

PETITION

**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 & 126 of the Constitution of the Republic.*

1. *Mr. Anura Bandara Meddegoda PC,*
Deputy President, Bar Association of Sri Lanka,
2. *Mr. Tennakoon Mudalige Sudanga Pasindu Silva,*
Attorney-at-Law, Assistant Secretary,

*The Petitioners of: The Bar Association of Sri Lanka,
No. 153, Minindu Mawatha, Colombo 12*

PETITIONERS

SC (FR) Application. No-

Vs.

1. **Hon. Attorney General**
Attorney General's Department, Colombo 12.
2. **Hon. Mahinda Rajapaksa**, Minister of Buddhasasana,
Religious & Cultural Affairs, Minister of Urban
Development & Housing and Minister of Economic
Policies & Plan Implementation.
3. **Hon. Nimal Siripala de Silva**,
Minister of Labour.
4. **Hon. S.B. Disanayake**,
Minister of Industries.
5. **Hon (Prof.) G.L. Peiris**,
Ministry of Foreign Affairs.
6. **Hon. (Mrs.) Pavithra Devi Wanniarachchi**,
Minister of Power.
7. **Hon. Dinesh Gunawardena**,
Minister of Education.
8. **Hon. Gamini Lokuge**,
Minister of Energy,
9. **Hon. Douglas Devananda**,
Minister of Fisheries,
10. **Hon. (Dr.) Bandula Gunawardena**,
Minister of Trade.
11. **Hon. C.B. Rathnayake**,
Minister of Wildlife & Forest Resources Conservation,
12. **Hon. Janaka Bandara Tennakoon**,
Minister of Public Services, Provincial Councils & Local
Government.

13. **Hon. Keheliya Rambukwella,**
Minister of Health.
 14. **Hon. Chamal Rajapaksa,**
Minister of Irrigation.
 15. **Hon. Dullas Alahapperuma,**
Minister of Mass Media.
 16. **Hon. Johnston Fernando,**
Minister of Highways.
 17. **Hon. Basil Rajapaksa,**
Minister of Finance,
 18. **Hon. Mahinda Amaraweera,**
Minister of Environment.
 19. **Hon. S.M. Chandrasena,**
Minister of Lands.
 20. **Hon. Mahindananda Aluthgamage,**
Minister of Agriculture.
 21. **Hon. Vasudeva Nanayakkara,**
Minister of Water Supply.
 22. **Hon. (Dr.) Ramesh Pathirana,**
Minister of Plantation.
 23. **Hon. Prasanna Ranatunga,**
Minister of Tourism.
 24. **Hon. Rohitha Abeygunawardhana,**
Minister of Ports & Shipping.
 25. **Hon. Namal Rajapaksa,**
Minister of Youth and Sports and Minister of
Development Co-ordination and Monitoring.
 26. **Hon. Ali Sabry,**
Minister of Justice.
 27. **Hon. Sarath Weerasekara,**
Minister of Public Security.
 28. **Hon. Dilum Amunugama,**
Minister of Transport.
- The 1st to the 28th Respondents above named
comprising the Cabinet of Ministers*
29. **Mr. W.M.D.J. Fernando,**
Secretary to the Cabinet. Office of the Cabinet of
Ministers Lloyd's Building, Sir Baron Jayathilaka Mw.,
Colombo 01,
 30. **Mr. Ajith Nivaad Cabraal,**
Governor of the Central Bank of Sri Lanka
 31. **Monetary Board of the Central Bank of Sri Lanka,**
Central Bank of Sri Lanka, Colombo 01

32. **Mr. S.R. Attygalle,**
Secretary to the Treasury/ Ministry of Finance.
33. **Mr. D.M.L. Bandaranayake,**
Secretary, Ministry of Agriculture.
34. **Ms. J.M. Bhadranie Jayawardhana,**
Secretary, Ministry of Trade.
35. **Ms. Wasantha Perera,**
Secretary, Ministry of Power.
36. **Mrs. K.D.R. Olga,**
Secretary, Ministry of Energy.
37. **Mr. N.B.M. Ranatunga,**
Secretary, Ministry of Transport.
38. **Major General (Retd). Jagath Alwis,**
Secretary, Ministry of Public Security.
39. **Ceylon Petroleum Corporation,**
No. 609, Dr. Danister de Silva, Mawatha, Colombo 09.
40. **Ceylon Electricity Board,**
No.50, Chittampalam A. Gardiner Mawatha,
Colombo 02.
41. **State Pharmaceutical Corporation of Sri Lanka,**
"Mehewara Piyasa", No. 41, Kirula Road,
Colombo 05.
42. **Hon. The Attorney General,**
Attorney General's Department, Colombo 12.

RESPONDENTS

TO :

HIS LORDSHIP THE CHIEF JUSTICE, AND THEIR LORDSHIPS; THE OTHER HONOURABLE JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.

On this 24th day of March 2022

The **Petition** of the **1st and 2nd Petitioners** above named appearing by **G.G. Arulpragasam** their registered Attorney-at-Law, states as follows.

THE PETITIONERS

1. The Petitioners are citizens of the Democratic Socialist Republic of Sri Lanka.
2. The 1st Petitioner is a President's Counsel and the Deputy President of the Bar Association of Sri Lanka [hereinafter sometimes referred to as the "BASL"]. The 2nd Petitioner is an Attorney-at-Law and the Assistant Secretary of the BASL.
3. The Petitioners state that in terms of Article 3 of the Constitution, Sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise.

