

**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.

1. **Tharindhu Jayawardena**
176/3, Oruthota, Gampaha
2. **Tharindu Amila Uduwaragedera**
Jayasewana, Bandarawela Road,
Ettampitiya

Petitioner

Vs

SC FR Appln No:

1. **C D Wickremaratne**
Inspector General of Police
Police Headquarters
Colombo 01
2. **Attorney General**
Attorney - General's Department
Colombo 12

Respondent

On this 11th day of July 2022,

**TO: HIS LORDSHIP THE CHIEF JUSTICE AND TO THEIR LORDSHIPS AND
LADYSHIPS THE OTHER HONOURABLE JUDGES OF THE SUPREME COURT OF
SRI LANKA:**

The Petition of the Petitioners above named appearing by his registered Attorney - at - Law Mr Ramzi Batcha states as follows:

1. The Petitioners are citizens of the Republic of Sri Lanka.

The Petitioners annex hereto marked as 'P1A' and 'P1B' respectively true copies of their national identity cards and plead the same as being part and parcel hereof.

2. The Petitioners state that;

- a. the 1st Respondent is the Inspector General of Police of the Republic of Sri Lanka;
- b. the 2nd Respondent is the Attorney - General of the Republic of Sri Lanka.

3. The Petitioners state that they make this application against the afore named Respondents based on information and documents available to them and state that they reserves their right to add any other Respondents as may be necessary for the effective and final determination of this application concerning the violations of their Fundamental Rights as described below.
4. The Petitioners state that this application relates to the imposition of a curfew on July 8th, 2022 by the 1st Respondent prohibiting the movement of persons with 07 Police divisions on pain of criminal sanctions. These acts and omissions are administrative and/or executive actions under and in terms of articles 17 and 126 of the Constitution of Sri Lanka.
5. The Petitioners make this application on their behalf and in the public interest.
6. The Petitioners are both journalists and are both award winning frontline investigative journalist who have worked to bring to public attention matters of national importance and whose articles and reports have dominated public debate from time to time in Sri Lanka.
7. The 1st Petitioner began his career at the national Sinhala language daily newspaper 'Lankadeeepa' in the year 2011. The 1st Petitioner has won the award for the 'Scoop of the Year' and 'Best feature Article using the Right to Information' at the Journalism Awards for Excellence in 2019 awarded by the Sri Lanka Editor's Guild.

The Petitioners annex hereto marked as '**P2A**' to '**P2B**' respectively proof of the same and plead the same as being part and parcel hereof.

8. The 1st Petitioner currently administers and operates an online news and commentary platform under the name and style of medialk.com available on world wide web <www.medialk.com>.
9. The 2nd Petitioner began his career in the 'Ravaya' and later in the 'Anidda' newspapers. In 2016, the 2nd Petitioner won the 'Denzil Peiris Young Reporter of the Year Award' at the Journalism Awards for Excellence in 2016 and the 'Mervyn De Silva Journalist of the Year Award' at the Journalism Awards for Excellence in 2020 awarded by the Sri Lanka Editor's Guild.

The Petitioners annex hereto marked as '**P3A**' to '**P3B**' respectively proof of the same and plead the same as being part and parcel hereof.

10. The 2nd Petitioner currently administers and operates an online news and commentary platform under the name and style of 'Satahan Radio' available on YouTube.

11. The 1st Petitioner was a former Secretary of the Sri Lanka Young Journalists' Association and is currently a Committee Member of the same. The 2nd Petitioner is a former President of the Sri Lanka Young Journalists Association. He is also an Executive Member of the Sri Lanka Working Journalists Association.
12. The Petitioners are both prominent and pioneer members of the protest movement that has situated itself at the Galle Face Green.
13. The Petitioners state that on July 8th, 2022 the 1st Respondent issued a public notice stating that a 'Police curfew' will be imposed in the Negombo, Kelaniya, Nugegoda, Mount Lavinia, Colombo North, Colombo South, and Colombo Central Police areas in the Western Province from 9.00 pm on July 8th, 2022 until further notice.

The Petitioners annex hereto marked as 'P4' a true copy of the said notice as available and circulated in the media and pleads the same as being part and parcel hereof.

14. Under the said 'Police curfew' the 1st Respondent stated that;
 - a. movement within the said Police areas was prohibited with residents ordered to stay indoors;
 - b. movement through the said Police areas was prohibited;
 - c. violations of these restrictions would be strictly dealt with criminal sanctions.
15. The said Police curfew was later lifted at 6.00 am on July 9th, 2022.

