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

In the matter of an application under and in terms of Articles 17, 35 and 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka

Pujith Jayasundara
Inspector General of Police
No. 125, Wijerama Road, Colombo 07.

PETITIONER

vs.

SC (FR) Application No: 216/2019

- 1A. Hon. Attorney General**
(in terms of the requirements of Article 35 of the Constitution)
- 1B. Hon. Attorney General**
(in terms of Article 126(2) of the Constitution read with Supreme Court Rule 44(3))
Attorney General's Department,
Hulftsdorp, Colombo 12.
- 2. C. D. Wickremaratne**
Snr. Deputy Inspector General of Police
Police Headquarters
Colombo 01.
- 3A. Karu Jayasuriya**
Chairman and Member, Constitutional Council
- 3B. Ranil Wickremesinghe**
Member, Constitutional Council
- 3C. Mahinda Rajapaksa**
Member, Constitutional Council
- 3D. Thalatha Atukorala**
Member, Constitutional Council
- 3E. R. Sampanthan**

Member, Constitutional Council

3F. Javed Yusuf

Member, Constitutional Council

3G. N. Selvakkumaran

Member, Constitutional Council

3H. Mahinda Samarasinghe

Member, Constitutional Council

3I. Bimal Ratnayake

Member, Constitutional Council

3J. Dr. Jayantha Dhanapala

Member, Constitutional Council

3A to 3J Respondents

All of

Constitutional Council

C/o Secretary General of Parliament,

Secretariat,

Parliament of Sri Lanka,

Kotte.

4. Nilantha Jayawardena

Deputy Inspector General of Police

Director, State Intelligence Services

Ministry of Defence

15/5, Baladakska Mawatha,

Colombo 03

5. A. N. Sisira Mendis

Chief of National Intelligence,

Ministry of Defence

15/5, Baladakska Mawatha,

Colombo 03.

6. Hemasiri Fernando

No. 11A, Sri Saranankara Road, Pamankada

East, Dehiwela

RESPONDENTS

PETITION

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

On this 29th day of May 2019

The Petition of the Petitioners above named appearing by Mr. Dinesh Vidanapathirana and Priyangika Jayawickrama Attorneys - at - Law of the Supreme Court of the Democratic Socialist Republic of Sri Lanka, Practicing in Partnership under name, style of **VIDANAPATHIRANA ASSOCIATES** his Registered Attorneys-at-Law states as follows:

The Petitioner

1. The Petitioner is a citizen of Sri Lanka and the Inspector General of Police, and has been a police officer with a career spanning over thirty four (34) years.
2. The Petitioner has a distinguished service record and has received several commendations.
3. The Petitioner joined the Sri Lanka Police Force in the rank of Assistant Superintendent of Police (Probationary) on or about 20th May 1985 and received the following promotions and appointments:

Superintendent of Police - on or about 20th May 1991

Senior Superintendent of Police - on or about 02nd May 1996

Deputy Inspector General of Police - on or about 11th May 2005

Senior Deputy Inspector General of Police - on or about 02nd June 2010

Inspector General of Police - on or about 20th April 2016

Annexed hereto compendiously marked P1 and pleaded part and parcel hereof is a copy of the *Curriculum Vitae* of the Petitioner, which sets out in summary, his career trajectory and contributions. The Petitioner respectfully reserves the right to tender further proof of same, should the need for same transpire.

The Respondents

4. The Petitioner states that the Hon. Attorney General is made a Respondent to this application in two capacities. Firstly, as required in terms of the proviso to Article 35(1) of the Constitution, because this application is made in respect of infringement of fundamental rights of the Petitioner by executive and/or administrative actions *of inter alia* the President of Sri Lanka acting in his official capacity, as hereinafter more fully set out. Secondly, as a necessary party to this application as required by law, in terms of the contemplation and

requirements of Supreme Court Rule 44(3) read with Article 134(1) of the Constitution. In view of the fact that the Hon. Attorney General has been vested with two (02) distinct Constitutional roles, he is named as Respondent 1A and 1B in the said respective capacities, to enable him to clearly discharge his duties as the Hon. Attorney General, affording greater formal clarity and independence by the constitution of this application, in a manner that affords him distinction from the status of being a mere representative of the President of the Republic, in view of the aforesaid Constitutional provisions, construed harmoniously.

