
**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. **Transparency International Sri Lanka
(Guarantee) Limited**
No. 366, Nawala Road, Nawala.
2. **Pulasthi Hewamanna,**
Chairperson, Transparency International Sri
Lanka (Guarantee) Limited,
No. 366, Nawala Road, Nawala.

SC (FR) Application No. :

110/24

PETITIONERS

v.

1. **Hon. Attorney General**
Attorney General's Department,
Hulftsdorp, Colombo 12.
2. **Hon. Attorney General**
Attorney General's Department,
Hulftsdorp, Colombo 12.
3. **Mahinda Yapa Abeywardana**
Speaker of Parliament and the Chairman of the
Constitutional Council of Sri Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
4. **Dinesh Gunawardena**
Prime Minister and Member of the Constitutional
Council of Sri Lanka,
Prime Minister's Office, 58, Sir Ernest De Silva
Mawatha, Colombo 7
5. **Sajith Premadasa**
Leader of the Opposition and Member of the
Constitutional Council of Sri Lanka, **TRUE COPY**

Attb#86y-l-Law

No. 30, Sir Marcus Fernando Mawatha, Colombo
07.

6. **Nimal Siripala de Silva**
Member of Parliament and Member of the
Constitutional Council of Sri Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte
7. **Kabir Hashim**
Member of Parliament and Member of the
Constitutional Council of Sri Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
8. **Sagara Kariyawasam**
Member of Parliament and Member of the
Constitutional Council of Sri Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
9. **Dr. Prathap Ramanujam**
Member of the Constitutional Council of Sri
Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
10. **Dr. Dilkushi Anula Wijesundere**
Member of the Constitutional Council of Sri
Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
11. **Dr. Dinesha Samararatne**
Member of the Constitutional Council of Sri
Lanka,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.
12. **Secretary General,**
Constitutional Council of Sri Lanka,
Constitutional Council-Office,
Parliament of Sri Lanka,
Sri Jayewardenepura Kotte.

13. **Justice W.M.N.P. Iddawala**
Chairman of the Commission to Investigate
Allegations of Bribery or Corruption;
14. **K.B.Rajapakse**
Commissioner of the Commission to Investigate
Allegations of Bribery or Corruption;
15. **Chethiya Goonesekera P.C**
Commissioner of the Commission to Investigate
Allegations of Bribery or Corruption;

The 13th to 15th Respondents: all of:
Commission to Investigate Allegations of
Bribery or Corruption,
36, Malalasekera Mawatha,
Colombo 07.

16. **W. Kanishka D. Wijeratne,**
Director General of the Commission to
Investigate Allegations of Bribery or Corruption,
36, Malalasekera Mawatha,
Colombo 07.

And also, of:
No. 276, Mahawatta Road,
Kottikawatte,
Mulleriyawa New Town.

17. **J. M. T. M. M. Madhawa Tennakoon,**
No. 42/5W, Kandewatta Rd.,
Battaramulla.
18. **Jude Nanayakkara,**
No. 3, St. Anthony's Mw., Welisara, Ragama.
19. **T. Josh Prabhakaran,**
"Rani Illam", Kandewatta Road, Battaramulla.
20. **Shaminda T. I. Wickrema,**
No. 42B, New Summit Flats, Colombo 05.
21. **Buddhika Jayalal Bandara Wickremarathne,**

No. 159, Ratnapura Road, Avissawella.

22. Fairly Murphy Henricus,
No. 42, Wilfred Gunsekara Mw., Fort, Matara.

RESPONDENTS

On this 30th day of April 2024

TO: **HIS LORDSHIP THE CHIEF JUSTICE, AND OTHER HONOURABLE
JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA.**

The Petition of the Petitioners above named appearing by Mr. Anuradha Weragoda, their Registered Attorney-at-Law states as follows:

THE PETITIONERS

1. The Petitioners state that:

- (a) The 1st Petitioner is an independent, non-governmental, non-profit, and non-partisan company limited by guarantee incorporated under the Laws of Sri Lanka. All of its Board of Directors are citizens of Sri Lanka. The 1st Petitioner has its registered office in the afore-mentioned address. The 1st Petitioner is the National Chapter of Transparency International (TI), the leading global movement against corruption. The 1st Petitioner raises awareness of the damaging effects of corruption and works with partners in government, business, and civil society to develop and implement effective measures to tackle it. TI has an international secretariat in Berlin, Germany, and close to 100 Chapters worldwide.