4. The Petitioners state that in terms of Article 28 of the Constitution, it is the duty of every person in Sri Lanka *inter alia* to uphold and defend the Constitution and the law, to further the national interest and to foster national unity, to preserve and protect public property and to respect the rights and freedoms of others.
5. The Petitioners state that they make this application to Your Lordship's Court as People of Sri Lanka in whom sovereignty is reposed and as People of Sri Lanka in whom is also imposed several Fundamental Duties, under Article 28 of the Constitution. The Petitioners also make this application in the public interest.
6. In the instant application, the Petitioners are compelled to come before Your Lordships' Court, due to the severe shortages in essential goods and services, that are considered vital for the survival and existence of the citizens of the Republic in whom is guaranteed the fundamental right to equality, equal protection of the law and the right to life under the Constitution.
7. The Petitioners state that Sri Lanka is currently facing an unprecedented economic and financial crisis resulting in acute shortages *inter alia* of fuel, electricity, gas, food, milk powder and medicines.
8. The Petitioners state that the Country is also witnessing long queues for the purchase of supplies, mass protests and public unrest due to the sharp increase in the cost of goods and services including food, fuel and travel costs.
9. The Petitioners state that in view of the growing unrest and public protests witnessed across the island, they verily fear that there is a substantial, real and grave threat of a break down in the law and order situation of the Country and a substantial threat to the *Rule of Law*.

*Annexed herewith marked **P1** is a true copy of an article titled "Lanka battles worst economic crisis, troops at gas stations amid shortage" dated 23rd March 2022 found on <https://www.ndtv.com>*

10. The Petitioners state that in fact the BASL issued a statement about the impact of the economic crisis on the rule of law and democracy on 14th January 2022. An extract of the statement is reproduced below for Your Lordships' convenience;

"(...) a downturn in the economy can have far reaching adverse consequences to the Rule of Law and Governance of a Country. At its worst, economic decline can result in a complete breakdown of Law and Order, but even prior to that, serious repercussions flow from growing financial hardships that have to be borne by citizens that perpetuates inequality and the ability of citizens to enjoy or vindicate their rights, be they public or private rights. It goes without saying that the worst affected by economic hardship are the most vulnerable in society,"

*Attached herewith marked **P2** is a true copy of the statement issued by BASL on 14th January 2022 available online at <https://basl.lk/basl-statement-on-the-economy/>.*

11. The Petitioners state that notwithstanding the aforesaid statement by the BASL, the State failed to take adequate steps to address the aforesaid concerns and the Country's deteriorating economic situation.
12. The Petitioners therefore seek the immediate intervention of Your Lordships' Court to vindicate the *Rule of Law* and direct all relevant authorities and institutions to take immediate and requisite steps to address the grave violation of the fundamental rights of the Citizens including the right to life, by taking all such measures necessary to address the aforesaid grievances as a matter of priority and urgency.

THE RESPONDENTS

13. The Petitioners state that;

- a) The 1st Respondent is the Honourable Attorney General, who is named as a Respondent under and in terms of Article 35(3) of the Constitution as representative of His Excellency, the President, who is the Head of the Executive and the Head of the Cabinet of Ministers. His Excellency also holds several subjects and functions not assigned to any other Cabinet of Ministers including the subject of Defence.
- b) The 2nd to 28th Respondents therefore comprise the *Cabinet of Ministers*, who are vested with the direction and control of the Government of the Republic under the Constitution and in particular *Article 43* thereof. Along with the Public Service, such *Cabinet of Ministers* headed by the President, comprise the *Executive*;
- c) The 29th Respondent is the *Secretary* to the *Cabinet of Ministers* who is in charge of the Office of the Cabinet of Ministers by virtue of *Article 51* of the Constitution;
- d) The 30th Respondent is the Governor of the Central Bank of Sri Lanka, who is *inter alia* the Chief Executive Officer of the Central Bank of Sri Lanka, and the head of the Monetary Board of Sri Lanka.
- e) The 31st Respondent is the *Monetary Board of the Central Bank of Sri Lanka* which is a body corporate and may sue and be sued in its corporate name. The said Monetary Board has the power to do and perform all such acts as may be necessary for the purpose of carrying out the principles and provisions of *inter alia*, the *Monetary Law Act 58 of 1949* [as amended]. As the governing body of the Central Bank of Sri Lanka [*hereinafter sometimes referred to as Central Bank*], the Monetary Board is responsible for making all policy decisions and for the management, operation and administration of the Central Bank. The Petitioners further state that under the provisions of the aforesaid Act, the said Central Bank is responsible for the management of public debt as agent of the Government [*vide* section 113];
- f) The 32nd – 38th Respondents are the Secretaries to the Ministries of Finance, Agriculture, Trade, Power, Energy, Transport, and Public Security, respectively. The said 32nd – 38th Respondents are public officers in whom vests a duty in law to assist the Cabinet in formulating the necessary policies material to this application and in implementing the same.
- g) The 39th Respondent is the Ceylon Petroleum Corporation, which is a body corporate which can sue and be sued in its own name. The objectives of the Ceylon Petroleum Corporation are *inter alia*, to carry on business as an importer, exporter, seller, supplier and distributor of Petroleum.
- h) The 40th Respondent is the Ceylon Electricity Board, which is a body corporate which can sue and be sued in its own name. The mission of the Ceylon Electricity Board is to maintain an efficient, coordinated and economical system of electricity supply to the whole of Sri Lanka.
- i) The 41st Respondent is the State Pharmaceutical Corporation of Sri Lanka which is a body corporate which can sue and be sued in its own name, whose role is to *inter alia*, provide safe, efficacious medicinal products and health services at affordable prices.
- j) The 39th – 41st Respondents are public corporations in whom there is a statutory duty to provide the requisite essential public goods and/or services and in whom vests the duty to implement the requisite government policies in relation to the said goods and services coming within their mandate.
- k) The 42nd Respondent is the *Hon. The Attorney General* who is made a party hereto under and in terms of Article 134(1) of the Constitution and the Rules of Your Lordship's Court.

