

IN THE SUPREME COURT OF DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application under and in terms of Article 126 to be read with Article 17 of the Constitution.

Dr. Wijeyadasa Rajapakse,

President's Counsel

No. 17, Wijayaba Mawatha,

Nawala Road, Nugegoda.

Petitioner

S.C. F.R. Application No;

Vs.

1. Hon. Mahinda Rajapaksa

Prime Minister,

Minister of Buddhasasana, Religious,

Cultural Affairs, Urban Development, Housing,
Economic Policies, Plan Implementation,

Prime Minister's Office,

No. 58, Sir Ernest De Silva Mawatha,

Colombo 07.

2. Hon. Nimal Siripala de Silva

Minister of Labour,

3. Hon. Prof. G.L. Peiris

Minister of Foreign Affairs,

4. Hon. (Mrs.) Pavithra Devi Wanniarachchi

Minister of Transport,

5. Hon. Dinesh Gunawardena

Minister of Education,

6. Hon. Douglas Devananda

- Minister of Fisheries,
7. Hon. Gamini Lokuge
Minister of Power,
8. Hon. Dr. Bandula Gunawardena
Minister of Trade,
9. Hon. C. B. Ratnayake
Minister of Wildlife, Forest
Conservation,
10. Hon. Janaka Bandara Tennakoon
Minister of Public Services, Provincial
Councils, Local Government,
11. Hon. Keheliya Rambukwella
Minister of Health,
12. Hon. Chamal Rajapaksa
Minister of Irrigation,
13. Hon. Dullas Alahapperuma
Minister of Mass Media,
14. Hon. Johnston Fernando
Minister of Highways,
15. Hon. Wimal Weerawansa
Minister of Industries,
16. Hon. Basil Rajapaksa
Minister of Finance,
17. Hon. Mahinda Amaraweera
Minister of Environment,
18. Hon. S. M. Chandrasena
Minister of Lands,
19. Hon. Mahindananda Aluthgamage

Minister of Agriculture,

20. Hon. Vasudeva Nanayakkara

Minister of Water Supply,

21. Hon. Udaya Prabhath Gammanpila

Minister of Energy

22. Hon. Dr. Ramesh Pathirana

Minister of Plantation,

23. Hon. Prasanna Ranatunga

Minister of Tourism,

24. Hon. Rohitha Abeygunawardhana

Minister of Ports & Shipping,

25. Hon. Namal Rajapaksa

Minister of Youth & Sports Development

26. Hon. M. U. M. Ali Sabry

Minister of Justice,

27. Hon. Sarath Weerasekara

Minister of Public Security,

All (No. 2 to 27) at the Office of the Cabinet of
Ministers

Sir Baron Jayatilleke Mawatha

Colombo 01

28. Hon Attorney General,

(to represent His Excellency the President)

29. Hon. Justice Eva Wanasundera

Chairperson,

Commission to Investigate Allegations of
Bribery or Corruption,

30. Hon. Justice Deepali Wijesundera

Member,

Commission to Investigate Allegations of
Bribery or Corruption,

31. Chandra Nimal Wakishta

Member, Commission to Investigate
Allegations of Bribery or Corruption,
All three (No. 29 to 31) at No. 36,
Malalasekera Mawatha,
Colombo 07,

32. C. D. Wickramaratne,

Inspector General of Police,
Police Headquarters,
Colombo 01.

33. Hon Attorney General,

Attorney General's Department
Hulftsdorp
Colombo 12

34. Professor Lakshman L. Ratnayake,

Chairman,
Sri Lanka Institute of Information Technology
(Guarantee) Company

35. Professor Lalith Gamage,

President/CEO, Sri Lanka Institute of
Information Technology (Guarantee)
Company

36. Professor Nimal Rajapakse,

Board Member,

37. Thilan M. Wijesinghe,

Board Member,

38. Reshan Dewapura,

Board Member,

39. Jehan Amaratunge,
Board Member,

40. Dr. Harsha Cabral,
Board Member,
All (No. 33 to 38) SLIIT, Kandy Road,
Malabe

41. Sri Lanka Institute of Information Technology
(Guarantee) Company
SLIIT, Kandy Road,
Malabe

Respondents

On this 29th October 2021

To: HIS LORDSHIP THE CHIEF JUSTICE AND OTHER LORDSHIP JUSTICES OF THE
SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.