*Annexed hereto marked **PI(a)** and pleaded part and parcel hereof is the Certificate of Incorporation of the Petitioner.*

*Also annexed hereto marked **PI(b)** and pleaded part and parcel hereof, is a document compiled by the Petitioners containing their details inter alia as to who they are and what they do based on their official website available online at <https://www.tisrilanka.org/bod/>. The Petitioners further reserve the right to submit further material in relation to the averments made herein, in the event such is necessary and/or expedient to the determination of this Application.*

- (b) The 2nd Petitioner is a citizen of Sri Lanka. He is the Chairperson of the 1st Petitioner and an Attorney-at-Law of the Supreme Court of Sri Lanka engaged in active practice since 2008. He has appeared as counsel *inter alia* in numerous

cases for the protection and promotion of the public interest, including matters pertaining to elimination of corruption.

2. The Petitioners make this application in their own right, and in the public interest, intending to safeguard the rights and interests of the general public of Sri Lanka and secure due respect, regard for, and adherence to the Rule of Law and the Constitution, which is the supreme law of the land and further entertains a legitimate expectation that the Respondents exercise the powers given in trust to them in the manner set out in the Constitution and the other laws of the Republic.

THE RESPONDENTS

3. The Petitioners state that:

- (a) The 1st Respondent abovenamed is the Hon. Attorney General who is made a Respondent in terms of the proviso to Article 35(1) of the Constitution, as this application is made in respect of the infringement / imminent infringement / continuous infringement of fundamental rights of the Petitioners and the citizens of Sri Lanka similarly circumstanced as the Petitioners involving actions of the President of the Republic acting in his official capacity, as hereinafter more fully set out;
- (b) The 2nd Respondent abovenamed is the Hon. Attorney General who is made a Respondent to this application as required by law, in terms of the contemplation and requirements of Rule 44(1)(b) of the Supreme Court Rules read with Article 126(2), and 134(1) of the Constitution;
- (c) The 3rd to 11th Respondents are the Members of the Constitutional Council established in terms of Article 41A(1) of the Constitution;
- (d) The 12th Respondent is the Secretary General of the Constitutional Council of Sri Lanka;
- (e) The 13th to 15th Respondents are the Chairman and the other Commissioners of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC);
- (f) The 16th Respondent is the Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), whose appointment made on or about 02nd April 2024 is impugned herein for reasons hereinafter more fully set out; and
- (g) The 17th to 22nd Respondents are persons the Petitioners are given to understand and verily believe were the candidates shortlisted for the said post of Director General of the Commission to Investigate Allegations of Bribery or Corruption,

other than the 16th Respondent. The Petitioners further state that given the limitations set out in the Right to Information Act No. 12 of 2016, they were unable to obtain the official list of shortlisted candidates and/or to verify the completeness thereof. Therefore, the Petitioners further reserve the right to right to add any further or other parties as Respondents in the event such information is made available to the Petitioners and/or if such is deemed necessary and/or expedient for the determination of this Application.

BACKGROUND TO THE APPLICATION

4. Prior to the enactment of the Anti-Corruption Act, No. 09 of 2023, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and the matters incidental thereto were governed under the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19, of 1994 (now repealed).
5. The 1st Petitioner has been interested in the efficient and effective functioning of the CIABOC, which is the main anti-corruption agency in Sri Lanka to control and prevent corruption in Sri Lanka. In the circumstances, the 1st Petitioner has kept assessing the productivity of CIABOC over the years in relation to its staffing and other inquiries and published research data pertaining thereto in the public interest for the benefit of the People of Sri Lanka. The Report made on such research data recommended *inter alia*, having a team led by a high-level prosecutor with prosecuting experience to address the low performance in the rate of convictions.

