

AFFIDAVIT OF 1ST PETITIONER

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

S.C.F.R. 412/199/FR

In the matter of an application under Article 126 of the Constitution, read with Articles 4 [e], 12 [1], 14 [1] [a], 14 [1] [c] and 14 [1] [g] thereof.

Jayantha Adikari Egodawele,
Mediwake,
Udadumbara

2. Nandana Bandara Egodawele,
Mediwake,
Udadumbara

3. E.M. Anura Dissanayake,
Talagune,
Udadumbara

4. W.A.M. Seneviratne Banda,
Padupola,
Kalugala,
Udadumbara

PETITIONERS

Vs.

1. Dayananda Dissanayake,
Commissioner of Elections,
Elections Secretariat,
Sarana Mawatha,
Rajagiriya

2. D.M. Nandisena,
Returning Officer,
Kandy District,
District Secretariat,
Kandy.
3. The Attorney General,
Attorney General's Department,
Hulftsdorp,
Colombo 12
4. Gamini Atukorale, General Secretary ,
United national Party,
"Sri Kotha",
400 Kotte Road,
Sri Jayewardenepura
5. M.T.Silva,
General Secretary,
Janatha Vimukthi Peramuna,
198 / 19 Panchikawatte Road,
Colombo 10
6. D.M.Jayarathne,
General Secretary,
People's Alliance,
121 Wijerama Mawatha,
Colombo
7. P. V. Kandiah
General Secretary,
National Union of Workers,
177 / 1 Dimbulla Road,
Hatton
8. Piyasena Dissanayake,
General Secretary,
Mahajana Eksath Peramuna,
84 Kirillapone Avenue,
Colombo 5
9. Harim Watson Pieris,
General Secretary [Acting]
Liberal Party,
88 / 1 Rosmead Place,
Colombo 7

10. I.S. Nisham Sheriff,
General Secretary,
Sri Lanka Progressive Front,
7 Seventh Lane,
Pagoda Road,
Nugegoda
11. A.M. Podi Menike
Group Leader,
Independent Group
44/12, P. Karanala Road, Amiswatta, Kandy
12. Mahinda Abeykoon,
31 Lunuwella,
Bolepe,
Kapuliyedda,
Talatuoaya
13. R.B. Herath,
179 Digana Village,
Digana,
Rajawella
14. H.H.M. Jayaratne Bandara
[Kudugala Jayaratne]
Kudugala,
Ambatenne
15. D.B. Ratnayake,
Udawela,
Kahataliyedda
16. Lohan Ratwatte,
249 / 7 Katugastota Road,
Mahayawa,
Kandy

I, Jayantha Adikari Egodawele, of Mediwake, Udadumbara, being a Buddhist, do solemnly and truly affirm and declare as follows :-

hereinafter, I refer to myself as the 1st petitioner.

1. THE PARTIES

The petitioners are citizens of Sri Lanka.

The 1st petitioner was at all material times a registered voter entitled to vote at the said election, and he was registered as a voter in the Kandy District. The 1st petitioner was a candidate [nominated by the United National Party] at the Provincial Council Elections for the Central Province, in the Administrative District of Kandy, held on 6th April 1999. A true copy of the voters list is annexed, marked A¹. [He was not declared elected.]

The 2nd petitioner was at all material times a registered voter entitled to vote at the said election, and he was registered as a voter in the Kandy District. A true copy of the voters' list is annexed, marked A². The 2nd petitioner is the Chairman of the Udumbara Pradeshiya Sabha [elected on the nomination of the United National Party.] The 2nd petitioner is a member of the United National Party and has been actively involved in activities of the said Party.

The 3rd petitioner was at all material times a registered voter entitled to vote at the said election, and he was registered as a voter in the Kandy District. A true copy of the voters' List is annexed, marked A³. The 3rd petitioner is a member of the United National Party and has been actively involved in activities of the said Party. The 3rd petitioner is the Chairman of the U.N.P. Branch at Talagune.

The 4th petitioner was at all material times a registered voter entitled to vote at the said election, and he was registered as a voter in the Kandy District. A true copy of the voters' List is annexed, marked A⁴. The 4th petitioner is a member of the United National Party and has been actively involved in activities of the said Party. The 4th petitioner was appointed a U.N.P. polling agent, to function at the Kalugaloia K. V. Polling Station in the Udumbara Electorate in the Kandy District, at the Provincial Council elections held on 6th April 1999.