- 1) The Petitioners respectfully reserve their right to add parties as Respondents *in limine*, and/or any further material revealing their complicity in the actions or omissions complained of in the following paragraphs.

BACKGROUND TO THE INSTANT APPLICATION

14. The Petitioners state that Sri Lanka is currently facing an unprecedented economic and financial crisis. It has been reported by the Statistics Department of the Central Bank of Sri Lanka, that the Official Reserve Assets of Sri Lanka as at the end of February 2022 was USD 2, 313.8 Million.

Annexed herewith marked P3 is a true copy of the “Weekly Economics Indicator” dated 18th March 2022 issued by the Statistics Department of the Central Bank of Sri Lanka.

15. The Petitioners state that as a result of the current foreign exchange crisis, Sri Lanka has devalued the Rupee against the US Dollar, resulting in an exponential increase of all goods and services within the last few weeks as per the Petitioners’ knowledge. A summary of the said price increases are set out below:

	Price (as at 10.03.2022)	Price (as at 11.03.2022)
BREAD	80 - 100	110 - 130
WHEAT FLOUR	150	190
DHAL	330	360
SUGAR	150	170
IOC DIESEL	139	214
IOC PETROL (OCT 92)	204	254
THREE WHELL RIDE (1KM)	70	80
AIRLINE		27%
MEDICINE		29%
MOBILE PHONES		30%

Source: <https://economynext.com/commodity-staple-prices-soar-in-sri-lanka-after-rupee-devaluation-91554/>

Annexed herewith marked P4(a) is a true copy of the news item titled “Commodity staple prices soar in Sri Lanka after rupee devaluation” dated 11th March 2022 found on <https://economynext.com>

16. The Petitioners state that additionally, the price of a 12.5kg Laugfs LP Gas cylinder has increased to approximately Rs. 4199, and the price of a packet of milk powder (400g), has increased by from Rs. 540 to Rs. 790.

Annexed herewith marked P4(b) is a true copy of the news item titled “Laugfs Gas price increased from record amount” found on <https://www.newswire.lk>

Annexed herewith marked P4(c) is a true copy of the news item titled “Cup of milk tea to cost 100 rupees in Sri Lanka” dated 20th March 2022 found on <https://economynext.com>

17. The Petitioners state that the *Monetary Board of the Central Bank* is required to maintain the international stability of the Sri Lankan rupee and to assure the greatest possible freedom of its use for current international transactions, whilst maintaining among the assets of the Central Bank an international reserve adequate to meet any foreseeable deficits in the international balance of payments by virtue of *section 66 of the Monetary Law Act No. 37 of 1974 (as amended)*.

Annexed herewith marked P4(d) is an article on the dangers of fixing the exchange dollar rate found online at <https://island.lk/fixing-the-dollar-exchange-rate-a-major-mistake/>.

18. The Petitioners state that due to the actions or inactions of the State including the Respondents, Sri Lanka is currently struggling to repay its foreign loans unless existing debt is restructured or new foreign investment is injected into the Sri Lankan economy.

19. The Petitioners however state that unless one or more of the Respondents are compelled to take necessary action to take such remedial measures in addressing the present crisis, the Petitioners verily believe that the Country could plunge into economic turmoil and further civil unrest.

Annexed herewith marked P4(e) is a news item titled "People have no choice but to take to the streets- Sirisena" dated 14th March 2022 found on <https://ceylontoday.lk>

20. The Petitioners state that, Sri Lanka's economic and financial crisis has resulted in acute shortages of essential items such as Fuel, Gas, Electricity, Milk Powder, Food and Medicines, which are basic necessities all People should have access to in a modern democracy. The Petitioners only refer to some of such shortages witnessed in Sri Lanka at present.

Fuel Shortages

21. The Petitioners state that the current shortages of petrol, diesel and kerosene oil have caused interconnected issues of food security and electricity supply shortages. For convenience of Your Lordships' Court, the Petitioners set out below extracts from certain news articles;

- a) Newsfirst.lk has reported on the fuel crisis in the following manner;

"A worsening shortage of fuel has brought Sri Lankans of all walks of life to mile-long queues across the island, with little hope for a solution over the coming days. (...)The situation has worsened with farmers, already struck by the fertilizer crisis, left with no fuel for machinery used to harvest crops. Farmers from 'breadbasket' areas in Sri Lanka were seen spending long nights on the street near fuel stations, for want of fuel to run crop processing machinery during a very short 'dry' window before rains are forecast. Farmers say that if harvested crops are not processed before wet weather hits, it could result in an unmitigated disaster.

Public transport has also come to a near standstill, and many Sri Lankans are finding it next to impossible to get to their places of work or carry out their day-to-day activities. The fuel shortage has also resulted in vegetables at the key wholesale markets dropping to a low, as they cannot be transported out of the markets to towns and villages."

Annexed herewith marked P4(f) is a true copy of a news article titled "Fuel crisis brings Sri Lanka to its knees" found on <https://www.newsfirst.lk/>

- b) similar reports pertaining to the diesel shortage are as set out below;

"A crippling fuel shortage and consequent power cuts across Sri Lanka are threatening to worsen the island nation's persisting economic crisis, while sparking protests from citizens.