5. The Petitioner states that the 2nd Respondent above named is a Senior Deputy Inspector General of Police who was purportedly appointed as Acting Inspector General of Police by H.E. the President on or about 29th April 2019 after purportedly sending the Petitioner on compulsory leave unilaterally despite the matters and circumstances hereinafter more fully set out and whose purported appointment as such was thereafter purportedly approved by the Constitutional Council on or about 13th May 2019.
6. The Petitioner states that Respondents 3A to 3J are the Chairman and Members of the Constitutional Council, who purportedly confirmed the purported appointment of the 2nd Respondent after H. E. the President purported to place the Petitioner on compulsory leave, in the manner and the circumstances hereinafter more fully set out.
7. The 4th Respondent above named is the Director, State Intelligence Services (SIS), who holds the rank of Senior Deputy Inspector General of Police, but reports directly to H.E. the President at all times material to this application. The SIS comes under the purview of the Ministry of Defence.
8. The 5th Respondent is the Chief of National Intelligence, an official in the Ministry of Defence.
9. The 6th Respondent is the former Secretary to the Ministry of Defence, and held such position as at 21st April 2019, the day of the Easter Sunday attacks and in its aftermath before subsequently resigning.

Relevant background and facts pertaining to this application

10. The Petitioner was appointed Inspector General of Police on or about 20th April 2016 by H.E. the President of the Republic in terms of Article 41C of the Constitution, with the approval of the Constitutional Council on a recommendation made by H.E. the President of the Republic.

Annexed hereto marked P2 and pleaded part and parcel hereof in proof thereof, is a true copy of the Letter of Appointment received by the Petitioner, appointing him as Inspector General of Police.

11. The Petitioner discharged his functions as Inspector General of Police without fear or favour.
12. The Petitioner is aware that in the latter half of 2018, H. E. the President's relationship with the Prime Minister deteriorated.
13. As the Petitioner was a responsible civil servant, he did not take political sides with either the President or the Prime Minister.
14. In this context, the Petitioner was excluded by H. E. the President from attending National Security Council (NSC) meetings from early October 2018 until after the Easter Sunday attacks of 21st April 2019, as hereinafter more fully set out.
15. The members of the National Security Council (NSC) - which is not a statutory body but a grouping which used to consider matters of national security, was as follows:
 - a. President
 - b. Prime Minister
 - c. State Minister of Defence
 - d. Secretary to the President
 - e. Secretary to the Prime Minister
 - f. Chief of Defence Staff
 - g. Three Service Commanders (Army, Navy and Airforce)
 - h. Secretary to the Ministry of Defence
 - i. Inspector General of Police (IGP)
 - j. Secretary to the Ministry of Foreign affairs and Finance
 - k. Chief of National Intelligence (CNI)
 - l. Director of Military Intelligence
 - m. Intelligence Chiefs of Navy, Air Force and Army

n. Director State Intelligence Services (SIS)

16. The Petitioner states that meetings of the NSC are usually summoned by and/or on behalf of the Secretary Defence and verbally.
17. However, on the directions of H. E. the President, the Petitioner IGP was excluded from NSC Meetings since early October 2018. This fact was intimated to the Petitioner IGP in or about the first week of October 2018 by (then) Secretary, Ministry of Defence, Mr. Kapila Waidyaratne, PC.
18. The Petitioner states that the first briefing done at NSC meetings is almost always by the Director, State Intelligence Services regarding intelligence information, which includes the following:
 - a. Developments pertaining to extremist organizations (whatever is relevant);
 - b. LTTE and Diaspora issues;
 - c. Threats to VIPs;
 - d. Activities of certain international terrorist and extremist groups.
19. The Petitioner states that the importance of the NSC is that the entire Intelligence Community (Director SIS, CNI, DMI and Intelligence Heads of the three Armed Forces) is present at the NSC to discuss, decide and take remedial action in intelligence inputs.
20. In the absence of a State of Emergency in the country, preventive steps such as arrest and prosecution must necessarily be done by the Police and hence the presence of the Inspector General of Police (IGP) at the NSC was very critical.
21. However, the Petitioner despite being the Inspector General of Police, was excluded from attending NSC meetings, since October 2018.
22. H. E. the President required the 4th Respondent Nilantha Jayawardena, Senior Deputy Inspector General of Police as Director, State Intelligence Services (SIS) to report directly to him.
23. The Petitioner was only made privy to whatever information was sent to him from time to time, and was denied the ability to have full recourse to or participate in vital consideration of matters of national security.
24. It is in this context, that the Petitioner did all he could on the basis of limited information given to him, subject to constraints imposed on him.