*Annexed hereto marked **P2** and pleaded part and parcel hereof is a true copy of the extract of the Research Article published by the 1st Petitioner titled "ANTI-CORRUPTION AGENCY STRENGTHENING INITIATIVE: the Assessment Of The Commission To Investigate Allegations Of Bribery Or Corruption, Sri Lanka, 2016, of which the full copy is published on their official website available online at https://www.tisrilanka.org/pub/reports/ACA_SL_FINAL.pdf. The Petitioners further reserve the right to submit further material in relation to publication of the Petitioner, in the event such is necessary and/or expedient to the determination of this Application.*

6. On or about 23rd January 2020, the 16th Respondent was appointed the Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), in terms of Section 16 of the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19, of 1994 (now repealed).

*Annexed hereto marked **P3** and pleaded part and parcel hereof is a true copy of the News Article on the e-paper published by the Official News Site of the Morning on their official website available online at <https://www.themorning.lk/articles/66565>.*

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**CURRENT LAW RELATING TO APPOINTMENT OF THE DIRECTOR
GENERAL OF THE CIABOC**

7. With the enactment of the Anti-Corruption Act No. 09 of 2023, which was certified on 08th August 2023, the Commission to Investigate Allegations of Bribery or Corruption Act No. 19 of 1994 was repealed and replaced by the Anti-Corruption Act, No. 09 of 2023.
8. The Petitioners state that notwithstanding the repeal of the Commission to Investigate Allegations of Bribery or Corruption Act No. 19 of 1994, **Section 163(2)(h)** of the Anti-Corruption Act, No. 09 of 2023 provides, that:

“all officers and officials of the Commission to Investigate Allegations of Bribery or Corruption established under the Commission to Investigate Allegations of Bribery or Corruption Act No.19 of 1994 holding office prior to the date of commencement of this Act, shall be deemed with effect from the date of commencement of this Act to be the officers and officials of the Commission established under this Act, on terms not less favourable than the terms and conditions of employment to which they were entitled under the Commission to Investigate Allegations of Bribery or Corruption Act No.19 of 1994, and shall communicate to the commission, within three months of the establishment of the Commission, whether they opt to join the service of the Commission

Provided that ...”

9. Accordingly, all officers and officials of the CIABOC, including the 16th Respondent, who was holding office prior to the date of commencement of the Anti-Corruption Act No. 9 of 2023 are deemed to be officials and officers of the Commission established under the Anti-Corruption Act with effect from the date of commencement of this Act to be the officers and officials of the Commission established under this Act, and were further expressly required to communicate to the Commission, within three (03) months of the establishment of the Commission, whether they opt to join the service of the Commission. Any officers or officials opting to join the service of the Commission are entitled to be treated in terms of the proviso thereto.
10. In terms of the Anti-Corruption Act No. 09 of 2023, the 16th Respondent, who was the Director General of the CIABOC at the time of enactment of the Anti-Corruption Act was deemed to be the Director General of the CIABOC established thereunder, and accordingly, the 16th Respondent continued to perform duties as the Director General of CIABOC even after the establishment of the Commission under the Anti-Corruption Act No. 09 of 2023.
11. On or about 09th February 2024, it was published on the official website of Parliament that applications have been called for the appointment of the Director General of the

Commission to Investigate Allegations of Bribery or Corruption (CIABOC), pursuant to the provisions stipulated in the Anti-Corruption Act No 09 of 2023. The duly completed applications should be sent *via* registered post referred to the 12th Respondent or *via* email on or before 04 March 2024.

Annexed hereto marked P4(a) and pleaded part and parcel hereof is a true copy of the News Article published on the Official Website of the Parliament titled "Applications called for the appointment of the Director General to the Commission to Investigate Allegations of Bribery or Corruption" available online at <https://www.parliament.lk/en/news-en/view/3894?category=6&tmpl=component&print=1>.