Long queues of vehicle users lining up outside petrol sheds has become a frequent sight in capital Colombo and in several other parts of the country this week, as Sri Lanka is unable to pay for fuel imports."

*Annexed herewith marked **P4(g)** is a true copy of a news item titled "Fuel Shortage, Power outages aggravate Sri Lanka's economic crisis found on <https://www.thehindu.com>*

- c) It has been reported in the newspapers that the supply of coal for the Norochcholai Power Plant is also available only until the month of August 2022. The Petitioners are made to understand that there will be catastrophic consequences to the electricity supply if the supply of coal is restricted.

*Annexed herewith marked **P4(h)** is a true copy of a news article titled "Power crisis: LCs bottleneck coal supply" dated 6th March 2022 found online on <https://www.themorning.lk/power-crisis-lcs-bottleneck-coal-supply/>*

- d) The difficulties faced by the export sector has also been reported in the following manner;

"Sri Lanka Association of Manufacturers and Exporters of Rubber Products (SLAMERP) is requesting the government to provide continuous power for export industry factories as the production is getting interrupted due to the current power cuts introduced by the Public Utilities Commission of Sri Lanka (PUCSL) ... In our view, the country and the export sector cannot progress without stable energy and power supplies to key industries and services... "We call upon the government and authorities to immediately come up with a sustainable solution in order to support the export sector as the industry is worried that the continuation of disruptions will translate into losing of confidence of international buyers for sourcing from Sri Lanka, if we are unable to produce on time and ship out cargo from Sri Lanka."

*Annexed herewith marked **P4(i)** is a true copy of a news article titled "SLAMERP requests uninterrupted power, fuel for manufacturing and export sectors" dated 3rd March 2022 found on <https://www.dailynews.lk>*

Food security

22. The Petitioners are aware that the former *Secretary* to the *Ministry of Agriculture Prof. Uditha K. Rajapaksa* indicated in December 2021, that there could be food shortages in Sri Lanka and addressed the media on possible steps to prevent an imminent food shortage. However, the said public official was removed from office the day after making such statement and therefore the Petitioners are of the reasonable apprehension that a imminent food scarcity was known to the State and the Respondents but no adequate steps were taken to prevent or limit the impact of such food shortages. For convenience of Your Lordships' Court, the Petitioners recreate below some relevant portions from such news item;

"Food security and sovereignty are two of my main areas of research. (...) "We have to warn the people now. There is no point in waiting till March 2022 and say that we are in trouble. It will be too late. We must warn farmers and the consumers and to take precautions and make use of the next three months to ensure that there won't be any shortages. This is why I said that there will be a shortage, I was not trying to undermine the government, (...) During meetings with the Minister of Agriculture we often discussed the matter of food shortages. Apart from the people who want to pretend otherwise, everyone knows we are headed for a crisis."

*Annexed herewith marked **P4(j)** is a true copy of the said news item titled "Ousted Agriculture Secretary predicts food shortage in April" By Rathindra Kuruwita published in the <https://island.lk/>*

23. The Petitioners are aware that immediately after *Secretary* to the *Ministry of Agriculture Prof. Uditha K. Rajapaksa* indicated in December 2021, that there could be food shortages, the *Minister of Agriculture*, specifically publicly contradicted such, and stated that there would be no food shortage. The *Secretary* to the *Ministry of Agriculture* was thereafter removed from his post.

*Annexed herewith marked **P4(k)** is an article titled "Agri. Minister assures there will be no food shortage" dated 24th December 2021 found on <http://www.adaderana.lk>*

Electricity supply shortages

24. The Petitioners are aware that nationwide power cuts have also been imposed in Sri Lanka in order to enable electricity rationing as the foreign exchange crisis leaves the country unable to finance oil imports for its power plants and the low output from hydro

25. The Petitioners are aware that the daily power cuts up to 7 ½ hours per day which are being imposed are the longest since 1996. This has had an adverse impact on the living conditions of the People including students and have also adversely affected business and livelihood of People. For convenience of Your Lordships' Court, the Petitioners set out below some relevant portions from news items published in local and international media;

a) The Hindu reported on the 7 ½ hour power cuts the country is facing in the following manner;

"Sri Lanka on Tuesday announced nationwide seven-and-a-half hour daily power cuts, the longest in more than a quarter of a century, as its foreign exchange crisis leaves it unable to import oil. (...)

The country is now in the grip of an economic crisis, with widespread shortages, including food, medicines, automotive parts and cement, and supermarkets forced to ration staple foods including rice, sugar and milk powder."

*Annexed herewith marked **P4(l)** is a true copy of the news item titled "Sri Lanka imposes longest power cuts in 26 years" dated 2nd March 2022 as appears on <https://www.thehindu.com>*

b) Whereas similarly, Aljazeera reported in the following manner;

"Utilities Commission chairman Janaka Ratnayake said the "shortage of fuel is causing this issue" while adding that "we are having a fuel crisis not an electricity crisis".

Depleted foreign reserves are driving Sri Lanka's worst economic crisis in decades. A currency crunch has hindered imports of fuel and other essentials from overseas, including milk powder, cooking gas and petrol."

*Annexed herewith marked **P4(m)** is a true copy of the news item titled "Sri Lanka imposes rolling power cuts as economic crisis worsens" dated 22nd February 2022 found on <https://www.aljazeera.com>*

Shortages in the supply of gas

26. The Petitioners state that there have been shortages in the supply of LP gas for the purposes of cooking. The Petitioners state that the shortages of the supply of LP gas has resulted in citizen being compelled to resort to alternative methods including kerosene oil and firewood, which alternatives are also at present in short supply.