The 1st respondent is the Commissioner of Elections. The 1st respondent was under a duty to conduct free and fair election in terms of the provisions of the Provincial Councils Elections Act No: 2 of 1998 as amended, in respect of the Provincial Council elections conducted for the Central Province, held on 6th April 1999. The 2nd respondent was required to perform certain statutory functions in terms of the provisions of the Provincial Councils Elections Act No: 2 of 1988 as amended.

The 3rd Respondent is the Attorney General of Sri Lanka.

The 4th to 10th Respondents are the General Secretaries / Authorised Agents of the recognised political parties which tendered valid nomination papers for the said election in the Kandy District, and whose candidates contested the said election.

The 11th Respondent is the Group Leader / Authorised Agent of the independent group which tendered valid nomination papers for the said election in the Kandy District, and whose candidates contested the said election.

The 12th to 16th respondents have been made respondents as their names transpire in the allegations hereafter made, and in order to give notice to the said respondents of the said allegations.

2. PROVINCIAL COUNCIL ELECTIONS – CENTRAL PROVINCE

The Central Provincial Council election was held and conducted under the provisions of the Constitution and in particular Chapter XVII A thereof [brought in by the 13th Amendment], and also the Provincial Councils Elections Act No 2 of 1988, as amended.

The holding and conduct of the said election is executive and administrative action, within the meaning of Articles 17 and 126 of the Constitution.

The Central Province consists of the Administrative Districts of Matale, Kandy [Mahanuwara] and Nuwara Eliya.

The term of office of the Central Provincial Council elected in 1993 expired in terms of Article 154 E of the Constitution. Accordingly, the election for the said Council [along with elections for four other Provincial Councils] was duly proclaimed. Thereafter, nomination papers were submitted, and accepted. Thereafter, the date of poll was fixed as being 28th August 1998. However, the election was not held. A true copy of the Government Gazette dated 15th July 1998 numbered 1036 / 5 is annexed marked A⁵.

Subsequently, there was an application made to the Supreme Court regarding the failure to hold Provincial Council elections. After hearing, the Supreme Court delivered its judgment, directing that the said elections for the five Provincial Councils be held.

Thereafter, the elections for the five Provincial Councils [including the Central Provincial Council] were fixed for 6th April 1999.

The Peoples' Alliance [hereinafter called PA], the United National Party [hereinafter called UNP], the National Union of Workers [hereinafter called NUW], the Janatha Vimukthi Peramuna [hereinafter called JVP], the Mahajana Eksath Peramuna [hereinafter called MEP], the Liberal Party [hereinafter called LP], the Sri Lanka Progressive Front [SLPF] and an Independent Group tendered their nomination papers for the Administrative District of Kandy. The said nomination papers were duly accepted.

The election was held on 6th April 1999.

The 1st respondent declared the results of the election. A true copy of the Results Sheet is tendered herewith, marked A⁶.

The said final results in the Central Province were as follows :-

<i>Political Party / Independent Group</i>	<i>Votes Obtained</i>	<i>Seats</i>
PEOPLES' ALLIANCE	421,629	24 [+ 2]
UNITED NATIONAL PARTY	391,659	23
NATIONAL UNION OF WORKERS	95,701	6
JANATHA VIMUKTHI PERAMUNA	28,984	1
UP COUNTRY PEOPLE'S FRONT	22,896	2

The results in the Kandy District were as follows :-

PEOPLE'S ALLIANCE	247,250	13
UNITED NATIONAL PARTY	231,934	13
NATIONAL UNION OF WORKERS	16,954	1
JANATHA VIMUKTHI PERAMUNA	16,065	1

3. INCIDENTS INSIDE THE POLLING STATIONS.

The period of several weeks prior to the election, and the day of the election too, were marred by incidents of violence and intimidation effected by supporters of the People's Alliance against the candidates and supporters of the United National Party and other Parties, in the Kandy District.

On the 6th April 1999, during the polling hours, there were serious incidents inside several Polling Stations in the Kandy District, for which supporters of the People's Alliance were responsible. Details of several such incidents are given below.