Annexed hereto marked P4(b) and pleaded part and parcel hereof is a true copy of the Press Release issued by Parliament dated 09th February 2024.

Annexed hereto marked P4(c) and pleaded part and parcel hereof is a true copy of the extract containing the advertisement published in The Island Newspaper on 12th February 2024 on pg. 7 thereof.

Annexed hereto marked P4(d) and pleaded part and parcel hereof is a true copy of the extract containing the advertisement published in the Divaina Newspaper on 12th February 2024 on pg. 4 thereof.

12. Even after applications were called for the post of Director General of the CIABOC, the 16th Respondent continued to perform duties as the Director General of the CIABOC attending to its official duties. For example, on or about 21st March 2024, the 16th Respondent participated in a pivotal meeting that took place between the Chairman, Commissioners, and Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and the Ambassador of Japan to Sri Lanka.

Annexed hereto and marked P5 and pleaded as a part and parcel hereof is a true copy of the News Article on the Official Site of the CIABOC available online at <https://www.ciaboc.gov.lk/media-centre/latest-news/1203-japan-ambassador-led-team-meets-ciaboc-21-march-2024>.

IMPUGNED APPOINTMENT OF THE 16TH RESPONDENT

13. The Petitioners verily believe that the 16th to 19th Respondents applied for the post of the Director General to the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) as required under the Advertisement – P4(c) or P4(d), which was made in terms of the provisions of the Anti-Corruption Act, No. 9 of 2023.

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The Petitioners respectfully seek an appropriate direction by Your Lordships' Court to obtain the details of applications and/or applications submitted to the 12th Respondent and/or the Constitutional Council and of the shortlisted candidates, if such is deemed necessary and/or expedient to the determination of this Application.

14. The Petitioners further state that given the vital role of the Director General of CIABOC, who is *inter alia*, the Chief Executive Officer and the Chief Accounting Officer of the CIABOC in terms of Section 18 of the Anti-Corruption Act, No. 9 of 2023, certain qualifications and disqualifications pertaining to appointment and holding office as the Director General of CIABOC are statutorily prescribed in terms of Section 19 of the Anti-Corruption Act, No. 9 of 2023 read with Section 23(1) thereof. Thus and otherwise, the Petitioners state that there is a statutory fetter on the 16th Respondent being reappointed as the Director General of CIABOC.
15. The Petitioners reliably learnt later that the particulars relating to the appointment of the Director General of the CIABOC had been discussed by the Constitutional Council on or about 21st March 2024. However, the minutes of the relevant meeting and/or the points of discussion were not made available to the public nor were they made matters of public knowledge, until the result of the decision of the Constitutional Council and/or approval given by them resulted in the reappointment of the 16th Respondent on or about 02nd April 2024. The Petitioners further state that the Constitutional Council is required *inter alia*, to consider all relevant facts and circumstances in respect of any matter before them prior to reaching a decision on such matter and record the reasons for any such decision, in terms of the Constitutional Council Rules No. 1 of 2023.

Annexed hereto and marked P6 and pleaded as a part and parcel hereof is a true copy of the Constitutional Council Rules No. 1 of 2023 published in the Gazette Extraordinary No. 2364/40 dated 31st December 2023.

The Petitioners state that they are not aware of the matters discussed in relation to the appointment of the Director General of CIABOC by the Constitutional Council and/or Minutes of the Constitutional Council relating to the same and/or Minutes of the Constitutional Council dated 21st March 2024 and thus, seek an appropriate direction of Your Lordships' Court to obtain the same and further reserve the right to file the same if such is made available to the Petitioners and is necessary and/or expedient to the determination of this Application.

16. On or about 02nd April 2024, the 16th Respondent was yet again appointed the Director General of CIABOC by the President of the Republic. The Petitioners became aware of the same on or about 02nd April 2024.