27. The Petitioners state that the shortages of LP gas have resulted in the closure of food and beverage businesses, restaurants and canteens in the country and long queues of citizens with empty gas cylinders waiting for gas supplies. This has resulted in serious food shortages in the Country.

*Annexed herewith marked **P4(n)** is a true copy of the news item titled "Hundreds of bakeries shut in Sri Lanka after cooking gas runs out" dated 7th March 2022 found on <https://www.reuters.com>*

Shortages in medicines

28. The Petitioners are aware that the reluctance of banks to issue Letters of Credit, due to the prevailing foreign exchange crisis has also led to a shortage of medicines in the Country.
29. The Petitioners state that at a recent conference held with the Sri Lanka Chamber of the Pharmaceutical Industry (SLCPI), the SLCPI officials confirmed current shortages in essential medicines and raised their deep concerns over supplies moving forward.

*Annexed herewith marked **P4(o)** is a true copy of the news item titled "Pharma industry sets the record straight on medicine shortages in Sri Lanka" dated 2nd March 2022, found on <http://bizenglish.adaderana.lk>*

30. The President of the *College of Medical Laboratory Science Sri Lanka* had also cautioned the public recently that the country would be short of about 80 types of drugs due to the procurement delays owing to the non-issuance of Letters of Credit to purchase the estimated drugs required for 2022.

*Annexed herewith marked **P4(p)** is a true copy of the news item titled "Medical drug shortage imminent" dated 11th January 2022 found on <https://ceylontoday.lk>*

31. In a recent news article, it was reported that the *Maharagama Apeksha Cancer Hospital* has also been experiencing a shortage of medicines and drugs for a period of time.

*Annexed herewith marked **P4(q)** is a true copy of the news item titled "Patients in grim conditions as hospitals experience drug shortage" dated 19th February 2022 found on <https://www.newsfirst.lk>*

The Impact on the livelihood of people and the vulnerable communities

32. The Petitioners state that the prevailing shortages in necessities and the sharp price hikes imposed on essential goods and services have severely impacted several industries and the livelihoods of people in violation of their fundamental rights including their rights guaranteed under Article 14(1)(g) of the Constitution. For convenience of Your Lordships' Court, the Petitioners recreate below some relevant portions from such news items.

- a) The UK has amended its travel advisory to Sri Lanka, warning travelers of the deteriorating economic situation in Sri Lanka with shortages of basic necessities including medicines, fuel and food.

*Annexed herewith marked **P4(r)** is a copy of the UK Travel Advisory to Sri Lanka as at 15th March 2022 found on <https://www.gov.uk/foreign-travel-advice/sri-lanka>*

*Annexed herewith marked **P4(s)** is a true copy of the news item titled "Sri Lanka's forex crisis hits tourism industry, Canada and UK warns travelers" dated 14th March 2022, as found on <https://www.hindustantimes.com>*

- b) The impact on the informal tourism sector has been reported on Ceylon Today as follows:

"The informal tourism sector is worse hit by power outages, fuel shortages, and gas shortages than the formal sector, which is registered with the Sri Lanka Tourism Development Authority... Some of the small hotels were cooking meals with firewood due to a serious shortage of cooking gas. They are also without power most of the time. According to reliable sources, there is no assessment of the informal sector, and tourists who came for a long stay are leaving due to the crisis. He said some of the small hotels that have good tour packages for tourists are unable to obtain fuel too, as they don't have a permit from the SLTDA."

*Annexed herewith marked **P4(t)** is a true copy of the news item titled "Power outages, fuel crisis: Informal tourism sector badly hit" dated 8th March 2022 on <https://ceylontoday.lk>*

- c) The impact on school children, the fishing industry, travel industry etc. have been reported in Aljazeera as follows;

“The crisis has forced children to study using homemade kerosene oil lamps, fishermen to limit fishing and shops and industries to limit production and business.... Vehicles and people holding containers stand in sometimes queues that sometimes stretch for kilometers at gas stations. Passenger buses and trucks transporting goods are unable to operate normally. The limited number of foreign tourists visiting the country are confined to their hotels, unable to travel. Some spend time in the dark.”

Annexed herewith marked P4(u) is a true copy of the news item titled “Power cuts in Sri Lanka have hit all walks of life” dated 10th March 2020 on <https://www.aljazeera.com>

- d) Similarly, the Guardian has also reported on the shortages and crisis as follows:

“Residents had already been reeling from weeks of shortages that crippled public transport and caused long queues for petrol, food and medicine... As fuel prices went up on Friday, bakery owners announced bread prices were rising by 42 percent, while the government allowed pharmacies to raise medicines across the board by 29 percent... Overall inflation hit a record 16.8 percent in January with food prices up 25 percent... Supermarkets are rationing staple foods including rice, sugar and milk powder.”

Annexed herewith marked P4(v) is a true copy of the news item titled “Prices spike as rupee plummets in struggling Sri Lanka” dated 11th March 2022 on <https://guardian.ng>

- e) The sharp price hikes imposed on 11th March 2022 have been reported by Newsfirst.lk as follows:

Bread: increased by Rs. 30/-
Fuel: increase of Rs. 50/- for petrol and Rs. 75/- for diesel
Wheat flour: increased between Rs. 35- 45/-
Rice packets: increased by Rs. 20/
Three wheeler fare: increased for the 1st km to Rs. 80/-
Airline tickets: increased by 27%.