3.1 UDADUMBARA ELECTORATE

Kalugaloya K.V. – Polling Station No : 19

The affidavit of U.N.P. polling agent W.A.M. Seneviratne Banda is tendered herewith, marked A⁷. At about 8 a.m. a mob of P.A. supporters, armed with weapons, led by D.B. Ratnayake, a P.A. candidate at the said election, stormed the Polling Station, and threatened the agent, and assaulted him with the Presiding Officer's chair. The agent was wounded, sustaining a fracture in his hand, and bruises on his head. He left the Polling Station. Later he was admitted to the Uda Dumbara District Hospital, and was later transferred to the Kandy General Hospital. A complaint was made to the Udadumbara Police Station.

Pamunupura K.V. – Polling Station No : 22

The affidavit of U.N.P. polling agent Y.M.W.G. Tikiribanda is tendered herewith, marked A⁸. He went to the Polling Station, together with the other U.N.P. agent R.M.Jayasinghe, at about 6.15 a.m. At about 6.50 a.m. a group of P.A. supporters requested the Presiding Officer to send the U.N.P. agents out of the Polling Station, on the pretext that the polling had not yet commenced. Although the P.A. polling agents were present, and were allowed to remain, the Presiding officer ordered the U.N.P. agents to leave. The U.N.P. agents left and were immediately threatened by a mob of P.A. supporters who were waiting outside. The U.N.P. agents were thus compelled to take shelter near by. Later, at about 9.30 a.m., the U.N.P. agents returned to the Polling Station, accompanied by U.N.P. candidate Danister Vidanagamage. The said candidate recorded a complaint in the Presiding Officer's Journal.

Maha Assedduma K.V. – Polling Station No : 37

The affidavit of U.N.P. polling agent E.M. Lokubanda is tendered herewith, marked A⁹. At about 3.30 p.m. a P.A. candidate at the said election, namely R.B. Herath, accompanied by several persons in police uniform [who were armed with guns] and a mob, entered the Polling Station. They threatened U.N.P. agents, and then threatened the Presiding Officer. Thereafter, they snatched ballots and cast

side
the
iven

them. The agent requested the Presiding Officer to record this in the Journal, and believes that this was so recorded.

Dutugemunu Co-operative - Polling Station No : 38

red
with
ned
ling
and
Ida
ral

The affidavit of U.N.P. polling agent S.A.M. Chularatne Banda is tendered herewith, marked A¹⁰. At about 3.45 p.m. a P.A candidate at the said election, namely R.B. Herath, accompanied by several persons in police uniform [who were armed with guns] and a mob, stormed the Polling Station. They threatened U.N.P. agents, and snatched ballot books from the Presiding Officer and cast the ballots. The agent believes that this incident was recorded in the Presiding Officer's Journal.

3.2 PATADUMBARA ELECTORATE

K / Jami Ul Asher M.M.V. - Polling Station No : 12

ed
ier
of
of
ed.
he
nd
ng
at
ed
a

The affidavit of U.N.P. polling agent U.L.S. Marikkar is tendered herewith, marked A¹¹. At about 6.55 a.m. two armed P.A. supporter stormed the Polling Station and threatened the U.N.P. polling agents and snatched ballot papers and stuffed the ballot box. This was recorded in the Presiding Officer's journal. A complaint was made at the Kandy Police Station.

Wattegedara K / Muslim Vidyalaya - Polling Station No : 13

The affidavit of U.N.P. polling agent W.A.J. Anton Perera is tendered herewith, marked A¹². At about 7 a.m. a mob of armed P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 600 ballots in the ballot box. The agent complained to the Presiding Officer. The other agent made a complaint at the Kandy Police Station.

Ratnajothe K.V. - Polling Station No : 14

h,
3.
h
d
st

The affidavit of U.N.P. polling agent H.M.W. Herath is tendered herewith, marked A¹³. At about 10 a.m. a mob of about 200 armed P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 500 ballots in the ballot box. This was recorded in the Presiding Officer's journal and in the note book of the Police Officer present on duty. A complaint was made at the Kandy Police Station.

Egodagama K.V. – Polling Station No : 16

The affidavit of U.N.P. polling agent E.H.R.V. Wijesinghe is tendered herewith, marked A¹⁴. At about 9.30 a.m. a mob of about 50 armed P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 600 ballots in the ballot box. The other agent recorded this in the Presiding Officer's journal.

Wegodagama K.V. – Polling Station No : 17

The affidavit of U.N.P. polling agent S.G. Jossy is tendered herewith, marked A¹⁵. At about 11 a.m. a mob of about 50 armed P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 300 ballots in the ballot box. This was recorded in the Presiding Officer's journal.

