. 44910 has been filed is *prima facie* erroneous as the words uttered by the 1st petitioner does not fall within the purview of the offence described. Further, although the alleged incident has taken place on 10.11.2021, the B-report bearing no. 44910 pertaining to the incident has been filed on 31.01.2022 which was almost three months after the date of the incident. These events also portray malice on the part of the 1st-3rd respondents and seems to be a deliberate attempt to incarcerate the 1st petitioner at any cost.
44. Further, when considering the statement of the 4th respondent in threatening to remove the 1st petitioner from his services, it is clear that the 4th respondent has acted in an arbitrary manner together with the 1st-3rd respondents.

45. The entire course of actions of the 1st-4th respondents against the 1st petitioner has been arbitrary, unlawful, malicious and a clear abuse of power. When considering the chronology of events that had occurred, it is clear that the 1st-4th respondents have made a very crafty attempt to frame the petitioner in order to satisfy their personal animosities.
46. At the argument of this application, it was brought to the attention of Court that the 1st petitioner has made a complaint to the Special Investigations Unit (SIU). The SIU has decided to frame charges against some of the respondents. The learned DSG upon undertaking to submit the relevant documents to Court, has submitted a detailed report by the SIU.
47. According to the documents pertaining to the inquiry carried out by the SIU, charges have been framed against a number of police officers including the 1th respondent. According to the report of the SIU, the 3rd respondent police sergeant *Indika De Silva* has pleaded guilty for the charges including that of making a false complaint against the 1st petitioner in this case, and has pleaded in mitigation for a lenient sentence and an inquiry is pending regarding the other matters pertaining to abuse. Two other police officers, namely *W.N. Kumara De Silva* (P.S. 28190) and *Anil Shantha* (P.S. 58913) have also pleaded guilty for making false entries stating that a woman Chief Inspector *S. Niroshini De Soysa Weerawardane* also accompanied the officers who went in search of the 1st petitioner.
48. The report of the JMO [P-4B] and the report of the Government Analyst [P-4C] which led to the dismissal of the case against the petitioner by the Magistrate's Court and the detailed report of the SIU makes the malicious conduct of the 1st-4th respondents apparent and makes it an extremely compelling case for the 1st petitioner.
49. Thus, in the circumstances of this case, it is apparent that the arbitrary actions of the 1st-4th respondents have infringed the

fundamental rights guaranteed to the 1st petitioner in terms of Article 12(1) of the Constitution.

50. **Alleged violation of Article 14(1)(g) of the Constitution.**

Article 14(1)(g) of the Constitution sets out that,

“Every citizen is entitled to-

(g) the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise”

51. Article 14(1)(g) of the Constitution provides protection to citizens from being denied their employment arbitrarily. In the case of ***Nimal Bandara v. National Gem and Jewellery Authority SC FR 118/2013, SC Min. 13.12.2017*** it was held that, the chairman of the National Gem and Jewellery Authority had acted with malice in discontinuing the petitioner’s employment.

52. When considering the facts and circumstances of the instant case, it can be observed that the 1st-3rd respondents have repeatedly filed false actions against the 1st petitioner. It is also clear that there had been a growing animosity between the 1st-3rd respondents and the 1st petitioner when considering the exchange of words that have taken place between them as set out in the petition and the B-report no. 44910 [P-7]. Further, the fact that the letter of interdiction [P-11] issued by the 4th respondent had been dated a day prior to the date of filing action under case no. 42474 even without holding an inquiry on the matter, clearly portrays that the interdiction of the 1st petitioner has been arbitrary, malicious, and calculated. It can also be observed that, the 1st petitioner was subsequently cleared of the allegation upon which his employment was terminated, which confirms that the course of conduct by the 1st-4th respondents have been malicious throughout.

53. Thus, it is my view that the rights guaranteed to the 1st petitioner in terms of Article 14(1)(g) of the Constitution has been violated

as the 1st petitioner has been arbitrarily denied his employment as a police officer by the 1st-4th respondents.

Declarations and Compensation

54. In light of the above findings, I declare that the fundamental rights guaranteed to the 1st petitioner in terms of Articles 12(1),13(1) and 14(1)(g) of the Constitution have been infringed by the actions of the 1st-4th respondents.
55. I also declare that the fundamental rights guaranteed to the 2nd petitioner in terms of Articles 12(1) and 13(1) of the Constitution have been infringed by the actions of the 1st and the 2nd respondents.
56. As per Article 126(4) of the Constitution, the Supreme Court is empowered to grant such relief as it may deem just and equitable in the circumstances, in respect of any petition referred to it under Article 126(2) of the Constitution. Thus, in the circumstances of this case, considering the discomfort and the losses that were suffered by the petitioners due to the arbitrary acts of the respondents, the State is directed to pay a sum of Rs. 25,000 (Rupees twenty-five-Thousand) each to the 1st and the 2nd petitioners.
57. I order the 1st-4th respondents to pay a total sum of Rs. 2,000,000 (Rupees two-million) to the 1st petitioner which must be shared equally by the 1st-4th respondents (Rs. 500,000 each). All such compensation should be paid out of their personal funds. The aforementioned compensation should be paid within six months from the date of delivery of this judgment.
58. The Sri Lanka Police have been vested with the duty to maintain law and order. They are the guardians of public safety. However, the facts and circumstances of this case raise the question of who guards the guards.

59. In the aforementioned circumstances, the Registrar is directed to forward a copy of this judgment to the National Police Commission, for the commission to take appropriate disciplinary actions against the aforementioned respondents who were found responsible for the violation of fundamental rights of the petitioners.

JUDGE OF THE SUPREME COURT

JUSTICE P. PADMAN SURASENA.

I agree

JUDGE OF THE SUPREME COURT

JUSTICE JANAK DE SILVA

I agree

JUDGE OF THE SUPREME COURT