The Petition of the Petitioner appearing in person states as follows,

1. The Petitioner is a citizen of Sri Lanka who enrolled as an Attorney-at-Law of the Supreme Court in 1984 and engaged in the practice of the legal profession. He was appointed as a President's Counsel in 2001 and continues to practice in the Supreme Court, Court of Appeals, High Courts, District Courts and Magistrate Courts.
2. The 1st Respondent is the Hon. Prime Minister and the 2nd to 27th Respondents are Members of the Cabinet and they are made Respondents as they are obliged in law to implement the Cabinet decision adopted on 11.09.2018 marked "A8" approving the resolution contained in the Cabinet Memorandum dated 13.08.2018 marked "A7" and thereafter to implement the decision of Your Lairdships' Court which will be made after hearing of this application.

3. The 28th Respondent Hon. Attorney-General is made a party to represent His Excellency the President in terms of Article 35(1) of the Constitution. Hon. Attorney-General is named as 33rd Respondent independently as required by the Rules of the Supreme Court.
4. The 29th to 31st Respondents are the Chairperson and the Commissioners of the Commission to Investigate Allegations of Bribery or Corruption.
5. The 32nd Respondent is the Inspector-General of Police.
6. The 34th to 40th Respondents are the directors of Sri Lanka Institute of Information Technology (Guarantee) Company which has illegally and fraudulently taken over the SLIIT Institution defrauding the State and the people of Sri Lanka.
7. The 41st Respondent is the Sri Lanka Institute of Information Technology (Guarantee) Company.
8. The Petitioner institutes these proceedings as a matter of public interests' litigation as he has made enormous efforts in the past to safeguard the fundamental rights of the people and to fought against corruption in the public sector which has eaten into the fabric of the overall economy of the country.
9. The Petitioner has keen interest in promoting and uplifting of the education of all citizens and he has engaged in many academic activities while being in the practice of legal profession. He has engaged in many academic pursuits and obtained the following academic qualifications;
LL.B., University of Colombo
M. Phil., University of Sri Jayewardenepura
Ph. D., University of Colombo (Constitutional Law)
Ph. D., University of Kelaniya (Buddhist Philosophy)
LL. D. (*Honoris causa*) (Commonwealth University)

Diploma, Friberg University, Switzerland

10. The Petitioner has held several important public offices such as the Chairman, Rent Board of Review, Chairman, Sri Lanka Press Council, Managing Director, Associated Newspaper of Ceylon Ltd, Director, Sri Lanka Rupavahini Corporation, Director, National Film Corporation, Chairman Olympic Anti-Doping Committee and Vice Chairman, World Association of Press Councils, Legal Advisor to the Minister of Fisheries Hon. Mahinda Rajapaksa.
11. The Petitioner is a Member of Parliament since 2004 and he was elected as a Member of Parliament by the voters of Colombo electoral district in the parliamentary elections held in 2010, 2015 and 2019.
12. The Petitioner also has held the following Cabinet Portfolios;
 - Minister of State Banks Development (Non-Cabinet)
 - Minister of Justice and Prison Rehabilitation
 - Minister of Labour
 - Minister of Buddhasasana
 - Minister of Education
 - Minister of Higher Education
 - Minister of Cultural Affairs
13. The Petitioner also has held the office of Chairman, Parliament Select Committee of Public Enterprises, (COPE) Member, Public Accounts Committee, Chairman, Legislations Committee, Member, High Post Committee, Member, Parliamentary Business Committee, Member, Standing Orders Committee and few others.

14. The Petitioner was elected as the President of the Bar Association of Sri Lanka in 2012/2013 and gave the leadership to the BAR during the period when Hon. Dr. Shirani Bandaranaike, (the Chief Justice) was illegally, impeached by the Parliament.
15. The Petitioner states that he being the Chairman of the Committee on Public Enterprises (COPE) presented two reports in January and August 2007 by which he disclosed a series of corruptions of public funds running into over Rupees 300 Billion in several government institutions in the year where the government's annual revenue was less than Rupees 800 billion.
16. The Petitioner state that based on the said reports the Supreme Court delivered two judgements;
 - a) cancelling the sale of 90% of the shares of the Sri Lanka Insurance Corporation which was sold to a private sector for a sum of Rs. 6 billion despites being the actual value thereof was Rs. 125 billion,
 - b) by the same judgement Lanka Hospitals (earlier known as Apollo Hospital) also was taken back by the Government as the controlling shares of it was owned by Sri Lanka Insurance Corporation and similarly certain shares of private banks which were owned by said corporation also became the assets of the State,
 - c) cancelling the deed of transfer in favour of a private company transferring 8.2 hectares land within the Colombo Port which was owned by Sri Lanka Marine Services Ltd, a subsidiary of Sri Lanka Petroleum Corporation.
17. The petitioner states as a result of the said two judgements which were based on the recommendations of the COPE report issued by the Petitioner while he was having life threats from many quarters people were able to take back the illegally alienated assets which belonged to the State to a value exceeding Rs. 150 billion. In considering the challenge the petitioner has taken and the exemplary services