INFORMATION PROVIDED TO THE PETITIONER AND ACTION TAKEN

25. The Petitioner states that on or about 9th April 2019 at 10:00 am, the Petitioner IGP attended a meeting at the Defence Ministry chaired by the 5th Respondent Hemasiri Fernando, the (then) Secretary, Ministry of Defence, at which meeting the 4th Respondent Director SIS referred to information of a threat of an attack by extremist Islamist elements. However, the 4th Respondent Director SIS did not emphasise the urgency and/or seriousness of the matter.
26. The Petitioner states that on or about the same date, 9th April 2019, the Petitioner received a letter from A. N. Sisira Mendis, Chief of National Intelligence, which enclosed certain contents of a letter by the Director, State Intelligence Service as an annexure thereto containing information regarding a planned attack by Zahran Hashim and associates. The Petitioner was also sent a letter from the SIS, containing same.

The Petitioner annexes hereto marked “P3a” and “P3b” respectively the two letters aforesaid and the annexure to “P3a” is marked “P3c” and pleaded as part and parcel hereof.
27. The said letter “P3b” informed the Petitioner that “secret inquiries” are being conducted into the information received.
28. The letter marked “P3a” concluded “it is important to alert the Law Enforcement agencies to be vigilant concerning the information.”
29. Neither “P3a” nor “P3b” contained any indication of the urgency of the situation, nor did they contain a classification to indicate the urgency or priority level, whereas the usual practice is to mark relevant letters “Top Priority” or “Top Urgent”.
30. In the circumstances, the Petitioner decided to forward the letter by the CNI to four (04) senior police officers set out below, as it was apparent that without doing so, no meaningful measures could be taken to enable due vigilance.
31. The Petitioner states that when sending the said letter of the CNI dated 9th April 2019 to the four (04) senior police officers named herein below, the Petitioner IGP marked the document ‘Top Priority’. This was done since the Petitioner wanted the information to be acted on seriously.
32. The Petitioner states that having marked the document ‘Top Priority’ the Petitioner IGP sent the said letter of the CNI dated 9th April 2019 to the following parties, since in his opinion, it covered all the areas/parties that required to be informed of the above threat with a view to taking precautionary measures:

- a. **Senior Deputy Inspector General (sDIG)** - Western Province - Nandana Munasinghe
- b. **SDIG** - Crimes, Organized Crimes, Police Narcotics Range and Commandant STF - M.R. Lateef
- c. **DIG** - Special Protection Range - Priyalal Dassanayake
- d. **Director**- Counter Terrorism Investigation Division - Waruna Jayasundare (SSP)

33. The Petitioner states that the main reasons why he deemed it important to share the said information with the aforesaid four (04) senior officers, are as follows:

A. The importance/reasons for informing SDIG - Western Province - Nandana Munasinghe

- (a) The Western Province is the political, administrative and economic nerve centre and hence is considered the most important province in the country;
- (b) The presence of a large number of important churches; and
- (c) The location of the Indian High Commission, identified as one of the targets.

B. The importance/reasons for informing SDIG - Crimes, Organized Crimes, Police Narcotics Range and Commandant of the Special Task Force (STF) - sDIGM.R. Lateef

- (a) The STF, the fighting and crime busting arm of the Police, is decentralized into 42 Territorial Divisions, covering the entire island;
- (b) The STF coordinates with the local Police and provides operational assistance to the local Police as and when required;
- (c) The STF provides protection to VIPs;
- (d) The STF provides protection to Embassies on special requests and therefore has a good working relationship with them; and

(e) The STF possesses Island wide jurisdiction over Crimes and Organized Crime.

C. The importance/reasons for informing the Special Protection Range - DIG Priyalal Dassanayake

(a) The Ministerial Security Division (MSD), the Diplomatic Security Division (DSD), the Judicial Security Division (JSD), the Security of Retired Presidents and other VIPs fall under Mr. Dassanayake.