Annexed herewith marked P4(w) is a true copy of the news item titled “PriceHikeFriday: Here’s a list of the latest price increases”, dated 11th March 2022 on www.newsfirst.lk

- f) The cancellation of school examinations due to the unavailability of paper, has also been reported in the “The Guardian” as follows:

“Sri Lanka has cancelled school exams for millions of students after running out of printing paper, as the country contends with its worst financial crisis since independence in 1948. Education authorities said on Saturday the term tests, scheduled a week from Monday, were postponed indefinitely due to an acute paper shortage, with Colombo short on funds to finance imports.

Official sources said the problem could hold up tests for around two thirds of the country’s 4.5 million students.”

Annexed herewith marked P4(x) is a true copy of the news item titled “Sri Lanka cancels school exams over paper shortage as financial crisis bites” dated 20th March 2022 found on <https://www.theguardian.com/international>

33. The Petitioners state that at least four persons have reportedly died, whilst waiting in queues for fuel and kerosene.

Annexed herewith marked P4(y) is a true copy of the news item titled “Fourth fuel- queue death in Sri Lanka in under 48 hours ” dated 21st March 2022 found on <https://economynext.com>

THE STATE'S FAILURE TO TAKE IMMEDIATE ACTION COULD RESULT IN BREAK DOWN OF LAW & ORDER & THE RULE OF LAW

34. The Petitioners state that, from the information available in the public domain and the present economic crisis, several public statements have been made indicating the dire situation the citizens of the Republic are currently facing due to the on-going shortages of essential goods and services described above.

35. The Petitioners are aware that the Chambers of Commerce had issued a joint statement on the current crisis that will result in many adverse consequences to the country, if it remains unresolved and have repeatedly urged the political authorities to resolve issues as soon as possible.

Attached herewith marked P5 is a true copy of the news item titled "Joint Chambers demand Government to Resolve the shortage of forex to prevent paralysis of the Economy" dated 4th March 2022 reporting the statement by Joint Chambers, found on <http://bizenglish.adaderana.lk>

36. The Petitioners state that even the chief incumbents of the Malwatte and Asgiriya Temples have written to His Excellency the President seeking that immediate steps be taken to alleviate the hardship's of the public.

Annexed herewith marked P6 is a true copy of the news item titled "Malwathu and Asgiri Mahanayake Theras write 14 point letter to President" dated 22nd March 2022 found on <http://www.adaderana.lk>

37. The Petitioners however maintain that the State including the Respondents have failed and/or neglected to address the aforesaid issues and thereby have infringed the fundamental rights of the Petitioners and that of the people of Sri Lanka.

38. The Petitioners state that they are deeply concerned that there is a possibility of an imminent break down in the law and order situation of the Country and a breakdown in the *Rule of Law* of the Republic.

39. The Petitioners state that the Country is already experiencing mass protests regarding the severe shortages of necessities which severely impact their livelihood and endanger the family unit which is the basic unit of society.

Annexed herewith marked P7 is a true copy of the news item titled "A season of protests in Sri Lanka as crisis worsens" dated 16th March 2022 found on <https://www.thehindu.com>

VIOLATION OF THE RULE OF LAW & THE PUBLIC TRUST DOCTRINE

40. The Petitioners state that the acts or omissions of the State including the Respondents has infringed and is a continuing violation of the fundamental rights of the Citizens including that of the Petitioners guaranteed under Articles 11, 12, 13 and 14 of the Constitution. Therefore, unless immediate steps are taken to alleviate the aforesaid continuing violation of the fundamental rights, the Petitioners verily believe that there is a likelihood of a complete and irremediable threat of a break down in the Rule of Law. The Petitioners state that;

a) Respect for the Rule of Law requires the observance of minimum standards of openness, fairness, and accountability in administration [*vide Jayawardena v. Dharani Wijetilake [2001] 1 Sri LR 132, 143*] including in the formulation of policies that can have an impact on the People's access to necessities;

b) Preventing the erosion of the *Rule of Law* is a primary function of an independent judiciary [*vide Premachandra v Jayawickrama [1994] 2 Sri LR 90, 102*].

41. The Petitioners state that the concept of the *Rule of Law* has within it *inter alia*, elements such as public power which should be exercised in good faith, reasonably, for the purpose it was given and should ensure that human rights must be protected.

42. The Petitioners state that, fairness dictates that the People's right to be informed, requires obligations and responsibilities be placed on the State, to fairly and transparently be accountable for all its decisions.
43. The Petitioners state that the Respondents must fairly and transparently account for the policies that the State intends to formulate, to address the severe shortages of goods and services the Republic is currently facing.