Annexed hereto and marked P7 and pleaded as a part and parcel hereof is a true copy of the News Article on the e-paper published by the Official News Site of Ada Derana

on their official website available online
<https://www.adaderana.lk/news.php?nid=98366>.

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17. The Petitioners further state that however, to the best of the Petitioners' knowledge and belief, the 16th Respondent has not declared his assets and liabilities under the prevailing written law before assuming office as the Director General of CIABOC for the second time as required in terms of Section 19(g) of the Anti-Corruption Act No.9 of 2023.

THE PETITIONERS' COMPLAINT

18. The Petitioners state that the said appointment of the 16th Respondent is contrary to the provisions of the Anti-Corruption Act, No. 9 of 2023, and/or the advertisement – P4(c) or P4(d), and/or has not been made following due process as required and contemplated by the law of the Republic and an opaque, ambiguous and circuitous method has been followed in making the said appointment without due consideration of the need to follow due reasonable process and/or in a manner that entails due transparency amongst other relevant requirements.
19. The Petitioners further state that the Petitioners are reliably aware that the 16th Respondent only satisfies some and does not satisfy all the statutory requirements as per the Anti-Corruption Act, No. 9 of 2023, and/or all the criteria stipulated by the advertisement – P4(c) or P4(d), although satisfaction of all of them is statutorily required to be the Director General of the CIABOC. For example; the Petitioners verily believe that the 16th Respondent does not satisfy the criterion which requires to be an Attorney-at-Law with at least fifteen (15) years of experience and sound knowledge in criminal prosecution, in the same manner as several of the other applicants to the position. Experience as a prosecutor entails significant experiential learning with regard to matters outside of the courtroom pertaining to steps towards due prosecution that the Director General would require to have good insight into, in order to perform his functions satisfactorily. A person with a higher extent of experiential learning would have a clear advantage in that respect over a person with less. The Petitioners are reliably informed that the 16th Respondent was admitted and enrolled as an Attorney-at-Law in or about December 1999 and was appointed a judicial officer in or about 2004. The said 16th Respondent was appointed as the Director General of CIABOC under the Commission to Investigate Allegations of Bribery or Corruption Act No.19 of 1994 in or about January 2020.
20. The Petitioners further verily believe that the opaque and/or circuitous manner in which the impugned appointment of the 16th Respondent made constitutes undue circumvention of the law and very intention of Parliament in enacting the Anti-Corruption Act, No. 09 of 2023.

21. Furthermore, the Petitioners state that the appointment of the Chief Executive Officer of the main Anti-Corruption Agency of the Country requires due transparency and accountability insofar as:

- (a) Sri Lanka ratified the United Nations Convention Against Corruption (UNCAC) on 31st March 2004. Under the prevention measure, the said Convention highlights the requirement to ensure that their public services are subject to safeguards that promote efficiency, transparency, and recruitment based on merit.

Annexed hereto marked P8 and pleaded part and parcel hereof is a true copy of a relevant extract of the United Nations Convention Against Corruption (UNCAC) on 31st March 2004, the full copy of which is available online at <https://www.unodc.org/unodc/en/corruption/uncac.html>. The Petitioners respectfully reserve the right to tender the full copy in the event such is necessary and/or expedient to the determination of this application.

- (b) The Jakarta Statement on Principles for Anti-Corruption Agencies, issued at a Meeting of heads of Anti-Corruption Agencies (ACAs), Anti-Corruption practitioners, and Anti-Corruption experts from around the world held in Jakarta, Indonesia from 26th and 27th November 2012, requires heads of Anti-Corruption Agencies to be appointed through a process that ensures his or her apolitical stance, impartiality, neutrality, integrity and competence.