D. The importance/reasons for informing the Counter Terrorism Investigation Division (CTID)- SSP Waruna Jayasundare

(a) All Counter Terrorism related matters are connected and conducted by the CTID;

(b) The CTID conducts investigations and inquiries throughout the country into terrorism related matters.

34. The Petitioner states that in addition to informing the aforesaid four officers, he also informed all nine (09) sDIG's in charge of the Nine Provinces of the said information regarding possible attacks over the telephone on 9th April Evening/ 10th April morning, while discussing the Daily Situation Report.

35. The Petitioner continued to discuss and follow up measures undertaken to ensure vigilance with officers subordinate to him when discussing Daily Situation Reports with all relevant DIGs.

36. The Petitioner received three (03) letters on 18th April 2019, 19th April 2019 and 20th April 2019 all relating to the National Thowheed Jamath, Zahran Hashim and matters incidental to the same. The said three (03) letters did not request any advice and/or action from the Petitioner and were shared with the Petitioner only for his information. The said letters expressly stated that the State Intelligence Service was carrying on further investigations.

The Petitioner annexes the aforementioned letters hereto marked "P4a", "P4b" and "P4c" respectively and pleads the same as part and parcel hereof.

37. The Petitioner states that on the night of 20th April 2019, the Petitioner received a telephone call from the 6th Respondent regarding an intelligence input from the 4th Respondent Director, SIS pertaining to an imminent attack.

38. The Petitioner spoke to the 4th Respondent, twice according to the best of his recollection, on the telephone regarding intelligence inputs of which the 4th Respondent was aware.
39. The Petitioner was at no time requested to undertake any action by the 4th Respondent or any other officers who were privy to the intelligence operation and/or investigation underway.
40. The Petitioner states that at all times relevant, the 4th Respondent reported directly to H. E. the President of the Republic on all intelligence related matters, and the 4th Respondent did not report to the Petitioner on any intelligence matters whatsoever, other than to keep the Petitioner informed of certain matters as he and/or the President thought fit.
41. The Petitioner states that with respect to the information provided to him regarding the terrorist attack in April, he was unaware of whether the matter had been discussed at the National Security Council and what actions had been taken pursuant to such discussion, if any.
42. Further, neither the 4th Respondent nor any other person provided information regarding the identity of the foreign intelligence, whether the said source was from a friendly or hostile nation or the credibility of the said information.
43. The Petitioner states that the lack of information provided to him resulted in the Petitioner being unable to take further steps in terms of the law.
44. Further, as the Petitioner was unaware of the investigative steps which the 4th Respondent said were being taken already, and since the matter concerned questions of national intelligence and diplomatic relations (such as the information source being a foreign intelligence source), and since the Petitioner was not requested to take any steps by those familiar with the subject matter, and also given his exclusion from the National Security Council, the Petitioner was only enabled to take the steps outlined above.
45. The Petitioner states that there was an ongoing intelligence operation in respect of NTJ. The Petitioner was from time to time informed of the progress of these intelligence activities and the scope of such investigations, on a need to know basis.
46. In terms of the usual practice, the investigations are carried out by the Intelligence arm of the State and the Police is requested to assist the Intelligence community only upon request. Therefore, the Petitioner was acutely aware of the fact that the Police should not and could not interfere with an ongoing intelligence operation.

47. The Petitioner was unaware as to the specific manner in which the secret intelligence operations and investigations were conducted, since those operations are only privy to those within the intelligence community, from which the Petitioner had been excluded.
48. In fact by letter dated 08th April 2018, the State Intelligence Service expressly requested the Petitioner to instruct the DIG, Terrorism Investigation Department to suspend all investigations into extremist Muslim factions associated with known international terrorist organizations operating within the country since such investigations caused prejudice to the secret investigations that were being carried out by the State Intelligence Service.

The Petitioner annexes the aforementioned letter dated 08th April 2018 hereto marked P5 and pleads the same as part and parcel hereof.