BREACH OF PUBLIC TRUST

44. The Petitioners further state that the *Public Trust Doctrine* stems from, among other things, the *Rule of Law* and the concept of the right to equality enshrined in *Article 12(1)* of the Constitution.
45. The Petitioners state that in a participatory democracy, which assures to all Peoples freedom, equality, justice and fundamental rights, so that dignity and freedom of the individual may be assured, just social and economic order attained, the powers vested in the State and in Respondents, are **held in trust for the public**, and must be exercised for the benefit of the People who are *Sovereign*. Such near contractual promise is made to the People in the *Preamble* to the Constitution itself.
46. The Petitioners state that such *Sovereignty* is justiciable.
47. The Petitioners verily believe that the *Sovereignty* of the People, and the principles of a representative democracy, also has within it, this concept of *Public Trust Doctrine* [*vide Bulankulama v. Secretary, Ministry of Industrial Development (Eppawela Case) [2000] 3 SLR 243, 253*].
48. The Petitioners state that harmonization of rights is permissible only if duly regulated within permissible, clearly set out policies, rules and regulations, taking into consideration the fundamental rights of citizens. The Petitioners state that Your Lordships' Court has time and time again held that;
 - a) The basic premise of Public Law is that power is held in trust [*Re the Nineteenth Amendment to the Constitution [2002] 3 SLR 85*]
 - b) Powers conferred on the executive are solely to be used for the public good, as such powers are held in trust for the public, to be exercised reasonably and in good faith, and upon lawful and relevant grounds of public interest [*vide de Silva v Atukorale [1993] 1 SLR 283, 297*]
 - c) The doctrine of public trust, assures each and every citizen that their best interest, and the nation's best interests are paramount and pivotal, and the only and central concern would be the safeguarding of the people's interest; [*vide In Re the Appropriation Bill SC (SD) 15/2012, SC Minutes 22 October 2012, 1*]
 - d) Such public trust extends to all facets of the country including economic opportunities or other assets all of which must be used in a manner for economic growth and always for the benefit of the entirety of the citizenry [*vide Sugathapala Mendis v Chandrika Kumaratunga And Others (Waters Edge Case) [2008] 2 SLR 339, 374*]
49. The Petitioners state that *Article 1* of the Constitution, specifically provides that Sri Lanka is a *Democratic Socialist Republic*. The Petitioners state that, such a Republic necessarily must take steps to provide its citizens with essentials such as food, medicines etc., and ensure that there is no breakdown in society and law & order, in a manner that would adversely affect the *Rule of Law*.
50. The Petitioners verily believe that if immediate steps are not taken by the State to address the several shortages of necessities, such would be a violation of the *Sovereignty* of the People as enshrined in *Articles 3 & 4*, and violating the essence of a *Democratic Socialist Republic*, and unless;

- a) if steps are not taken to promote the welfare of the People by securing and protecting as effectively as possible a social order in which social and economic justice guides the State in formulating policies such would be a violation of *Article 27(2)(b)* of the Constitution;
 - b) if the State fails to provide for an adequate standard of living for all citizens including adequate food and improvement of living conditions such would be a violation of *Article 27(2)(c)* of the Constitution;
 - c) if the State fails to provide for the development of the country by public and private economic activity such would be a violation of *Article 27(2)(d)* of the Constitution;
51. The Petitioners state that Your Lordships' Court has consistently held that the *Directive Principles of State Policy* must be taken into account when considering the responsibility of the State in respecting and protecting fundamental rights. [*vide Arumugam Vadivelu v OIC Sithambarapuram Refugee Camp Police Post SC(FR) 44/2002 SC Minutes 5 September 2002; Abeysekera v Rubasinghe [2000] 1 Sri LR 314 , Mediwake v Commissioner of Elections [2001] 1 Sri LR 177 etc.]*
52. The Petitioners state that to the best of their knowledge, several Cess Funds which have been created in respect of various sectors have not been utilized by the State in the best interest of the Public to alleviate the several crises that the country is currently facing. The Petitioners state that the failure to duly and properly utilise such in the best interest of the People is a breach of the public trust.

VIOLATION OF FUNDAMENTAL RIGHTS

53. The Petitioners state that the one or more of the Respondents which collectively represent the State has by its action and/or inaction has resulted in several shortages of essential good and services to occur with impunity, regardless of the obligations imposed by Law and the Constitution, which require the State to act in the best interests of its citizens.
54. The Petitioners state that the Respondents by their actions and/or inactions have thus violated the Petitioners' and the People's fundamental rights as enshrined in *Article 11, Article 12(1), Article 13(4), 14(1)(g), 14(1)(h)* and *14A* of the Constitution.
55. The Petitioners state that if the State does not immediately take steps to ensure necessities such as food, medicines, fuel, electricity are made available to the People, such would amount to an imminent infringement of the Petitioners' and the People's fundamental rights as enshrined in *Article 11, Article 12(1), 13(4), 14(1)(g), 14(1)(h)* and *14A* of the Constitution.
56. The Petitioners state that *Article 12(1)* of the Constitution provides protection for the citizens of the Republic, providing them with the ability to "live in contemporary society (as opposed to merely existing)" and a "pre-condition for the maintenance of peaceful co-existence of any plural society". It is "a cornerstone of the Constitution of Sri Lanka and hence the bounded duty of the judiciary to uphold" [*vide Wijerathna v Sri Lanka Ports Authority SC(FR) 256/17 SCM 11 Dec 2020*]
57. The Petitioners state that *Article 12(1)* of the Constitution requires the dignity of all persons to be protected whilst preventing unfairness [*vide Kanapathipilli v. Sri Lanka Broadcasting Corporation [2009] 1 SLR 406*], and unless essential items are provided for the citizens, in adequate supply, such dignity is severely affected.
58. The Petitioners state that the citizens of the Republic have a right to live in contemporary society with dignity, and unless the *interim reliefs* prayed for through this application are granted forthwith, grave and irreparable loss, harm, damage and prejudice to the fundamental rights of the Petitioners and citizens of Sri Lanka would be caused, and the instant application would be rendered nugatory.

The Impact on future generations of Sri Lanka

59. The Petitioners state that if immediate steps are not taken to remedy the prevailing crisis, the negative consequences would be suffered by future generations of Sri Lanka.