Annexed hereto marked P9 and pleaded part and parcel hereof is a true copy of the relevant extract of the Jakarta Statement on Principles for Anti-Corruption Agencies, issued at a Meeting of heads of Anti-Corruption Agencies (ACAs), Anti-Corruption practitioners, and Anti-Corruption experts from around the world held in Jakarta, Indonesia from 26th to 27th November 2012, the full copy of which is available online at https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

- (c) The Colombo Commentary on Jakarta Statement on Principles for Anti-Corruption Agencies, Vienna 2020, bids those who review and appoint the Anti-Corruption Agency (ACA) heads should vet candidates against a basic set of criteria to ensure that they have the requisite capacities to effectively perform the functions required and to ensure that the criteria described above are met, several ACAs appoint their senior leadership through an open, transparent, competitive and participatory recruitment process.

Annexed hereto marked P10 and pleaded part and parcel hereof is a true copy of the relevant extract of the Colombo Commentary on The Jakarta Statement

On Principles For Anti-Corruption Agencies, Vienna 2020, the full copy of which is available online at https://www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf.

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22. In the circumstances, the Petitioners state that the current process should be regularised in the manner required, mandated and contemplated by the law and a transparent process should be adopted that would duly consider good practices in making recruitments and/or selections that are given in Sri Lanka's law, including the principles developed through the jurisprudence of Your Lordships' Court under the jurisdiction conferred under and in terms of Article 126 of the Constitution, as well as in due consideration of good practices advocated by soft law.

INFRINGEMENT OF FUNDAMENTAL RIGHTS

23. In the circumstances, the Petitioners state that the appointment of the 16th Respondent as the Director General of the CIABOC is arbitrary, capricious, unreasonable, irrational, illegal and/or procedurally improper, and is a result of failure to consider relevant considerations and is *ex-facie* evidently a result of considering irrelevant and extraneous considerations which would imperil the rule of law and right to equal protection of the law of the citizens of the Republic.
24. Therefore, the Petitioners state that the Respondents and/or the State have acted in a manner that is arbitrary, capricious, unreasonable, illegal, unlawful, and/or procedurally improper and in violation of the fundamental rights guaranteed to the Petitioners and others similarly circumstanced under the Constitution. In the circumstances, the relevant Respondents and/or the State have failed to act lawfully and/or duly uphold the rule of law.
25. Thus and otherwise, the Petitioners state that one or more of the Respondents' and/or the State's decisions and/or actions and/or omissions constitute infringement and/or continuing infringement and/or imminent infringement of their fundamental rights guaranteed under **Article 12(1)** of the Constitution.
26. In the circumstances, the Petitioners further state that grave and irreparable loss, harm, damage, and prejudice would be caused to the Petitioners and the similarly circumstanced unless Your Lordships' Court is pleased to make an *Interim Order* restraining the 16th Respondent from assuming and/or discharging the duties and/or functioning as the holder of the position of Director General of the CIABOC until the hearing and final determination of this Application.
27. The Petitioners are advised that the Constitutional Council is established in terms of Article 41A(1) of the Constitution and is not a 'Committee of Parliament', and thus, is

not immune from suit in terms of Article 126 of the Constitution. The Petitioners are further advised and state that Article 41J of the Constitution expressly recognises that the decisions of the Constitutional Council are subject to the jurisdiction of Your Lordships' Court in terms of Article 126 of the Constitution.

28. Thus and otherwise, the Petitioners are advised and state that the decisions/conduct of the Respondents and/or the State impugned through this application constitute executive and/or administrative action within the meaning and contemplation of *Articles 126 read with Article 17* of the Constitution.
29. The Petitioners have come to Your Lordships' Court in view of infringement and/or continuing infringement and/or imminent infringement of fundamental rights guaranteed under **Article 12(1)** of the Constitution by any one or more of the 1st to 12th Respondents and/or other Respondents where the Petitioners and the People of Sri Lanka are concerned and accordingly, there is an urgent need to avert the impending grave prejudice set out hereinabove, and the failure to streamline and/or rectify the said missteps *pronto* would have adverse ripple effects on the credibility of the fight against corruption, the economy, international reputation and/or standing and the consequences thereof and due protection of public finance and rights unless immediate action is taken forthwith.
30. The Petitioners respectfully seek the indulgence of Your Lordships' Court to reserve the right to add any further or other parties as Respondents and/or tender further affidavits/documents and/or certified copies of the documents to substantiate the matters averred herein, and/or other documents pertaining to this Application in the event any further matters transpire and/or the taking of such steps transpire to be necessary or expedient.
31. The Petitioners have not previously invoked the jurisdiction of Your Lordships' Court in respect of this matter.
32. An affidavit of the 2nd Petitioner is appended hereto in support of the averments hereof.