Easter Sunday Attacks (21st April 2019)

49. The Petitioner states that at or around 8:50am on Easter Sunday (21st April 2019), he received the first information of the bombings.
50. The Petitioner states that on hearing of same, by around 9:00am, he arrived at the St. Anthony's Kochchikade Church, which had been subjected to bombing.
51. The Petitioner states that at around 9.15am, the President called the Petitioner IGP to gather information and inquire as to the steps that have been taken.
52. The Petitioner IGP was one of the first officers to reach the scene at St. Anthony's Kochchikade Church, and took immediate measures to establish a security cordon to prevent civilians from arriving at the scene to allow the security and medical staff to be able to do the needful.
53. The Petitioner spoke to the clergymen at the Church and took necessary action to take the injured to hospital.
54. The Petitioner instructed the sDIG - Western Province to allocate Senior Officers to be in charge in the bombing sites.
55. The Petitioner also informed the (then) Secretary, Ministry of Defence immediately.
56. The Petitioner thereafter went to Police Headquarters and set up a Special Operations Room to deal with the situation in the context that had arisen.
57. The Petitioner states that he attended the Ministry of Defence and participated in a special discussion with regard to the incidents that had

transpired and the arrangements to be made. The following individuals were present:

- a) (then) Secretary, Ministry of Defence (Chair)
- b) Chief of Defence Staff
- c) Commanders of the Tri-forces
- d) Chief of National Intelligence (CNI)
- e) State Intelligence Service-Director (SIS)
- f) Director of Military Intelligence (DMI)
- g) Senior Officials of the Ministry of Defence (Additional Secretaries)

58. The following were discussed at the said meeting:

- a) Immediate action to be taken about the corpses/injured.
- b) Strong preventive action against possible further incidents.
- c) Decisions with regards to curfew and its enforcement.
- d) Special coordination for Batticaloa as it is not within the Western Province

59. The Petitioner states that the said meeting commenced in the morning and was held until about 1:50pm.

60. The Petitioner states that thereafter until about 6:45pm, he was present at Police Headquarters:

- a) Organizing sDIGs to coordinate matters;
- b) Cancelling leave of police officers;
- c) Deploying the STF;
- d) Managing matters in Batticaloa, etc.

61. The Petitioner IGP was summoned to Temple Trees by Prime Minister Ranil Wickremesinghe (Respondent 3B in this application). The Petitioner IGP briefed him on the situation.

62. The Petitioner IGP requested information/reports from the Senior DIGs, and in particular from the four (04) Senior Officers to whom the letter from CNI dated 9th April 2019 was forwarded for necessary action.

Annexed hereto compendiously marked **P6(a)**, **P6(b)**, **P6(c)** and **P6(d)** and pleaded part and parcel hereof are true copies of the letters from the Petitioner IGP to relevant senior officers of the Sri Lanka Police asking for reports/information.

63. The Petitioner received responses from the said four officers, which are included in the annexures to document dated 26th April 2019 (P7) filed of record.

The day following Easter Sunday attacks (Monday, 22nd April 2019)

64. The Petitioner states that on Monday, 22nd April 2019, at or around 8:30am, a National Security Council (NSC) meeting was called by H.E. the President at his residence - the first such meeting he was invited and allowed to attend since October 2018.

65. At the said meeting of the NSC, the following *inter alia* transpired:

- a. H.E. the President made accusations that he was not informed of any of these events in particular against Mr. Hemasiri Fernando, the (then) Secretary, Ministry of Defence and the Petitioner IGP;
- b. H.E. the President admitted that meetings of the NSC were not duly held, which were conducted in the form of Special Security Committee Meetings attended only by officials deemed necessary by H.E. the President, at his discretion;
- c. H.E. the President stated that he had no confidence and trust in officers of the NSC including the Petitioner IGP;
- d. Compensation for those affected by the bombings was discussed;
- e. Certain issues concerning foreigners that were affected were discussed;
- f. The matter of promulgating Emergency Regulations was discussed; and
- g. The matter of the imposition of curfew was discussed.

66. The Petitioner IGP was thereafter requested by the Hon. Speaker of Parliament to provide a briefing on the current situation between 2:00pm and 3:00pm.

On Tuesday, 23rd April 2019

67. The following day, on or about Tuesday, 23rd April 2019, at or around 6:45pm, the Petitioner IGP received a call from H.E. the President requiring him to attend his residence at 8:00pm.

