

ONE WHO COMES TO COURT MUST COME WITH CLEAN HANDS: A CRITICAL REFLECTION ON CA WRIT APPLICATION 168/25

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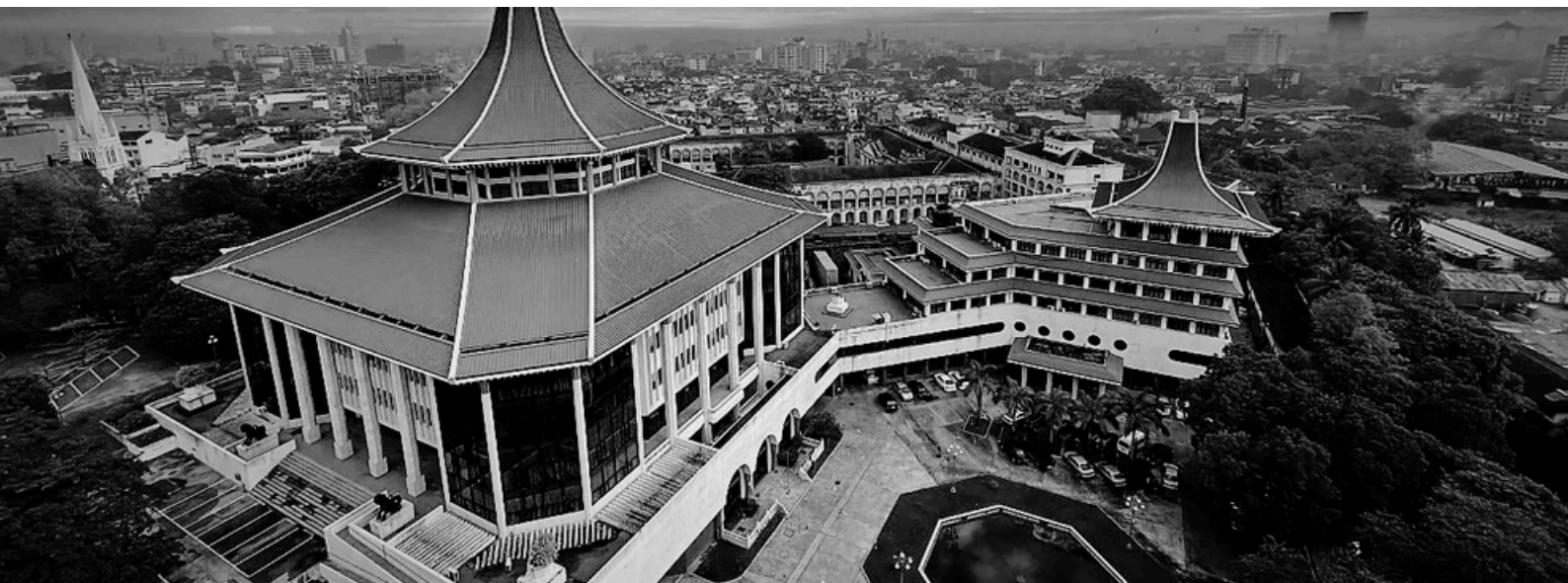
The case of *Deshabandu Tennakoon v. Hon. B. A. Aruna Indrajith Buddhadasa & Others* (CA Writ Application 168/25) has emerged as a significant legal proceeding in Sri Lanka, involving the former Inspector General of Police (IGP), Deshabandu Tennakoon. The case centers around a writ petition filed by Tennakoon challenging an arrest warrant issued against him in connection with a fatal shooting incident in Weligama in December 2023. The Court of Appeal's decision to dismiss the petition without a hearing underscores critical aspects of judicial review, procedural fairness, and the rule of law in the country.

On December 31, 2023, a police operation near the W15 Hotel in Weligama resulted in the death of a police officer.