60. The Petitioners state that Article 4(d) of the Constitution specifically requires that the fundamental rights which are by the Constitution declared and recognized shall be respected, secured and advanced by all organs of government.
61. The Petitioners state that Your Lordships' Court has always acted according to such principles, especially as Article 118(b) vests Your Lordships' Court with the jurisdiction for the protection of fundamental rights, which jurisdiction for protection has been interpreted widely. [*vide Sumanadasa and others v Attorney General [2006] 3 Sri LR 2002*]]
62. The Petitioners state that thus and otherwise, when exercising Your Lordships' jurisdiction under Article 126, Your Lordships have always granted equitable relief in the best interest of the People.
63. Thus and otherwise, the Petitioners state that Your Lordships' Court is empowered to take judicial notice of all matters of fact pleaded, and that Your Lordships' Court has always upheld its duty to protect the Rule of Law by making appropriate and timely orders that as and where necessary, to guide the direction of all organs of State in a manner that protects and advances the Rule of Law [*vide – Noble Resources International Pte Limited v. Minister of Power and Renewable Energy [SCFR 394/2015; SC Minutes of 24th June 2016]*].
64. The Petitioners therefore respectfully seek the indulgence of Your Lordships' Court, considering the grave urgency of the instant application, the limited material readily available in the public domain and the severe time restraints, to reserve their right to:
 - a) Amend pleadings, add any person/persons as parties to this application in the event of further material revealing their complicity of the actions complained in the preceding paragraphs;
 - b) Tender any further evidence or affidavits and documents as necessary substantiating the averments contained above.
65. The Petitioners are advised to state and therefore state that the aforesaid actions of the Respondents amount to *executive and/or administrative* action within the meaning of *Articles 17 and 126* of the Constitution.
66. The Petitioners state that they have not invoked the jurisdiction of Your Lordships' Court previously in respect of matters pleaded herein.
67. The Petitioners state that the documents marked **P1** to **P7** are pleaded as part and parcel of this application.
68. The Petitioners tender the affidavit of the 1st Petitioner, Mr. **Anura Bandara Meddegoda PC**, Deputy President of the Bar Association of Sri Lanka, in support of the matters set out in this Petition.

WHEREFORE The Petitioners Most Respectfully Pray That Your Lordships' Court Be Pleased To:

- a) Grant the Petitioners *leave to proceed* with this application in the first instance;
- b) Grant and issue the following *interim orders*:
 - i. Directing the 1st – 28th Respondents which comprise the *Cabinet of Ministers*, and/or any other Respondents to immediately consult with all the relevant stakeholders and independent experts to formulate and implement policies to provide uninterrupted access to essential goods and services to the people including LP Gas, Fuel, Electricity, Milk Powder, Medicines and Food;
 - ii. Direct the 1st – 28th Respondents which comprise the Cabinet of Ministers to formulate interim policies to provide concessions in relation to the prices of essential goods and services including LP Gas, Fuel, Electricity, Milk Powder, Medicines and Food;

Direct the 1st – 28th Respondents which comprise the Cabinet of Ministers to report to Your Lordships Court of the policies formulated in reference to (i) and (ii) above;

- iii. Directing the 1st – 28th Respondents which comprise the *Cabinet of Ministers* and/or any other Respondent to immediately formulate and implement short term policies and measures to ensure that the People have adequate access to essentials such as *inter alia*, food, medicine, fuel, gas and electricity and report on such policies and measures and their implementation from time to time;
- c) Declare that the Petitioners' fundamental rights under *Articles 11, 12(1), 13(4), 14(1)(g), 14(1)(h) and 14A of the Constitution* have been violated by the actions and/or inactions of the State including the Respondents;
- d) Declare that the Petitioners' fundamental rights under *Articles 11, 12(1), 13(4), 14(1)(g), 14(1)(h) and 14A of the Constitution* are in imminent danger of infringement by the actions and/or inactions of the State including the Respondents;
- e) Direct the 1st – 28th Respondents which comprise the *Cabinet of Ministers* and/or any other Respondents to immediately consult with all the relevant stakeholders and independent experts including the International Monetary Fund to formulate and implement policies to provide uninterrupted access to essentials such as *inter alia*, food, medicine, fuel, gas and electricity and report such findings/recommendations and their implementation to Your Lordships' Court;
- f) Direct the 1st – 28th Respondents which comprise the *Cabinet of Minister* and/or any other Respondent to formulate mid-term and long-term policies to ensure that the People have uninterrupted access to essentials such as *inter alia*, food, medicine, fuel, gas and electricity;
- g) Direct the Cabinet of Ministers to formulate medium and long-term policies to provide concessions in relation to the prices of essential goods and services *inter alia* LP Gas, Fuel, Electricity, Milk Powder, Medicines and Food.
- h) Direct the 1st – 28th Respondents which comprise the Cabinet of Ministers to formulate an urgent national policy to provide immediate relief to the People and businesses affected by the present financial and economic crisis.
- i) Direct the 1st – 28th Respondents which comprise the Cabinet of Ministers to formulate and implement urgent policies to prioritize projects and programmes, to alleviate the foreign exchange crisis, guarantee uninterrupted supply of goods and services, control inflation and reduce the cost of living.
- j) Direct the 1st – 28th Respondents which comprise the Cabinet of Ministers to formulate and implement urgent policies to promote the production of local Agriculture, Dairy Farming, and Animal Husbandry to ensure food security.
- k) Direct one of more of the 30th – 41st Respondents to assist the Cabinet of Ministers to formulate the relevant policies and implement the said policies for the benefit of the People.
- l) Direct any one or more and/or the Monetary Board of the Central Bank in consultation with stakeholders, to formulate new systems, processes, rules and regulatory frameworks which assure transparency and good governance practices in respect of future public debt management;.
- m) Make such further and other just and equitable orders as to Your Lordships' Court shall seem fit, in the circumstances of this application, under and in terms of *Article 126(4)* of the Constitution of the Republic; and
- n) For costs; and
- o) Such other and further reliefs as to Your Lordships' Court shall seem meet.



Attorney-at-law for the Petitioners

