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

Kanchana Senanayake
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In the matter of an application for mandates in the nature of Writs of Certiorari, Mandamus and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Case No. CA/WRIT/ /2026

KARUNAKALAGE ATHULA HEMACHANDRA DE SILVA
No. 590/2, Ekamuthu Mawatha,
Madiwela Road,
Thalawathugoda.

PETITIONER

Vs.

1. **R. PRASAD HEMANTHA KUMARA**
   Commissioner General of Prisons
   (Covering Up Duties)
   Prisons Headquarters,
   No. 150, Baseline Road,
   Colombo 09.

2. **SENAKA PALLETHENNA**
   Commissioner of Prisons and Media Spokesman
   Prisons Headquarters,
   No. 150, Baseline Road,
   Colombo 09.

3. **HON. HARSHANA NANAYAKKARA**
   Minister of Justice and National Integration
   Ministry of Justice,
   No. 19, Sri Sangaraja Mawatha,
   Colombo 10.

4. **AYESHA JINASENA P.C.,**
   Secretary, Ministry of Justice and National Integration
   Ministry of Justice,
   No. 19, Sri Sangaraja Mawatha,
   Colombo 10.

5. **HON. HINIDUMA SUNIL SENEVI**
   Minister of Buddhasasana, Religious and Cultural Affairs
   Ministry of Buddhasasana, Religious and Cultural Affairs,
   No. 135, Srimath Anagarika Dharmapala Mawatha,
   Colombo 07.

6. **W. P. SENADHEERA**
   Secretary
   Ministry of Buddhasasana, Religious and Cultural Affairs,
   No. 135, Srimath Anagarika Dharmapala
   Mawatha,
   Colombo 07.

7. **VENERABLE GALAGODAATHTHE GNANASARA THERO**
   Sri Sadhdharmarajitha Viharaya,
   No. 615, Nawala, Rajagiriya.

Presently in the custody of the

Department of Prisons,
Welikada Prison,
Baseline Road,
Colombo 09.

8. **E.M.S. MAHANAMA**
   Superintendent
   Welikada Prison,
   Baseline Road,
   Colombo 09.

9. **R.M.G. SENARATHNE**
   Commissioner General of Buddhist Affairs,
   Department of Buddhist Affairs,
   Dahampaya, No. 135, Srimath Anagarika
   Dharmapala Mawatha,
   Colombo 07.

10. **HON. ATTORNEY GENERAL**
    Attorney General's Department,
    Colombo 12.

RESPONDENTS

On this 12th day of October 2026.

TO: HIS LORDSHIP THE PRESIDENT AND THEIR LORDSHIPS THE OTHER HONOURABLE JUDGES OF THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.

The **PETITION** of the **PETITIONER** above named appearing by Ms. Kanchana Senanayake practicing under the name, style and firm of,

JK CHAMBERS

and her Assistants Dulani Priyangika, Dulakshika Perera, Chamali Sibera, Shaaruba Asokan and Vithyaa Ganesharajah its Registered Attorneys-at-Law state as follows:

INTRODUCTION

1. This Application concerns the decision of the 1st, 2nd and/or 8th Respondents, made on or about 5th / 6th October 2026, to compel the 7th Respondent, an ordained *bhikkhu*, to remove his robes (*cīvara*) and to wear lay or prison-issued clothing while he serves a sentence of imprisonment, together with the rule, regulation and/or direction on which that decision is said to rest (hereinafter collectively referred to as "the impugned decision").

2. The Petitioner states at the outset, and with the utmost respect, that he does not by this Application question, and expressly disclaims any intention of questioning, the conviction or sentence of the 7th Respondent, the judgments of the Supreme Court and of Your Lordships' Court referred to below, or the lawfulness of the 7th Respondent's custody. The Petitioner's complaint is confined to a single question, whether an officer of the State may, by an administrative act, strip a member of the Maha Sangha of the robe which is the outward and constitutive mark of his ordination. The Petitioner respectfully submits that he may not.

3. The Petitioner seeks the intervention of Your Lordships' Court on the grounds, *inter alia*, that the impugned decision

    (a) intrudes upon a matter within the exclusive cognisance of the Sangha and is accordingly ultra vires;

(b) is contrary to the duty imposed on the State by Article 9 of the Constitution to protect and foster the Buddha Sasana, of which the Sangha is an integral part; and

(c) is disproportionate and irrational, and disregards the principles recognised by the European Court of Human Rights in *Jakóbski v. Poland* and by the international instruments to which Sri Lanka is a party.