rendered to the Nation by fighting against corruptions, LMD Media Services bestowed the most prestigious Award “LMD Sri Lankan of the Year -2007 Award” to the petitioner while Gandhian Movement in India bestowed the petitioner “Gandhian Peace Award”.

18. In one of the said judgements, the Supreme Court ordered the then Secretary to the Ministry of Finance, presently the Secretary to the President Dr. P. B. Jayasundara to be removed from the office the Secretary to the Ministry of Finance and the Secretary to the Treasury forthwith as he was instrumental in committing corruptions of such a magnitude while he was the secretary to the Ministry in which Milinda Moragoda was holding the portfolio. The Supreme Court also directed to Dr. P. B. Jayasundara to pay a sum of Rs. 500,000 by way of the compensation for the treacherous acts he has done to the detriment of the people and gave a special direction that he is unfit to hold any public office in the future.
19. The Petitioner also states that in 2002/2003 the Government sold out right Sri Lanka Transport Board operation together with all assets of the Board in the Western Province, Central Province and Sabaragamuwa Province to a businessman and the Petitioner voluntary appeared (free of charge) in the Supreme Court and was able to successfully secure a judgement to have the said sale transactions declared void and thereby saved Sri Lanka Transport Board up to date.
20. The Petitioner as the President of the Bar Association, took many actions to protect and safeguard the independence of the judiciary and to uphold the rule of law, and was instrumental in filing an application to charge the former minister Rishard Badudeen for Contempt of Court who intimidated the learned Magistrate of Manner, and interfered into the affairs of the Secretary to the Judicial Service Commission.

21. The petitioner also took the troubles to safeguard the land ownership of rural farmers and peasants and challenged the validity of the State Land (Special Provisions) Bills in the Supreme Court in 2003 as well as in 2019 and was successful in obtaining judgements from the Supreme Court prevent the said Bills being passed. If not for that, millions of poor farming community might have lost their title to their plots of land which were the only assets and income that they had for their living.

22. The Petitioner took initiatives to safeguard and promote the free education for all the children in Sri Lanka and he always placed the value of education in the top most priority. The Petitioner states that when he assumed duties as the Minister of Higher Education in May 2018, the education of the all the State Universities had been under a chaotic situation and disruption due on going the long-stood protests by the university students, medical doctor, academics and many others and they had had conducted around 410 protests, strikes, rallies etc., during the previous three-year period over the SAIMT Medical Faculty. The Petitioner steadfast to resolve the said issue and within a matter of 2-3 weeks and completely resolved the issue by enacting a statute in the Parliament to absorb all such medical students in the Sir John Kothalawala Defence University.

23. The Petitioner states that the State universities had an anarchy situation due to the harassments, cruel and inhumane treatment to students by several gangs of students under the guise of ragging and the Petitioner took initiatives to control the situation and to ensure an environment peaceful for the education of all the students.

24. The Petitioner states that when he was appointed as the Minister of Higher Education on 1st May 2018, the subject of Mahapola Trust Fund was gazetted under the Ministry of Higher Education.