Pahala Yatawara Sri Nandarama – Polling Station No : 18

The affidavit of U.N.P. polling agent Prithi Naranpanawa is tendered herewith, marked A¹⁶. A mob of about 50 armed P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 900 ballots in the ballot box. This was recorded in the Presiding Officer's journal.

Aluthgama K.V. – Polling Station No : 20

The affidavit of U.N.P. polling agent W.M.S.S.M.B. Welagedera is tendered herewith, marked A¹⁷. At about 10.30 a.m. a mob of about 150 armed P.A. supporters led by Kudugala Jayaratne, a P.A. candidate at the said election, stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 300 ballots in the ballot box. This was recorded in the Presiding Officer's journal. A complaint was made at the Kandy Police Station.

Girakaduwa P.V. – Polling Station No : 23 – Hall No : 1

The affidavit of U.N.P. polling agent C.K.B. Dedunupitiya is tendered herewith, marked A¹⁸. At about 11.30 a.m. a mob of about 150 armed P.A. supporters led by Lohan Ratwatte, son of the Deputy Minister of Defence, stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 300 ballots in the ballot box. This was recorded in the Presiding Officer's journal.

Wattagama C.V. - Polling Station No : 23 - Hall No : 2

The affidavit of U.N.P. polling agent S.M. Jayaratne is tendered herewith, marked A¹⁹. At about 7.10 a.m. a mob of about 200 armed P.A. supporters led by Kudugala Jayaratne, a P.A. candidate at the said election, stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 200 ballots in the ballot box. This was recorded in the Presiding Officer's journal. A complaint at the Katugastota Police Station.

K / Bharathiya Tamil M.V.[P] - POLLING Station No : 34

The affidavit of U.N.P. polling agent L.D.U.I. Liyanage is tendered herewith, marked A²⁰. A mob of about 50 P.A. supporters stormed the Polling Station and threatened the U.N.P. polling agents, and snatched ballot papers and stuffed about 1000 ballots in the ballot box. This was recorded in the Presiding Officer's journal. A complaint at the Wattagama Police Station. The agent was treated at the Wattagama Government Hospital.

Yatiravana M.V. - Polling Station No : 31

The affidavit of U.N.P. polling agent B.G.H. Karunaratne is tendered herewith, marked A²¹. A mob of about 150 P.A. armed supporters, led by Lohan Ratwatte, the son of the Deputy Minister of Defence, stormed the Polling Station and threatened the U.N.P. polling agent, and snatched ballot papers and stuffed about 750 ballots in the ballot box. The U.N.P. agents were chased out. A complaint at the Kandy Police Station.

Mahapathana K.V. - Polling Station No : 47

The affidavit of U.N.P. polling agent P.K.D. Henry Perera is tendered herewith, marked A²². A mob of about 75 P.A. armed supporters, led by Lohan Ratwatte, the son of the Deputy Minister of Defence, stormed the Polling Station and threatened the U.N.P. polling agent, and snatched ballot papers and stuffed about 63 ballots in the ballot box. This was recorded in the Presiding Officer's journal.

HEWAHETA ELECTORATE

Udadelthota M.V. - Polling Station No : 19

The affidavit of U.N.P. polling agent K.B. Jayasinghe is tendered herewith, marked A²³. At about 9.40 a.m. a mob of P.A. supporters, armed with guns and bombs, led by Mahinda Abeykoon, a P.A. candidate at the said election, stormed the Polling Station and threatened and assaulted the U.N.P. agent, and pushed him out of the Polling Station. Thereafter, the agent saw the ballot boxes being stuffed by the mob. The agent made a complaint at the Galaha Police Station.

Galawahatta Estate Superintendent's Office - Polling Station No : 20

The affidavit of U.N.P. polling agent M.M. Tilekewardene is tendered herewith, marked A²⁴. At about 9.40 a.m. a mob of P.A. supporters, armed with guns and bombs, led by Mahinda Abeykoon, a P.A. candidate at the said election, stormed the Polling Station and threatened the U.N.P. agent, and frightened the U.N.P. supporters who had come to vote. The agent has made a complaint at the Galaha Police Station.