PARTIES

4. The Petitioner, Karunakalage Athula Hemachandra De Silva, is a citizen of Sri Lanka and a retired Brigadier of the Sri Lanka Army, residing at the address set out in the caption. The Petitioner is a practising Buddhist who has taken refuge in the Triple Gem, namely the Buddha, the Dhamma and the Sangha.

5. The Petitioner served in the Sri Lanka Army for more than thirty-three years and held various appointments in various capacities in operational areas (Norther and Eastern Provinces) and non-operational areas including Army HQ. Security Forces HQ (Jaffna), 27 Brigade HQ (Kayts), 53 Division HQ (Muhamalai & Pudukurippu), 65 Division HQ (Mallavi), 64 Division HQ (Oddusudan Mullaitivu). The Petitioner also served as an Officer-Instructor at Sir John Kotelawala Defense Academy (KDA). The Petitioner is a recipient of East Humanitarian Operation Medal, North Humanitarian Operation Medal and Clasps, Purna Bhoomi Padakkama and North and East Operations Medal and Clasps, Riviresa Campaign, Service Medal and Clasps, 50th Independence Anniversary Commemoration Medal, Sri Lanka Army 50th Anniversary Medal and Sri Lanka Armed Services Long Service Medal and Clasps. The Petitioner has thus devoted the greater part of his life to the service of the Republic.

6. The Petitioner is profoundly committed to the protection and preservation of archaeological sites and monuments, and to ensuring that Article 9 of the Constitution is upheld, so that Buddhism is protected, preserved and fostered as the Constitution requires. The Petitioner firmly believes in the rule of law

and in the rights of all citizens without prejudice. The Petitioner has previously filed Petitions challenging the constitutionality of Bills placed before Parliament. The Petitioner accordingly is before Your Lordships' Court not merely in his individual capacity, but also as a citizen and a lay Buddhist with a profound and continuing concern for the protection of the Buddha Sasana and for the rule of law, both of which are directly implicated by the matters complained of herein.

7. The 1st Respondent is the Commissioner General of Prisons, in whom the general direction and administrative control of all prisons in Sri Lanka is vested, subject to the orders of the Minister, by section 6(2) of the Prisons Ordinance (No. 16 of 1877, as amended).

8. The 2nd Respondent is the Commissioner of Prisons (Operations) and the Media Spokesman of the Department of Prisons, who publicly announced and sought to justify the impugned decision as set out below.

9. The 3rd Respondent is the Minister of Justice and National Integration, the Minister to whom the subject of prisons is assigned, and in whom the power to make rules under section 94 of the Prisons Ordinance is vested. The 4th Respondent is the Secretary to the said Ministry.

10. The 5th Respondent is the Minister of Buddhasasana, Religious and Cultural Affairs, to whom the subject of the Buddha Sasana is assigned, and through whose Ministry the State principally discharges the duty imposed by Article 9 of the Constitution. The 6th Respondent is the Secretary to the said Ministry.

11. The 7th Respondent is an *bhikkhu* of the Kotte Sri Kalyani Samagri Maha Sangha Sabha of the Siyam Nikaya, who is presently in the custody of the 1st and 8th Respondents at Welikada Prison. He is the bhikkhu directly affected by the impugned decision. He is made a party so that he may be heard, and no relief is claimed against him.

12. The 8th Respondent is the Superintendent of Welikada Prison, the officer who gave effect to, and continues to give effect to, the impugned decision.

13. The 9th Respondent is the Commissioner General of Buddhist Affairs, who maintains the register of *bhikkhu*s under section 41 of the Buddhist Temporalities Ordinance, which register is, by section 41(6), prima facie evidence of the facts contained therein in all courts and for all purposes. The 9th Respondent is made a party as a person whose presence is necessary for the complete adjudication of this Application. No relief is claimed against the 9th Respondent.

14. The 10th Respondent, the Hon. Attorney General, is made a party since the Ministers and public officers of the State are Respondents to this Application, and since the validity of a rule or direction made under written law and the duty of the State under Article 9 of the Constitution are in issue.