25. "Mahapola Trust Fund" was established by deed of Trust No. 2773 dated 23.02.1981 by late Hon. Lalith William Athulathmudali, President's Counsel with the noble objective of helping the students who have been deprived of higher education due to their poverty. The trustees appointed for the of said Trust were very highly respected and educated persons at that time and they were Hon. Neville Samarakoon, Q.C., Chief Justice, Hon. V. Subramaniam, Mr. Stanly Kalpage, Mr. Merile de Silva, Mr. Luxman de Mel. Mrs. Jessima Smile.
26. The late Hon. Athulathmudali established the said trust fund with his own money by depositing a sum of Rs. 10,000 and the said trust was later converted to a statutory trust by enacting Mahapola Higher Education Scholarship Trust Fund Act No. 66 of 1981. A true copy of said Act is annexed hereto marked as "A1" and plead part and parcel hereof.
27. The Petitioner states that as provided in Section 3 of the Board of the Mahapola Higher Education Scholarship Trust Fund (referred to as Board) shall consist of;
- (i) founder,
 - (ii) persons for the time being holding office as;
 - a) the Chief Justice of Supreme Court,
 - b) the Secretary to the Ministry of Higher Education,
 - c) the Secretary to the Ministry of Education,
 - d) the Secretary to the Ministry of Trade,
 - e) two members appointed by the Minister in Charge of the Subject.
28. The Petitioner states that as interpreted in Section 19 of the Act, after the demises of 1st founder, the Minister in Charge of the Mahapola Trust Fund shall be considered as the founder member and accordingly the Petitioner became the member of the Trust Fund while holding the office of the Ministry of Higher Education.

29. The Petitioner states that he was dismayed and surprised when it was noticed by the petitioner that the control of Sri Lanka Institute of Information Technology (SLIIT) has been completely taken over by Sri Lanka Institute of Information (Guarantee) limited severing the ownership of the Mahapola Trust Fund.
30. The petitioner states that under the guidance of Her Excellency Chandrika Bandaranayake Kumaratunga, then President, Hon. Richard Pathirana, Minister of Education and Hon. K. T. Wickramaratne, Minister of Internal and International Trade and Food, submitted a Joint Cabinet Memorandum in April 1998 to establish an institution for information technology with the objects of conducting courses in Computer Science and Engineering leading up to master's degrees. After the Cabinet approval the institute was set up in a land belonged to Mahapola Trust Fund in extent of 25 Acres, at Malabe and subsequently to operate it as a university under the authority of University of Moratuwa. The true copy of the said Cabinet Memorandum is annexed hereto marked as "A2" and plead part and parcel hereof.
31. The Petitioner states that Her Excellency Chandrika Bandaranayake Kumaratunga, then President provided a sum of Rs. 500 million as an initial investment towards the construction of the buildings for the institute.
32. The Petitioner states that after the establishment of the institution a company was formed and incorporated as Sri Lanka Institute of Information Technology (Guarantee) Ltd., and all 8 directors appointed were ex officio appointments who were holding responsible high offices of the State. They were as follows;
- (i) Mr. Anton Alfred – Secretary, Internal and International Trade
 - (ii) Prof. Samarajeewa Karunarathna –Vice Chancellor, University of Moratuwa
 - (iii) **Thilan Mahajith Wijesinghe** – Chairman, Board of Investments (**37th Respondent**)
 - (iv) T. P. G. Nandasiri Leelarathne – Advisor to the Ministry of Internal and International Trade

- (v) **Dr. Gamage Lalith Deepthi Kumara** – Department Head, IT, University of Moratuwa. **(35th Respondent)**
- (vi) Mr. Ronald Amand Paul Goonathilaka – Chairman, Export Development Board
- (vii) Mr. Ranjith Thenuwara de Silva – Senior Accountant, Ministry of Internal and International Trade

33. The Petitioner states that the objective of the establishment of SLIIT was to improve the education in the field of Information Technology and also to earn profits out of the fees paid by the students and to utilize such income for the purpose of awarding scholarship to students in the State universities who do not have a sufficient mean of income for their higher studies.

34. The Petitioner states that at the end of 2015 Mahapola Trust had a fund of Rs. 9,216,355,042/- and has established two companies for the purpose of managing the funds of the Trust. They are;

- i. National Wealth Corporation
- ii. Natwealth Securities Ltd. (Primary dealer approved by the Central Bank)

35. The Petitioner states that in 2015 Mahapola trust fund has granted scholarships to 11,147 students in the State Universities and 2047 students of the Vocational Training Institute. By the end of 2020, there were 66,214 students who were taking scholarship grants from Mahapola Trust Fund and so far, the Fund has granted scholarships to a total number of 317,000 students.

36. The Petitioner states that while he was the Minister of Higher Education he found that Mahapola High Education Trust Fund voluntarily sold out the SLIIT for a consideration of Rs. 408,500,000 to the said Sri Lanka Institute of Information Technology (Guarantee) Company (41st Respondent) on 12th May 2015 by a written but unattested agreement drafted by F. J & G. De Saram, Notaries whereas it is fraudulently and falsely misrepresented that the Mahapola Trust Fund has

granted a loan of Rs. 373,579,392 for the construction of the building to the Company and the Company repaid it with interests totaling into a sum of Rs. 408,500,000. A true copy of the said forged and fraudulent agreement is annexed hereto marked "A3" and pleaded as part and parcel of this petition.