68. The Petitioner IGP attended the President's House accordingly, and met with him from around 8:00pm to 8:45pm, and the following were discussed:

- a. H.E. the President stated that he was not willing to accept responsibility for the Easter Sunday attacks since he was unaware of the intelligence;
- b. H.E. the President kept stressing that he was not informed by the Petitioner IGP and the (then) Secretary, Ministry of Defence;
- c. H.E. the President informed that a “Presidential Committee of Investigation/Inquiry” has already been appointed and this will be converted into a Presidential Commission/Special Presidential Commission by way of a Gazette Notification and that there will be further inquiries and that at all such inquiries/commissions the **Petitioner IGP would be found guilty**;
- d. H.E. the President **pressured the Petitioner IGP to tender his resignation** immediately, accusing the Petitioner that he had been grossly negligent of his duties;
- e. H.E. the President also stated that should the Petitioner IGP tender his resignation, he will do the needful to ensure that the aforementioned inquiry reports do not adversely affect the Petitioner IGP and would appoint him as an Ambassador/High Commissioner or as a senior government official;
- f. The Petitioner IGP responded politely, reminding H.E. the President that he was a police officer with a long and distinguished career of 34 ½ years in the Police Force;
- g. The Petitioner IGP informed H.E. the President of the actions he had taken (as set out hereinabove) pursuant to the Intelligence Report given to him on 9th April 2019.

On Wednesday, 24th April 2019

69. Between approximately 10:40am and 5:10pm on Wednesday, 24th April 2019, the Petitioner IGP was in Parliament for the emergency debate.

70. The Petitioner states that from approximately 5:20pm to 6:40pm on Wednesday, 24th April 2019, he attended a discussion chaired by the Secretary, Ministry of Defence with regard to the ongoing progress (officials were similar to those at the MOD meeting held on 21st April 2019).

On Thursday, 25th April 2019

71. On or about Thursday, 25th April 2019, the Petitioner IGP together with the Prime Minister, some Ministers and other officials as well as members of the armed forces visited Cardinal Malcolm Ranjith of the Roman Catholic Church of Sri Lanka, for a briefing.
72. At or around 7:30am, H.E. the President called the Petitioner IGP personally and demanded that a letter of resignation be tendered to him, alleging neglect of duty. The Petitioner did not give an assurance of same. The Petitioner IGP had been excluded from the intelligence network by H.E. the President from October 2018 till after the Easter Sunday attacks of 21st April 2019, who now sought to pin the blame on the Petitioner, accusing him of neglect of duty.

On Friday, 26th April 2019

73. On or about Friday, 26th April 2019, the Petitioner IGP discussed matters pertaining to national security and briefed the Prime Minister at Temple Trees.
74. On that day, between approximately 2:20pm and 5:05pm, the first statement was provided by the Petitioner IGP verbally after he was informed to attend a committee sitting by the Secretary of a Committee purportedly appointed by H.E. the President comprising three (03) persons including an Honourable Justice of Your Lordships' Court, His Lordship Justice Vijith Malalgoda PC, and two others namely former IGP N. K. Ilangakoon and Mr. Padmasiri Jayamanne.
75. On 29th April 2019, the Petitioner submitted in writing a document prepared by him dated 26th April 2019 together with annexures thereto.

The Petitioner annexes hereto marked "P7" compendiously a true copy of the document submitted by the Petitioner dated 26th April 2019 given to the said Committee with annexures thereto and pleads the same as part and parcel hereof.

76. On 30th April 2019, the Petitioner submitted a further set of files to the Committee at the Committee's request enclosed by letter dated 29th April 2019.

A true copy of the said covering letter dated 29th April 2019 is annexed hereto marked "P8".

77. The Petitioner states that he participated in proceedings of the said Committee despite the informal nature of the said Committee out of deference to Your Lordships' Court and his Lordship Hon. Justice Vijith Malalgoda PC.

78. The Petitioner states that the said Committee has not been appointed in terms of or pursuant to any law, such as the Special Presidential Commissions of

Inquiry Law, Act No:04 of 1978 as amended or the Commissions of Inquiry Act No: 60 of 1952 as amended. In the circumstances, the Petitioner is advised and states that the proceedings and/or findings of the said Committee have no force or effect in law.