THE BUDDHA SASANA, THE SANGHA AND THE ROBE

15. The Buddha Sasana is founded upon the Triple Gem: the Buddha, the Dhamma and the Sangha. The Sangha is not an adjunct of the Sasana but one of its three constituent refuges. From the time of the arrival of Arahant Mahinda Thera in the third century BCE, the Maha Sangha has been the custodian and guardian of the Buddha Sasana in Sri Lanka, preserving the Dhamma and the Vinaya in unbroken succession.

16. Article 9 of the Constitution of the Democratic Socialist Republic of Sri Lanka provides:

> *"The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)."*

17. The Sangha governs itself according to the Vinaya Pitaka, the Book of the Discipline, which prescribes the manner of ordination, the conduct and the attire of bhikkhus, the offences that a bhikkhu may commit, and the manner in which a person ceases to be a bhikkhu.

18. The robe is not merely clothing. Under the Vinaya it is part of the act of ordination itself and of the definition of a bhikkhu:

(a) In laying down the procedure for going forth and ordination, the Buddha declared (Mahāvagga, Kd 1.12.3; Vin 1.22): *"First, having made him have his hair and beard cut off, having made him put on yellow robes, having made him arrange an upper robe over one shoulder ..."* The putting on of the robe is thus an integral step in becoming a member of the Sangha.

(b) In defining a "monk" for the purpose of the first rule of expulsion, the Vinaya states (Bu-Pj 1.8.1; Vin 3.24) that *"he is a monk because he lives on alms; ... a monk because he is one who wears the patchwork cloth; ..."*.

(c) The second rule of forfeiture (Nissaggiya Pācittiya 2; Vin 3.199 to 200) provides: *"When the robe-material is settled, when a monk's kaṭhina (privileges) have been removed, if this monk should be away, separated from the three robes, even for one night, except on the agreement of the monks, there is an offence of expiation involving forfeiture."* The Vinaya defines being "separated from the three robes" as being *"without the outer cloak, or without the upper robe, or without the inner robe."*

(d) The Vinaya expressly forbids a bhikkhu to wear the garments of householders (Cullavagga, Kd 15.29.4; Vin 2.137): *"Monks, you should not put on householders' upper garments. Whoever should put one on, there is an offence of wrong-doing."* A like prohibition applies to householders' under garments.

19. It follows that to compel a bhikkhu to surrender his robes and to put on lay garments is to place him, by the act of the State, in a continuing state of transgression of the Vinaya, every night spent separated from the three robes being a fresh occasion of an offence involving forfeiture, and every day spent in householders' garments a further offence. The bhikkhu is thereby made to

offend against the discipline to which he is bound, not by his own act but by the act of the State.

20. Under the Vinaya a bhikkhu ceases to be a bhikkhu in only two ways:

    (a) by committing an offence entailing expulsion (*pārājika*), a matter determined according to the Vinaya within the Sangha; or

    (b) by himself renouncing the training. The first rule of expulsion (Bu-Pj 1; Vin 3.23) speaks of a monk who acts *"without first renouncing the training and disclosing his weakness"*. The Vinaya then sets out in detail how the training is, and is not, renounced (Bu-Pj 1.8.2 to 1.8.4; Vin 3.24 to 28). Renunciation must be the bhikkhu's own deliberate declaration made to one who understands it. The training is not renounced where the bhikkhu is insane, overwhelmed by pain, speaks in jest, or *"announces what he does not wish to announce"*.

21. There is accordingly no means known to the Vinaya by which a person outside the Sangha, still less an officer of the State, can unmake a bhikkhu or remove from him the robe. The removal of the robe, and the determination of whether a bhikkhu has ceased to be such, are matters within the exclusive cognisance of the Sangha.

22. The written law of Sri Lanka reflects the same position. Under section 41 of the Buddhist Temporalities Ordinance the status of every *bhikkhu* is recorded in registers kept by the 9th Respondent and by the Maha Nayaka Thera or Nayaka Thera of the relevant nikaya, and it is the Maha Nayaka Thera or Nayaka Thera who is charged with altering those registers (section 41(5)). Section 42 makes it an offence for a person whose name does not appear in the register to hold himself out as an *bhikkhu*. The State has therefore, by statute, treated the status of a bhikkhu as a matter recorded and altered by the Sangha. That entry with regard to the 7th Respondent has not been altered.