37. The Petitioner states that F. J & G De Saram, Notaries had executed the Indenture of Lease No. 952 by which Mahapola Trust Fund had agreed to lease out the 25 Acre land (only the land) in which SLIIT is situated for a period of sixty years at an annual rental at the commencement is fixed at Rs. 20 million. A true copy of the said forged and fraudulent indenture is annexed hereto marked "A4" and pleaded as part and parcel of this petition.

38. The Petitioner states that the said two documents marked "A3" and "A4" are;

- a) *prima facie void*, invalid and fraudulent whereas the purported "A3" agreement is not attested by F. J & G. De Saram, Notaries and similarly "A4" does not contain an attestation.
- b) purported agreement "A3" has no attestation number of the Notaries, whereas the purported lease has a number but without an attestation,
- c) both the purported indentures do not disclose that the Mahapola Higher Education Trust Fund, which is a statutory trust has passed any resolution to enter into the said purported agreements,
- d) the said Notaries also had contributed to the said fraud directly and indirectly by making documents which are *ex facia* to their own knowledge are fraudulent and deceitful.

39. The Petitioner states that on examination of the documents it was revealed that Prof. Laxman Ratnayake (34th Respondent) and Prof. Lalith R. Gamage (35th Respondent) became directors of said company in their capacity as employees of the Moratuwa University, and the Petitioner has been informed that the 35th Respondent has been appointed in view of the fact that he is the son-in-law of late

Hon. Kingsly Wickremaratne, who was the Minister in Charge of the Mahapola Trust Fund at that time.

40. The Petitioner states that he found that the said two directors namely Prof. Laxman Ratnayake (34th Respondent) and Prof. Lalith R. Gamage (35th Respondent) had surreptitiously, gradually and fraudulently got the non-State actors appointed as directors whenever vacancies were occurred due to retirement of the *ex-officio* directors and finally it was ended up with all the directors being non-State actors who were not holding any public office.
41. The Petitioner states that similarly the said Prof. Laxman Ratnayake (34th Respondent) and Prof. Lalith R. Gamage (35th Respondent) had acted in collusion with late Dr. Wickrama Weerasuriya, who was a newly appointed member of the Mahapola Trust, and upon being questioned and convinced about the fraud committed the Petitioner ordered him to resign from the trusteeship of the Mahapola Trust Fund and also from the membership of the University Grant Commission forthwith and accordingly he resigned.
42. When the trustees of the Trust in 2018 sought the assistance of Hon. K. Sripavan, then Chief Justice, who was *ex-officio* holding the office of the Chairman of Mahapola Trust Fund by operation of law, it was revealed that late Wickrama Weerasooriya has represented to Hon. Chief Justice and the Chairman that he signed an agreement with Sri Lanka Institute of Information Technology (Guarantee) Company to recover a loan which has been advance by the Trust Fund to the said Company.
43. The Petitioner states that it was further revealed that the former President His Excellency Maithripala Sirisena had submitted a Note to the Cabinet of Ministers on 4th May 2017 to relinquish the ownership of SLIIT and to allow the said Sri Lanka Institute of Information Technology (Guarantee) Company to operate it as an independent educational institute. As the said Cabinet Note was not objected a

Gazette was published on 28.06.2017 removing the SLIIT from the preview of any ministry leading to a total relinquishment. True copies of the said Note and the Gazette are annexed hereto respectively marked "A5" "A6" and pleaded as parts and parcels of this petition.