The Petitioners annex hereto marked as 'P5A' and 'P5B' respectively true copies of the notice and the covering letter and plead the same as being part and parcel hereof.

16. In the notice purportedly lifting the said curfew reference was made to the Gampaha Police division although no curfew was formally imposed on the said division.
17. The Petitioners state that the only statutory enactment that makes specific provision for the imposition of a curfew is section 16 of the Public Security Ordinance No: 25 of 1947 as amended.

The Petitioners annex hereto marked as 'P6' a true copy of a recent a gazette announcing a curfew and plead the same as being part and parcel hereof.

18. The Petitioners state that the said imposition of the purported 'Police curfew' is illegal, arbitrary and without any basis in law.
19. It is also malicious, an abuse of power and an instance of the use of power for an ulterior purpose.
20. The Petitioners state by July 8th, 2022 wide spread publicity was given to a mass public protest that was scheduled to be held on July 9th, 2022.
21. The Petitioners state that an application was made by the Police to obtain a court order preventing protestors entering the vicinity of the President's House but the said application was rejected by the Colombo Additional Magistrate.

The Petitioners annex hereto marked as 'P7' a true copy of a media report on the same and plead the same as being part and parcel hereof.

22. It is in this context that the 1st Respondent imposed this prohibition on public movement.
23. The Petitioners state that the Bar Association of Sri Lanka in a letter to the 1st Respondent called on him to withdraw the said order and stating that it was a violation of the Fundamental Rights of the citizens of the country.

The Petitioners annex hereto marked as 'P8' a true copy of the said letter and plead the same as being part and parcel hereof.

24. The Petitioners state that the Human Rights Commission of Sri Lanka also issued a statement characterising the curfew as an attempt to do indirectly what could not be done directly and called on the 1st Respondent to recall the illegal order which was described as a 'gross violation of the fundamental rights of the people'.

The Petitioners annex hereto marked as 'P9' a true copy of the said statement and plead the same as being part and parcel hereof.

25. The Petitioners state that two years before also by letter dated June 8th, 2020 the Human Rights Commission of Sri Lanka examined the legal provisions with regard to the imposition of 'curfew' and informed the 1st Respondent of its recommendations.

The Petitioners annex hereto marked as 'P10' a true copy of the said letter of the Human Rights Commission of Sri Lanka dated June 8th, 2020 and plead the same as being part and parcel hereof.

26. The Petitioners state that as a result of the said illegal curfew public transport and in particular train services were suspended.

The Petitioners annex hereto marked as 'P11' a true copy of news article in respect of the same and pleads the same as being part and parcel hereof.

27. The Petitioners state that when the said curfew was imposed they were in Colombo and their movements were prohibited. The caused them grave inconvenience and affected the performance of their functions as journalists.

28. The Petitioners on behalf of the Sri Lanka Young Journalists' Association sent an email to the 1st Respondent asking him to respect the Constitution and to withdraw the illegal order declaring a Police curfew.

The Petitioners annex hereto marked as 'P12' a printout of the said email and plead the same as being part and parcel hereof.

29. The Petitioners state that the 1st Respondent has by imposing a Police curfew by the document marked P4 violated the Petitioners' Fundamental Rights guaranteed under Articles 12(1), 14(1)(a), 14(1)(b), 14(1)(c) and 14(1)(h) of the Constitution.

30. The Petitioner states that they have not invoked the jurisdiction of this court previously in respect of the subject matter of this application.

Wherefore the Petitioners pray that Your Lordships' Court be pleased to:

- a. Grant Leave to Proceed;
- b. Declare that there was an infringement of the Petitioners' Fundamental Rights guaranteed under Article 12(1) of the Constitution by the 1st Respondent by the imposition of the Police curfew on July 8th, 2022;
- c. Declare that there was an infringement of the Petitioners' Fundamental Rights guaranteed under Article 14(1)(a) of the Constitution by the 1st Respondent by the imposition of the Police curfew on July 8th, 2022;
- d. Declare that there was an infringement of the Petitioners' Fundamental Rights guaranteed under Article 14(1)(b) of the Constitution by the 1st Respondent by the imposition of the Police curfew on July 8th, 2022;
- e. Declare that there was an infringement of the Petitioners' Fundamental Rights guaranteed under Article 14(1)(c) of the

Constitution by the 1st Respondent by the imposition of the Police curfew on July 8th, 2022;

- f. Declare that there was an infringement of the Petitioners' Fundamental Rights guaranteed under Article 14(1)(h) of the Constitution;
- g. Grant Compensation and Costs;
- h. Grant such and other further relief as shall seem meet to Your Lordships' Court.

Attorney at Law for the Petitioners