

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 and 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC FR No. 195/2022

1. Dr. Athulasiri Kumara Samarakoon.
2. Soosaiappu Neavis Morais.
3. Dr. Mahim Mendis.

Petitioners

Vs.

1. Hon. Ranil Wickremesinghe
Minister of Finance 2022-Present.
2. Mahinda Rajapakse
Former Cabinet Minister of Finance
2019 – 2020.
- 2A. Basil Rajapakse
Former Cabinet Minister of Finance
2020 – 2022.
- 2B. Ali Sabri, PC
Former Cabinet Minister of Finance
2022.
3. Prof. G.L. Peiris.
4. Dinesh Gunawardena.
5. Douglas Devenanada.
6. Dr. Ramesh Pathirana.
7. Prasanna Ranathunga.
8. Rohitha Abeygunawardena.

9. Dullas Alahapperuma.
10. Janaka Wakkumbura.
11. Mahinanda Aluthgamage.
12. Mahinda Amaraweera.
13. S.M. Chandrasena.
14. Nimal Siripala de Silva.
15. Johnston Fernando.
16. Udaya Gammanpila
17. Bandula Gunawardena.
18. Gamini Lokuge.
19. Vasudeva Nanayakkara.
20. Chamal Rajapakse.
21. Namal Rajapakse
22. Keheliya Rambukwella.
23. C.B. Ratnayake.
24. Pavithra Devi Wanniarachchi.
25. Sarath Weerasekera.
26. Wiman Weerawansa.
27. Janaka Bandara Tennakoon.

The 1st to 27th Respondents are all former Members of the Cabinet of Ministers of the Republic and presently sit as Members of Parliament of the Republic.

28. The Monetary Board of the Central Bank of Sri Lanka.
29. Ajith Nivad Cabral
Former Governor of the Central Bank of Sri Lanka.
30. W.D. Laxman
Former Governor of the Central Bank of Sri Lanka.
31. S.R. Attygalle
Former Secretary to the Treasury.
32. S.S.W. Kumarasinghe
Former Member of the Central Bank of Sri Lanka.
- 32A. Gotabaya Rajapakse

ADDED 32A RESPONDENT

33. Hon. Attorney General.
34. Chulantha Wickremaratne
Auditor General.
35. Hon. Justice Eva Wanasinghe.
36. Hon. Justice Deepali Wijesundara.
37. Mr. Chandra Nimal Wakishta.

Members of the Commission To Investigate Allegations of Bribery or Corruption.

38. Mr. P.B. Jayasundera.
39. Mr. Dhammika Dasanayake.

Respondents

1. Chandra Jayaratne
2. Julian Bolling
3. Jehan CanagaRetna,
4. Transparency International Sri Lanka

Petitioners

Vs

- 1(a) Hon. Attorney General.
- 1(b) Hon. Gotabaya Rajapakse
Former President of Sri Lanka.
2. Hon. Mahinda Rajapakse
Former Prime Minister, Former Minister of Buddhasasana, Religious & Cultural Affairs Former Minister of Urban Development & Housing, Former Minister of Economic Policies and Plan Implementation and Former Minister of Finance.
3. Hon. Basil Rajapakse
Former Minister of Finance.
4. Hon. M.U.M. Ali Sabri, PC
Former Minister of Finance.
5. Hon. Ranil Wickremesinghe
Prime Minister.
6. Deshamanya Professor W.D. Lakshman
Former Governor of the Central Bank.
7. Mr. Ajith Nivad Cabral
Former Governor of the Central Bank.

8. Dr. P. Nandalal Weerasinghe
Governor of the Central Bank of Sri Lanka.
9. The Monetary Board of the Central Bank of Sri Lanka.
10. S.R. Attygalle
Former Secretary to the Treasury.
11. Mr. K.M. Mahinda Siriwardana
Secretary to the Treasury.
12. Mr. Saliya Kithsiri Mark Pieris, PC.
President of the Bar Association of Sri Lanka.
13. Mr. Isuru Balapatabedi, AAL
Secretary of the Bar Association of Sri Lanka

Respondents

Before : Jayantha Jayasuriya, PC, CJ
 B.P. Aluwihare, PC, J
 Vijith K. Malalgoda, PC, J
 L.T.B. Dehideniya, J &
 Murdu N.B. Fernando, PC, J

Counsel : Upul Jayasooriya, PC with Vishwaka Peiris and Sampath Wijewardene for the Petitioners in SCFR 195/22.
 Chandaka Jayasundera, PC with S.A. Beiling, Chinthaka Fernando, Sayuri Liyanasooriya and Manisha Dissanayake for the Petitioner in SCFR 212/22.
 Romesh De Silva, PC with Uditha Egalahewa, PC and Niran Anketell for the 28th Respondent in SCFR 195/22 and 8th & 9th Respondents in SCFR 212/22.
 Shavendra Fernando PC with Jeevantha Jayathilake, A Arawwla Ralitha Amarasekera & Sapumal Tennakoon for the 29th Respondent in SCFR 195/22 and 7th Respondent in SCFR 212/22.

Nihal Jayawardena, PC with Radhya Herath for the 31st Respondent in SCFR 195/22 and 10th Respondent in SCFR 212/22.

Manohara de Silva, PC with Boopathy Kahathuduwa for 32nd Respondent in SCFR 195/22.