44. The Petitioner states that he being the Minister of Higher Education had realized the grave injustice caused to the students selected to State Universities from lowest strata of the society with economic predicaments and considering the grave nature of crime committed by Prof. Laxman Ratnayake (34th Respondent) and Prof. Lalith R. Gamage (35th Respondent) acting in collusion with late Dr. Wickrama Weerasuriya, submitted a Memorandum to the Cabinet of Ministers on 13.08.2018 and sought approval of the Ministers of the Cabinet restore the status quo by taking back the ownership of the said SLIIT and the control of it to Mahapola Trust Fund. A true copy of the said Memorandum to the Cabinet is annexed hereto marked as "A7" and pleaded as part and parcel of this petition.
45. The Petitioner states that it was surprising to observe that Hon. Gamini Jayawickrama Perera, then Minister of Food Security within whose authority the Mahapola Trust Fund remained and Hon. Dr. Sarath Amunugama, then Minister of Higher Education had signed as witnesses to the said both documents marked "A3" and "A4" despite the fact that there was no resolution passed by the Board of Trustees to enter into such agreements. Further it was unbecoming for ministers to become witnesses specially to the said purported indentures which smacks the illegality on the face of it.
46. When the said resolution was taken up in the Cabinet of Ministers on 11. 09. 2018 the said Dr. Sarath Amunugama, Gamini Jayawickrama Perera objected to the resolution and, but the Cabinet of Ministers approved the said resolution and empowered to take necessary action to implement it. It was further agreed to take legal advice from the Attorney-General. The said Cabinet decision was confirmed by the Cabinet of Ministers at the meeting held on 11. 09. 2018. The petitioner

annexes a true copy of the said Cabinet decision marked as “A8” and pleads as part and parcel of this petition. But could not implement due the change of the regime in October 2018.

47. When the said resolution was discussed former President Maithripala Sirisena stated that he presented the abovementioned Note to the Cabinet believing that it was genuine and lawful as it was prepared and submitted for his signature by Dr. Wickrema Weerasuriya, who was an advisor to the President for sometimes.
48. The Petitioner states that Hon. Attorney-General forwarded his opinion dated 22.09.2018 advising that in considering the manner in which A3 and A4 had been entered into the Cabinet of Ministers may be notified that the prudent cause of action would be that Mahapola Trust Fund to revisit the provisions of said two documents, to resolve the dispute between the parties.
49. The Petitioner states that the Auditor General Department after having a special investigation on the said matter issued the report dated 07.09.2018 and recommended among other things that the trustees of the Mahapola Trust Fund are responsible for causing a loss to the fund amounting to over Rs. 1,645,494,237 by the extinguishing the ownership and the controlling authority of the said SLIIT institute. A true copy of the said recommendation is annexed hereto marked as “A9” and pleaded as part and parcel of this petition.
50. The Petitioner states that he made a complaint to the Commission to Investigate in to the Allegation of Bribery and Corruption on 25 February 2019 by stating that the loss caused to Mahapola Trust Fund due to the said corrupt transaction at the time was about Rs. 23,000,000,000. (Rs. 23 billion) A true copy of the said complaint which was numbered as BC 0547/2019 is annexed hereto marked as “A10” and pleaded as part and parcel of this petition.

51. The Petitioner states that it is regrettable to note that the said Commission has not taken any action up to date though it recorded statements from petitioner on two occasions.
52. The Petitioner states that he also made complaint dated 25.02.2019 to the Commission appointed by then President to Investigate into Fraud and Corruption occurred during the period of 15.01.2015 to 31.12.2018. A true copy of the said complaint is annexed hereto marked as "A11" and pleaded as part and parcel of this petition.
53. The Petitioner states that he gave evidence before the said Commission and he is aware that former Chief Justice and the Chairman of the Mahapola Trust Fund Hon. K. Sripavan also gave the evidence before the said Commission.
54. The Petitioner states that he became aware that Hon. Bandula Gunawardena as the Minister of Higher Education had submitted a resolution to the Cabinet of Ministers dated 18.12.2019 seeking the cabinet approval to restore the status quo of SLIIT institute. A true copy of the said resolution is annexed hereto marked as "A12" and pleaded as part and parcel of this petition.
55. The Petitioner states that the Cabinet of Ministers had appointed a Cabinet Sub Committee calling for recommendation within three weeks from 24.01.2020 and the petitioner reliably understand that said Committee had not met and not made any recommendations up to date.
56. The Petitioner states that the said Presidential Commission had determined *inter alia* that;

- a. the said two agreements marked “A3” and “A4” are illegal and void,
- b. those who are responsible for the offence shall be charged and prosecuted under Sections 452, 454, 388 and 389 of the Penal Code,
- c. those who are responsible shall be prosecuted for the offence punishable under section 70 of the Bribery Commission Act.
- d. those who are responsible for said crime are;

Gamini Jayawickrama Perera

Dr. Wickrama Weerasooriya (deceased)

Anil Rajakaruna

Prof. Lalith R. Gamage

Prof. Luxman Rathnayaka

Manjula Sagara Ellepola

A true copy of the said report is annexed hereto marked as “A13” and pleaded as part and parcel of this petition.