On Monday, 29th April 2019

79. On or about Monday, 29th April 2019, between 9:40am and 1:15pm, the Petitioner IGP met the Chairman and Members of the National Police Commission and briefed them on the Easter bombings, their background, action taken and the progress of the ongoing investigation.

80. On 29th April 2019, Thusitha Wanigasinghe, Additional Secretary, Presidential Secretariat delivered a letter to the Police Headquarters dated 29th April 2019 signed by H. E. the President sending the Petitioner IGP on compulsory leave. The said letter dated 29th April 2019 states expressly that the Petitioner is sent on compulsory leave with immediate effect, subject to the conclusions reached at the inquiries being conducted.

Annexed hereto marked “P9” and pleaded part and parcel hereof, is a true copy of the letter dated 29th April 2019 signed by H. E. the President sending the Petitioner IGP on compulsory leave.

81. On receipt of the said letter, the Petitioner IGP briefed the said Thusitha Wanigasinghe, Additional Secretary, Presidential Secretariat on the current status and left Police Headquarters.

82. However, the Petitioner states that no inquiries or preliminary steps whatsoever have been taken by any person to seek to remove the Petitioner in terms of the relevant statutory provisions.

83. The Petitioner states that thereafter the 2nd Respondent appears to have been purportedly appointed as Acting IGP by the President, which appointment was purportedly approved by the Constitutional Council.

84. The Petitioner is advised and states that the said appointment is unlawful, void *ab initio* and of no force or effect in law.

Petitioner IGP’s Security Details since undermined/compromised

85. On or about 30th April 2019, four (04) Police Sergeants involved in the Intelligence Work of the Petitioner IGP’s security detail were removed/transferred. Their scope was as follows:

- a. Prior to the IGP visiting a location, reconnaissance was conducted to ensure the safety of the IGP.

- b. Observing any suspicious vehicles and persons on the IGPs travel route.
- c. Providing intelligence support for the IGP's security.

On Tuesday, 30th April 2019

86. The Petitioner states that thereafter, on or about Tuesday, 30th April 2019 from about 9:20am to 7:55pm, a second statement was taken from him by the Committee appointed by the President.

On Wednesday, 5th May 2019

87. The Petitioner states that on or about Wednesday, 5th May 2019, two (02) Sub-Inspectors of the Special Task Force (STF) attached to the IGP's security detail were removed/transferred from the Petitioner IGP.

INFRINGEMENTS

88. The Petitioner is advised and states that the purported decision of the President to send the Petitioner on compulsory leave as reflected in "P9" is unlawful inasmuch as the President is not the disciplinary authority in respect of the Petitioner IGP, and does not have the power to send the Petitioner on compulsory leave.

89. The Petitioner is advised and states that any steps to remove him from the office of Inspector General of Police are required to be taken in terms of the Removal of Officers (Procedure) Act No. 05 of 2002, which was enacted to protect the holders of the offices of the Hon. Attorney General and Inspector General of Police from removal from such office, save in the manner and on the grounds provided for therein.

90. The Petitioner is not averse to being duly subjected to any inquiry duly set up in terms of the said Removal of Officers (Procedure) Act No. 05 of 2002, in as much as such an inquiry would be one that duly assures the degree of protection afforded to the independence of the holder of the office of Inspector General of Police.

91. The Petitioner states that it is evident that H. E. the President is taking various measures to circumvent the need to set up an inquiry into whether the Petitioner IGP was guilty of gross neglect of duty, in a bid to circumvent the protections afforded to the Petitioner by the Removal of Officers (Procedure) Act No. 05 of 2002.