Nerin Pulle,PC, ASG, with Shiloma David , SC, Indumini Randeny & Vishni Ganepola, SC for the 33rd, 34th and 39th Respondents in SCFR 195/22 and 1A &11th Respondents in SCFR 212/22.

Anura Meddegoda, PC with Mr. Yasa Jayasekera, Chathura Galhena , Ms. Nadeesha Kannangara and Saumya Wijesinghe for the 38th Respondent in SCFR 195/22.

Gamini Marapana, PC with Navin Marapana for the 2nd &2A respondents in 195/22 and 2nd & 3rd respondents in SCFR 212/22.

K. Kanag Iswarn, PC with Shivaan Kanag Iswaran & Lakshmanan Jayakumar for the 12th & 13th Respondents in SCFR 212/22.

Suren Gnanaraj with Wathsala Kekulawala, Rashmi Dias and Sakuni Weeraratne for the 30th Respondent in SCFR 195/22 and 6th Respondent in SCFR 212/22.

Argued on : 01.08.2022,03.08.2022, 10.08.2022, 31.08.2022, 02.09.2022, 15.09.2022, 16.09.2022, 22.09.2022, 23.09.2022, 27.09.2022 and 03.10.2022

Decided on : 07.10.2022

Court is inclined to grant leave to proceed in both these applications for alleged violations of fundamental rights guaranteed under Articles 12(1) and 14(1)(g) of the Constitution. Accordingly, leave to proceed is granted for the said violations in terms of Article 126(2) of the Constitution, in both applications.

Court makes the following orders in SC FR 195/2022:

1. Leave to proceed is granted against 2nd, 2A, 2B, 3rd to 27th, 28th to 32nd, 32A and 38th respondents;

2. In view of Court's decision to grant leave to proceed against the 28th respondent board and the fact that two of former Governors of the Central Bank and two of the members who served in the 28th respondent board during the period relevant to this application have been cited as respondents in this application, Court is of the view that the remaining members of the 28th respondent board who served during the said period should also be made respondents.

Hence, **petitioners** are directed to add Dr. Sanjeewa Jayawardane P.C and Dr. Ranee Jayamaha who are current members of the 28th respondent board, as **32B & 32C respondents**. Petitioners are further directed to amend the Caption accordingly and the amended caption should be filed within two weeks from today;

3. **34th respondent** – Auditor General - is directed to conduct an audit upon examining all relevant material and submit a report on the following:

- a. the decision made by the 28th respondent (Monetary Board) to set the value of the Sri Lankan Rupee at or around 203/- as against the US Dollar and all matters connected to the said decision;
- b. the delay in seeking facilities from the IMF by the Republic;
- c. all matters relating to the settlement of International Sovereign Bond/s to the value of US\$ 500 million on 18.01.2022, utilising foreign reserves;

The said report should comprise observations, including whether any loss had been caused to the Central Bank due to one or more of the three matters referred to above. 34th respondent is further directed to submit to this court, the report titled “Special Audit Report on Financial Management and Public Debt Control in Sri Lanka 2018-2022” dated 4th July 2022.

34th respondent is further required to comply with the above directions not later than 02nd January 2023;

4. **28th respondent** – The Monetary Board of the Central Bank of Sri Lanka - is directed to produce all documents, relating to matters referred to by Dr. Sanjeewa Jayawardane P.C and Dr. Ranee Jayamaha, at the meeting of the Committee on Public Enterprise held on 25.05.2022, specifically;
 - a. the suggestion said to have been made, that the Republic should seek relief and / or other financial assistance from the International Monetary Fund,
 - b. objection to and / or otherwise disagreement expressed regarding the artificial maintenance of exchange rate of the Sri Lankan Rupee at / or at a level below 203/- as against the US Dollar.

Said documents are required to be submitted to this Court not later than 30th November 2022;

5. **Petitioners** are directed to issue notices through the Registrar of this Court on all the respondents against whom leave to proceed is granted and 32B and 32C respondents within one week of filing the further amended caption as per the direction (2) above.
6. **Registrar** is directed to communicate this order to the 28th and 34th respondents forthwith.

Court makes the following orders in SC FR 212/2022

7. Leave to proceed is granted against **1(b), 2nd, 3rd, 6th, 7th, 9th and 10th** respondents;
8. **8th respondent** – Governor of the Central Bank - is directed to produce copies of communications and recommendations given to the 1(b), 2nd, 3rd, 6th, 7th, 9th and 10th respondents by the Central Bank with regard to the matters impugned in this application during the time material to this application, not later than 30th November 2022;

9. **9th respondent** – The Monetary Board of the Central Bank of Sri Lanka - is directed to produce copies of all reports given to the 2nd and 3rd respondents in terms of sections 64 and 68 of the Monetary Law Act, No 37 of 1974, during the time relevant to this application, not later than 30th November 2022;
10. **Petitioners** are directed to issue notices through the Registrar of this Court on all the respondents against whom leave to proceed is granted within one week.
11. **Registrar** is directed to communicate this order to the 8th and 9th respondents, forthwith.

Both these matters are to be mentioned at 10.00 a.m. on 09th January 2023, for directions on filing of objections, written submissions and for scheduling the hearing.

Registrar is directed to constitute the same Bench.

Jayantha Jayasuriya, PC
Chief Justice

Buwaneka Aluwihare, PC
Judge of the Supreme Court

Vijith Malalgoda, PC
Judge of the Supreme Court

L.T.B.Dehideniya
Judge of the Supreme Court

Murdu N.B. Fernando, PC
Judge of the Supreme Court