57. The Petitioner also annexes a report issued by the Parliamentary Select Committee (COPE) on 6.4.2021 by which it has been confirmed that there had been serious fraud committed in relation to the said transaction made by the purported instruments marked A3 and A4 marked as “A13” and plead as part and parcel of this petition.

58. The Petitioner states that the persons referred to in paragraph No. 56 above are responsible for the fraud and corruption and the crime they have committed by taking away the ownership and the control of the SLIIT institution depriving the beneficiaries of the Mahapola Trust Fund.

59. The Petitioner states that due to the said unlawful, illegal, unreasonable and surreptitious conduct of the said 34th to 41st Respondents and the persons referred to in paragraph 56 above, several thousands of students in the State university with poverty background have suffered and continuous to suffer due to non-transferability of the profits earned by Sri Lanka Institute of Information Technology (Guarantee) Company to the Mahapola Trust Fund.
60. The Petitioner states that as a result of the illegal and unlawful conduct of the said 34th to 41st Respondents and persons whose names are mentioned in paragraph 56 above the fundamental rights of the petitioner and each and every citizen of Sri Lanka is infringed and violated and continues to be in violation.
61. The Petitioner states that the petitioner's fundamental rights guaranteed by Article 12(1) and 12 (2) of the Constitution is violated;
- a) by the 1st to 28th Respondents as they have failed and/or omitted and/or neglected to implement the Cabinet decision adopted on 11.09.2018 marked "**A8**" approving the resolution contained in the Cabinet Memorandum dated 13.08.2018 marked "**A7**",
 - b) by the 29th to 31st Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked "**A13**",
 - c) by the 32nd and/or 33rd Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked "**A13**"

And the said violation and infringement of the fundamental rights continuous and therefore this application is not time barred and specially as a matter of public interest litigation Your Lordships' Court has unfettered jurisdiction to entertain and determine matters involved in this application.

62. The Petitioner states that under the abovementioned circumstances the Petitioner is entitled in law to obtain the following relief from Your Lordships' Court;

- A) a declaration that the Petitioner petitioner's fundamental rights guaranteed by Article 12(1) and 12 (2) of the Constitution is violated;
- i. by the 1st to 28th Respondents as they have failed and/or omitted and/or neglected to implement the Cabinet decision adopted on 11.09.2018 marked "**A8**" approving the resolution contained in the Cabinet Memorandum dated 13.08.2018 marked "**A7**",
 - ii. by the 29th to 31st Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked "**A13**",
 - iii. by the 32nd and/or 33rd Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked "**A13**"
- B) a declaration that the purported agreements entered in between Mahapola Higher Education Scholarship Trust Fund and Sri Lanka Institute of Information Technology (Guarantee) Company marked as "A3" and "A4" are *ab intio* null and void and/or no avail in law and /or make an order to cancel them,
- C) a declaration that the Note to the Cabinet of Ministers dated 4th May 2017 marked "**P5**" and the Gazette Notification dated 28.06.2017 marked "**A6**"

are *ab intio* null and void and/or no avail in law and/or make an order to cancel them,

- D) an order directing the 1st to 28th Respondents to implement forthwith the Cabinet decision made on 11. 09.2018 (A8) by approving the Memorandum of the Cabinet of Ministers dated 13. 08. 2018 (A7) presented by the petitioner,
- E) an order directing the 34th to 41st Respondent to hand over and deliver the peaceful possession of SLIIT together with all the movables and immovables including the money belongs to the Sri Lanka Institute of Information Technology (Guarantee) Company and SLIIT, to Mahapola Higher Education Scholarship Trust Fund,
- F) an order directing the 34th to 41st Respondent to submit all audited annual accounts accurately to Your Lordships Court commencing from 15th May 2015 to the date of the judgment in this application,
- G) an order directing the 34th to 41st Respondent to remit all the profits earned from SLIIT commencing from 15th May 2015 to the date of the delivery of the said SLIIT institute to Mahapola Higher Education Scholarship Trust Fund together with interests accrued thereon,
- H) an order directing Hon. Attorney-General to charge and indict the persons whose names are referred to in the abovementioned paragraph No. 56, in compliance with the recommendations made by the Presidential Commission,
- I) an order directing the 29th to 31st Respondents to initiate legal action and indict against the persons whose names are referred to in the abovementioned paragraph No. 56, in compliance with the recommendations made by the Presidential Commission,
- J) an order directing the 34th to 41st Respondents to pay a compensation of Rs. 500 million to the Mahapola Higher Education Scholarship Trust Fund,

