

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

In the matter of an application under  
Article 140 of the Constitution for  
Mandates in the nature of Writs of  
*Certiorari*, and *Mandamus*

1. Nagananda Kodituwakku  
99, Subadrarama  
Nugegoda

**Petitioner**

**Vs**

**CA (Writ) Application No: 434/2014**

1. Commissioner of Elections  
Elections Secretariat,  
P.O. Box 02, Sarana Mawatha,  
Rajagiriya, 10107

2. Susil Premajayanth  
General Secretary –UPFA  
307, T B Jayah Mawatha  
Colombo 10

3. Mohan Peiris  
The Chief Justice  
Supreme Court of Sri Lanka  
Hulftsdorp  
Colombo 11

4. Dr Shirani Bandaranayake  
The former Chief Justice  
Park Drive  
Rajagiriya

5. The Attorney General  
The Attorney General's Department  
Hulftsdorp  
Colombo 12

To: THE HONOURABLE PRESIDENT JUDGE AND THE OTHER HONOURABLE JUDGES OF  
THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

On this 02<sup>nd</sup> January 2015

Whereas the court has snubbed the request made by the Petitioner in the Motion filed in Court on 16<sup>th</sup> December 2014 that this matter may not be listed for support before a Bench comprising of Judges appointed to the Court of Appeal from the Attorney General Department by the Extant President the reasons self-explanatory in the Petition instead the Court has listed Petition to be supported before a Bench of two Judges appointed to the Court of Appeal from the Attorney General's Department by the Extant President

Whereas on 24<sup>th</sup> December 2014 the Registrar of the Court has recorded in the File of Record that the Petitioner has not filed the Petition on 16<sup>th</sup> December 2014

Whereas the minute made in the Record by the Registrar on 16<sup>th</sup> Dec 2014 clearly confirms that the Petitioner has duly filed the Petition together with the Affidavit, Motion and the marked Documents (P1 to P7)

Whereas this unexplained circumstances under which the Original Petition went missing compelled the Petitioner to file another copy of the Petition, that effectively denied the Petitioner an opportunity to support the Petition on one of the dates (17<sup>th</sup> 18<sup>th</sup> or 19<sup>th</sup> December 2014) before the Court Vacation, as requested in the Motion filed in Court on 16<sup>th</sup> Dec 2014

Whereas the Court has now fixed a date (02<sup>nd</sup> January 2015) to support the Petition of the Petitioner

Whereas the Attorney General has in the meanwhile informed the Petitioner through a letter dated 31<sup>st</sup> Dec 2014, 'hand-delivered' to the Petitioner on the same date at his office about the receipt the papers served on the Attorney General sans the Petition,

which is not the normal practice and this strange behaviour has aroused the suspicion of the Petitioner

Whereas with the proclamation issued by the Extant President dated 20<sup>th</sup> Nov 2014 in terms of Article 31 (3A) of the Constitution, declaring his intention to hold a Presidential Election and with that proclamation and in terms of Article 31 (4) (b) of the Constitution, the term of office of the Extant President will expire on the date on which the results of the Presidential election would be declared by the 1<sup>st</sup> Respondent

Whereas since the filing of this Petition, the Petitioner believes that the public opinion on the Extant President has been evidently eroded and in this background the Petitioner contemplates that the Attorney General who performs his office under the Extant President would have been instructed to concede the Interim Relief prayed for in the Petition to suspend the holding of the Presidential Election scheduled for 08<sup>th</sup> Jan 2015 until the final determination of this Petition, effectively throwing a life-line to the Extant President to remain in Office for a considerable period, against the Will of the People that has been expressed by both in the electronic and print media since filling of this Petition

And whereas in this background the Petitioner believes that the Petition filed in the national Interest could be defeated if preceded with it, the Petitioner withdraws the Petition, with due respect to the Will of the people and their Sovereignty that would determine their choice through the exercise of their franchise at the forthcoming Presidential Election.

N. Kodituwakku



Attorney-at-Law and Petitioner in person  
99, Subadrarama Rd, Nugegoda.