The Matara Magistrate's Court deemed the operation unauthorized and issued an arrest warrant for Tennakoon and eight other police officers on charges of conspiracy to commit murder. Subsequently, Tennakoon filed a writ petition (CA Writ Application 168/25) seeking to quash the arrest warrant, arguing that it was procedurally flawed and violated his fundamental rights under Article 13(1) of the Constitution, which guarantees freedom from arbitrary arrest.

Legal Argument

Senior Counsel who appeared for the Tennakoon contended that the Magistrate lacked the legal authority



to issue the arrest warrant without first summoning Tennakoon. They argued that this omission constituted a breach of procedural fairness and an infringement of Tennakoon's constitutional rights. Additionally, the petition sought an interim injunction to prevent the execution of the arrest warrant and to halt further investigations into the incident.

Decision of the Court of Appeal

On March 17, 2025, the Court of Appeal, comprising Acting President, Justice Mohamed Lafar Tahir and Justice Sarath Dissanayake, dismissed Tennakoon's writ petition without a hearing. The court ordered the Criminal Investigation Department (CID) to arrest and present Tennakoon before the court, emphasizing that the petition did not warrant judicial intervention at that stage. The bench highlighted that the Magistrate's order was within legal bounds and that Tennakoon's arguments lacked sufficient merit to justify the issuance of writs of certiorari and prohibition. Moreover, citing *Victor Ivan v. Sarath N. Silva* [1998] 1 SLR 340, the court reaffirmed that every individual is entitled to a fair and thorough investigation, and that judicial officers bear the responsibility of ensuring that arrest orders are issued only after observing competent and just procedures. The Court further referenced *Dayananda v. Weerasinghe and Others* [1983] 2 SLR 84, underscoring that Magistrates must not function as passive "rubber stamps" but are duty-bound to critically and independently assess the evidence presented before them.



Implications of Judicial Review

The dismissal of Tennakoon's petition without a hearing underscores the discretionary nature of writ jurisdiction in Sri Lanka. It reflects the judiciary's stance on upholding the rule of law and ensuring that legal processes are not circumvented through premature judicial interventions. The court's decision reinforces the principle that public officials, regardless of their rank, are subject to the same legal standards and procedures as any other citizen.

The Court strongly criticized the Petitioner for deliberately evading arrest, emphasizing that as the head of the police force, he is expected to uphold the law—not defy it. In reinforcing the principle of equality before the law, the Court cited *Prohibitions del Roy* (1607), where Lord Coke famously declared that even the sovereign is bound by legal norms. The Court stressed that in a democratic society, no individual—regardless of status or authority—is above the law.

Furthermore, the Court referred to the Indian Supreme Court decision in *S.P. Chengalvaraya Naidu v. Jagannath* (AIR 1994 SC), which held that "one who comes to court must come with clean hands." The Petitioner's attempt to seek judicial relief while deliberately disregarding a lawful arrest warrant undermined his position, violating the "comply and complain" doctrine that requires compliance with legal obligations before seeking redress.

Public & Political Repercussions

The case has garnered significant public attention, with various civil society groups and political figures weighing in on the implications of the court's decision. The dismissal of the petition has been viewed by many as a reaffirmation of judicial independence and a step towards greater accountability within the law enforcement hierarchy. Conversely, some have expressed concerns about the potential politicization of legal proceedings and the need for safeguards to protect the rights of individuals facing criminal charges.

Conclusion

The case of *Deshabandu Tennakoon v. Hon. B. A. Aruna Indrajith Buddhadasa & Others* serves as a pivotal moment in Sri Lanka's legal landscape, highlighting the judiciary's commitment to upholding the rule of law and ensuring that legal processes are adhered to without undue influence. The Court of Appeal's decision to dismiss the writ petition without a hearing reinforces the principle that all individuals, regardless of their position, are accountable to the law. As the legal proceedings continue, the case will undoubtedly remain a focal point for discussions on judicial review, procedural fairness, and the balance between individual rights and the interests of justice in Sri Lanka.