Kolabissa K.V. - Polling Station No : 36

The affidavit of U.N.P. polling agent P.R. Appuhamy is tendered herewith, marked A²⁵. At about 9.30 a.m. P.A. supporters, armed with pistols, and stormed the Polling Station and threatened the U.N.P. agent and the other U.N.P. agent M.K.G. Devendra, and chased them out of the Polling Station. Thereafter, the P.A. supporters snatched the polling cards of the U.N.P. voters who were waiting outside, and cast impersonated votes. The agent made a complaint at the Talatuoya Police station.

Udupitiya Muslim K.V. - Polling Station No : 40

The affidavit of U.N.P. polling agent M.M.M. Sadique is tendered herewith, marked A²⁶. He was at the Polling Station with the other U.N.P. agent M.B. Basheer. At about 1.20 p.m., P.A. supporters stormed the Polling Station armed with pistols and a bomb, and threatened the U.N.P. agents, and snatched a parcel of ballots, and cast them. This was recorded in the Presiding Officer's Journal.



7. The petitioners have not previously invoked the jurisdiction of this Court in this matter.
8. The petitioners have not been able to obtain certain affidavits and documents. The petitioners respectfully seek the permission of this Court to tender the same. The petitioners also respectfully seek an order from this Court directing the 1st respondent to deliver, to the Registrar of this Court, the Presiding Officers' Journals pertaining to the above-mentioned Polling Stations.

DOCUMENTS ANNEXED

- ¹ Voter's List - 1st petitioner
- ² Voters' List - 2nd petitioner
- ³ Voters' List - 3rd petitioner
- ⁴ Voters' List - 3rd petitioner
- ⁵ Gazette of 15th July 1998 - Nominations
- ⁶ Results Sheet
- ⁷ Affidavit - Seneviratne - Kolugaloya
- ⁸ Affidavit - Tikiribanda - Pamunupura
- ⁹ Affidavit - Lokubanda - Maha Assedduma
- ¹⁰ Affidavit - Chularatna banda - Dutugemunu
- ¹¹ Affidavit - Marikkar - Jami Ul Asher
- ¹² Affidavit - Anton Perera - Wattegedara
- ¹³ Affidavit - Herath - Ratnajothi
- ¹⁴ Affidavit - Wijesinghe - Egodagama
- ¹⁵ Affidavit - Jossy - Wegodagama
- ¹⁶ Affidavit - Frithy Naranpanawa - Pahala Yatawara
- ¹⁷ Affidavit - Welagedera - Aluthgama
- ¹⁸ Affidavit - Dedunupitiya - Girakaduwa - No. 1
- ¹⁹ Affidavit - Jayaratne - Girakaduwa - No. 2
- ²⁰ Affidavit - Liyanage - Bharathiya
- ²¹ Affidavit - Karunaratne - Yatiravana
- ²² Affidavit - Henry Perera - Mahapathana
- ²³ Affidavit - Jayasinghe - Udadelthota
- ²⁴ Affidavit - Tillekewardene - Galahawatte
- ²⁵ Affidavit - Appuhamy - Kolabissa
- ²⁶ Affidavit - Sadique - Udupitiya
- ²⁷ Affidavit - Aruna Priyantha - Paragala
- ²⁸ Journal entry - Paragala

- 29 Affidavit – Seneviratne - Metideniya
- 30 Journal entry - Metideniya
- 31 Affidavit – Bandara - Niyangoda
- 32 Affidavit – Kandekumbura - Niyangoda
- 33 Affidavit – Hassar - Galagedara
- 34 Affidavit – Jayasena - Polwatte
- 35 Selected documents of Commissioner of Elections in SCFR 265 / 99
- 36 Letter of Daya Pelpola, Secretary – Legal of U.N.P.

Read over and affirmed
and signed in Colombo
on the 4th day of May 1999.

[Handwritten signature]



ගෝනම් විහාරාධිපති, විලුම් ලත් ආවාසී,
සිරිකරු දූත කාඩ්ක සංගමයේ සාමාජික
සාම ප්‍රතිපූරු (දේශිකවම)
ප්. ස. අංක. 98/08/බ/ප්‍ර. 2/2/032
තෙල්වත්තේ නාගිත හිමි
ගෝනම් විහාරය
ගෝනම් පාර, බොරැල්ල,
කොළඹ - 08,
දු. ස. අංක: 694188

Before me

[Handwritten signature]

J.P./C.O.

TRUE COPY

[Handwritten signature]
Attorney-at-Law

[Large handwritten signature]