92. The Petitioner states that he has effectively been removed from office without due observance of the law.
93. The Petitioner states that he gravely apprehends that he would be removed from office by H.E. the President in breach of the law and the lawfully established procedure for the removal of an I.G.P.
94. The Petitioner is advised that the conduct and/or acts and/or omissions *inter alia* of the President and of the Constitutional Council aforesaid constitute infringement of his fundamental rights guaranteed under and in terms of **Article 12(1)** and/or **Article 14(1)(g)** of the Constitution, inasmuch as they:
- a. Are *ultra vires* the powers of the President and the Constitutional Council and are unlawful, void ab initio and of no force or effect in law;
 - b. Violate the Petitioner's rights;
 - c. Violate several statutory and constitutional provisions and principles;
 - d. Are in breach of the principles of natural justice;
 - e. Are unreasonable;
 - f. Are in breach of the principles of proportionality, legitimate expectations and the duty to provide reasons;
 - g. Are motivated by improper and collateral considerations;
 - h. Have breached national security and deprived the People of Sri Lanka inclusive of the Petitioner of their rights.
95. The Petitioner apprehends as stated aforesaid that further infringement of his fundamental rights guaranteed under and in terms of **Article 12(1)** and/or **Article 14(1)(g)** of the Constitution is imminent.
96. In the aforesaid premises, the Petitioner states that unless the interim reliefs sought through this application are granted forthwith, this application would be rendered nugatory and grave and irreparable loss, harm and damage would be caused to the Petitioner.
97. The Petitioner respectfully reserves the right to add such other parties to this application as may be deemed or transpire to be necessary, and to effect such changes to this application by way of amendment (including the seeking of further/other reliefs) as may be rendered necessary by any matters subsequently transpiring to be necessary and/or expedient or occurring.
98. The Petitioner is advised and states that the actions impugned through this application constitute executive and/or administrative action within the contemplation of Article 126 of the Constitution.
99. The Petitioner has not previously invoked the jurisdiction of Your Lordships' Court in respect of this matter.

100. The Petitioner respectfully requests that Your Lordships' Court be pleased, in view of the matters concerning national security traversed in this Petition and annexed documents, to take such steps as may appear expedient to Your Lordships' Court to safeguard national security in dealing with this application.

101. In view of concerns relating to national security, the Petitioner reserves the right to tender documents marked "P3(a)" to "P8" under confidential cover to Your Lordships Court. In the premises, a copy of the full set of documents will be served to the Hon. Attorney General only, under confidential cover.

102. An affidavit of the Petitioner is appended hereto in support of the averments hereof.

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

- (a) Grant Leave to Proceed with this application;
- (b) Make Declaration that the actions of H. E. the President and/or the 3A to 3J Respondents impugned have infringed the fundamental rights of the Petitioner guaranteed under **Article 12(1)** of the Constitution and/or that such infringement continues;
- (c) Make Declaration that the actions of H. E. the President and/or the 3A to 3J Respondents impugned have infringed the fundamental rights of the Petitioner guaranteed under **Article 14(1)(g)** of the Constitution and/or that such infringement continues;
- (d) Make Declaration that the operation of the letter dated 29th April 2019 (marked **P9**) and consequential steps constitute infringement of the fundamental rights of the Petitioner guaranteed under **Article 12(1)** and/or **Article 14(1)(g)** of the Constitution;
- (e) Make Declaration that further infringement of the fundamental rights of the Petitioner guaranteed under **Article 12(1)** and/or **Article 14(1)(g)** of the Constitution is imminent;
- (f) Make Declaration that actions of H.E. the President and/or the 3A to 3J Respondents to exclude the Petitioner from office without recourse to the proper procedure and/or any steps to remove the Petitioner from office without due recourse to the provisions of the Removal of Officers (Procedure) Act No. 05 of 2002 constitute infringement of the fundamental rights of the Petitioner guaranteed under **Article 12(1)** and/or **Article 14(1)(g)** of the Constitution and/or that further such infringement is imminent;

- (g) Make an Order setting aside the decision of the President to send the Petitioner on compulsory leave as reflected in **P9**;
- (h) Make Order setting aside the appointment and confirmation by the President and/or the 3A to 3J Respondents of the 2nd Respondent as Acting Inspector General of Police;
- (i) Make an interim order suspending the decision of the President to send the Petitioner on compulsory leave as reflected in “**P9**” until the hearing and final determination of this application;

AND

- (j) Make an interim order suspending the appointment and/or confirmation by the President and/or the 3A to 3J Respondents of the 2nd Respondent as Acting Inspector General of Police until the hearing and final determination of this application;

AND

- (k) Make an interim order preventing steps by H.E. the President to remove the Petitioner from the office of Inspector General of Police until the hearing and final determination of this application;
- (l) Grant costs; and
- (m) Grant such further and other relief(s) as to Your Lordships’ Court shall seem meet.

Registered Attorneys-at-Law for the Petitioner