- K) an order directing the 32nd Respondent to conduct an investigation and initiate legal action regarding the execution of the fraudulent instruments marked “P3” and “P4”,
 - L) an interim order preventing the 34th to 41st Respondents from disposing or transferring any assets whatsoever to any third party and altering or changing the directors of the 41st company until final determination of this application,
 - M) an interim order directing the 34th to 41st Respondents to submit quarterly statements of accounts of Sri Lanka Institute of Information Technology (Guarantee) Company and SLIIT, until the final determination of this application.
63. The Petitioner states that unless Your Lordships’ Court issue interim orders as aforesaid grave and irreparable loss would be caused to those who are qualified to take Mahapola Scholarships and finally to the entire system of the education of the country.
64. The Petitioner states that he 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) issue notices of this application to the Respondents,
- B) grant leave to proceed in relation to the violation of the petitioner’s fundamental rights guaranteed under Article 12(1) and 12(2) of the Constitution,
- C) a declaration that the petitioner’s fundamental rights guaranteed by Article 12(1) and 12 (2) of the Constitution is violated;
 - i. by the 1st to 28th Respondents as they have failed and/or omitted and/or neglected to implement the Cabinet decision adopted on 11.09.2018

- marked “**A8**” approving the resolution contained in the Cabinet Memorandum dated 13.08.2018 marked “**A7**”,
- ii. by the 29th to 31st Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked “**A13**”,
 - iii. by the 32nd and/or 33rd Respondents as they have failed and/or omitted and/or neglected to charge and indict the persons referred to in the abovementioned paragraph No. 56 in compliance with the recommendation made by the Presidential Commission marked “**A13**”
- D) make a declaration that the purported agreements entered in between Mahapola Higher Education Scholarship Trust Fund and Sri Lanka Institute of Information Technology (Guarantee) Company marked as “A3” and “A4” are *ab intio* null and void and/or no avail in law and /or make an order to cancel them,
- E) make a declaration that the Note to the Cabinet of Ministers dated 4th May 2017 marked “**P5**” and the Gazette Notification dated 28.06.2017 marked “**A6**” are *ab intio* null and void and/or no avail in law and /or make an order to cancel them,
- F) make an order directing the 1st to 28th Respondents to implement forthwith the Cabinet decision made on 11. 09. 2018 (A8) by approving the Memorandum of the Cabinet of Ministers dated 13. 08. 2018 (A7) and presented by the petitioner,
- G) issue an order directing the 34th to 41st Respondent to hand over and deliver the peaceful possession of SLIIT together with all the movables and immovables including the money belongs to the Sri Lanka Institute of Information Technology (Guarantee) Company and SLIIT, to Mahapola Higher Education Scholarship Trust Fund,

- H) issue an order directing the 34th to 41st Respondent to submit all audited annual accounts accurately to Your Lordships Court commencing from 15th May 2015 to the date of the judgment in this application,
- I) issue an order directing the 34th to 41st Respondent to remit all the profits earned from SLIIT commencing from 15th May 2015 to the date of the delivery of the said SLIIT institute to Mahapola Higher Education Scholarship Trust Fund together with interests accrued thereon,
- J) issue an order directing Hon. Attorney-General to charge and indict the persons whose names are referred to in the abovementioned paragraph No. 56 in compliance with the recommendations made by the Presidential Commission,
- K) issue an order directing the 29th to 31st Respondents to initiate legal action and indict against the persons whose names are referred to in the abovementioned paragraph No. 56, in compliance with the recommendations made by the Presidential Commission,
- L) issue an order directing the 34th to 41st Respondents to pay a compensation of Rs. 100 million to the Mahapola Higher Education Scholarship Trust Fund,
- M) issue an order directing the 32nd Respondent to conduct an investigation and initiate legal action regarding the execution of the fraudulent instruments marked “P3” and “P4”,
- N) an interim order preventing the 34th to 41st Respondents from disposing or transferring any assets whatsoever to any third party and altering or changing the directors of the 41st company until final determination of this application,
- O) issue an interim order directing the 34th to 41st Respondents to submit quarterly statements of accounts of Sri Lanka Institute of Information

Technology (Guarantee) Company and SLIIT, until the final determination of this application,

P) grant costs and

Q) such other and further relief as to Your Lordships' Court shall deem fit.

The Petitioner