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

- (a) Grant *leave to proceed* with this application in the first instance;
- (b) Declare that the decision(s)/action(s) of any one or more of the Respondents and/or the State have infringed and/or continuously infringed the fundamental rights of the Petitioners and People of Sri Lanka guaranteed under **Article 12(1)** of the Constitution;

- (c) Declare that the decision(s)/action(s) of any one or more Respondents and/or the State constitutes imminent infringement of the fundamental rights of the Petitioners and People of Sri Lanka guaranteed under **Article 12(1)** of the Constitution;
- (d) Declare that the recommendation(s) made by the 3rd to 11th Respondents and/or the 13th to 15th Respondents to appoint the 16th Respondent to the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) is null and void;
- (e) Declare that the purported steps taken by or on behalf of the 1st Respondent to appoint the 16th Respondent to the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) on the basis of the recommendation of the 3rd to 11th Respondents and/or the 13th to 15th Respondents is null and void;
- (f) Declare that the decision to appoint the 16th Respondent to the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) is null and void;
- (g) Declare that the appointment of the 16th Respondent to the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) by the 1st Respondent is null and void;
- (h) Declare that the letter of appointment of the 16th Respondent to the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) issued by the 1st Respondent is null and void;
- (i) In the alternative to the prayers (g) and (h) above, make an Order directing one or more of the Respondents to take steps to remove the 16th Respondent from the position of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and to duly take steps to make an appointment with due adherence to the provisions in the Anti-Corruption Act No. 09 of 2023;
- (j) Direct the 3rd to 11th Respondents and/or the 13th to 15th Respondents to take steps to make and/or adopt clear, transparent guidelines on making appointment and/or selection to the post of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC);
- (k) Make an ***Interim Order*** restraining the 16th Respondent from functioning and/or discharging the duties and/or functions of the holder of the office of the Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) until the hearing and final determination of this Application;

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- (l) Direct one or more Respondent(s) to submit to Your Lordships' Court prior to the hearing and final determination of this matter, in a manner that enables the Petitioners to set out their position(s) and/or concerns in respect thereof:
- i. the documents pertaining to any intimation made by the 16th Respondent in terms of **Section 163(2)(h)** of the Anti-Corruption Act No.9 of 2023 opting to join the service of the Commission;
 - ii. the details of all applications for the post of Director General of CIABOC submitted to the 12th Respondent and/or the Constitutional Council pursuant to the advertisement and/or notice P4(a) to P4(b);
 - iii. the details of the shortlisted candidates for the post of Director General of CIABOC pursuant to having received applications as per the advertisement and/or notice P4(a) to P4(b);
 - iv. the decisions and/or recommendations and/or approvals of the 1st Respondent (H.E. the President) and/or the 3rd to 11th Respondents (Constitutional Council) pertaining to the appointment of the 16th Respondent to the post of the Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC);
 - v. the Minutes and/or Decisions of the Constitutional Council in relation to the appointment of the 16th Respondent to the post of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC); and
 - vi. the letter of appointment of the 16th Respondent to the post of Director General of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC).

(m) Grant costs, and

(n) Grant such further and other relief(s) as Your Lordships' Court may deem meet.


Registered Attorney-at-Law for the Petitioners

Settled by:

Ms. Thilini Vidanagamage
Attorney-at-Law

Mr. Viran Corea
President's Counsel

Anuradha Senarath Weragoda
Attorney-at-Law, Notary Public,
Commissioner for Oaths & Company Secretary
"Sisila" Guruwela, Dompe.