23. The Petitioner states that it is not for an officer of the State to determine, or to act in a manner that presupposes a determination of, the ecclesiastical status of a member of the Sangha.

THE BACKGROUND

24. On 8th August 2018 Your Lordships' Court, in CA (COC) Application No. 04/2016, convicted the 7th Respondent on four counts of contempt of court arising out of his conduct at the Magistrate's Court of Homagama on 25th January 2016, and imposed an aggregate sentence of nineteen years' rigorous imprisonment, the sentences to run concurrently so as to be served within a period of six years.

25. The 7th Respondent was granted a pardon by the then President of the Republic and was released on or about 23rd May 2019.

26. By its judgment dated 10th September 2026 in SC/FR/256/2019 and SC/FR/257/2019, the Supreme Court held the said pardon to be null and void.

27. By order dated 5th October 2026, Your Lordships' Court directed that the said sentence be reactivated with effect from that date, and the 7th Respondent was thereupon committed to Welikada Prison.

28. Upon or after his admission to Welikada Prison, the 7th Respondent was required by the 1st, 2nd and/or 8th Respondents to remove his robes and to wear lay or prison-issued clothing.

29. By letter dated 6th October 2026 addressed to the 1st Respondent, the Most Venerable Kotapitiye Rahula Anunayake Thera of the Sri Kalyani Samagri Dharma Maha Sangha Sabha requested that the 7th Respondent be permitted to retain and wear his robes. The said letter stated, *inter alia*, that the authority concerning the wearing and the removal of a bhikkhu's robe rests with the bhikkhu who has received full ordination and with the Maha Sangha Sabha, that no report had been received that the 7th Respondent had

committed an offence under the Vinaya Pitaka, and that the request did not call the judgment of court into question.

*A copy of the said letter dated 6th October 2026 is annexed hereto marked as **"P1"** and is pleaded as part and parcel hereof.*

30. Notwithstanding the said request, on 6th October 2026 the 7th Respondent was produced before the High Court of Colombo in dressed in lay attire, namely a white shirt and sarong, and not in his robes. The said case was thereafter fixed to be called again on 23rd October 2026.

*Copies of photographs and press reports evidencing the same are annexed hereto marked as **"P2(a)", "P2(b)", "P2(c)",** and **"P2(d)"** and are pleaded as part and parcel hereof.*

31. By letter dated 7th October 2026, the Maha Nayaka Theras of the Four Principal Chapters wrote to the 1st Respondent stating, *inter alia*, that the removal of a bhikkhu's robes, or the termination of his monastic status, cannot be treated merely as an administrative matter governed by prison regulations, that only the relevant Sangha Sabha is competent to determine such matters, and that no such body had determined that the 7th Respondent had committed any offence warranting his disrobing. They requested that the 7th Respondent be permitted to wear his robes, including when produced before court.

*A copy of the said letter dated 7th October, 2026 is annexed hereto marked as **"P3"** and is pleaded as part and parcel hereof.*

32. The Maha Nayaka Theras of the Asgiri and Malwatta Chapters are the senior prelates of the Siyam Maha Nikaya and, by long tradition, the custodians of the Sacred Tooth Relic. Their office has statutory recognition. The Buddhist Temporalities Ordinance (Chapter 396) requires the Maha Nayaka Theras of Malwatta Vihare and Asgiriya Vihare to be summoned to the meeting that elects the Diyawadana Nilame (section 7(2)(a)) and requires their approval for the appointment or nomination of any person to act for the Diyawadana Nilame (section 17(3)).

33. Further, under section 41 of the said Ordinance, the Maha Nayaka Thera or Nayaka Thera of every nikaya is required to file and maintain the register of *bhikkhu*s and sāmaneras of his nikaya (section 41(3)) and is under a statutory duty to make all such corrections, additions or alterations as may be necessary to keep that register up to date (section 41(5)). The Legislature has thereby entrusted to the Maha Nayaka Theras, and not to any officer of the State, the function of recording who is, and who has ceased to be, a bhikkhu.

34. Furthermore, the Sri Lankan Bhikkhu Association in Europe has submitted a letter to the 1st Respondent requesting to allow incarcerated Buddhist monks to wear their monastic robes, their official ecclesiastical attire, instead of lay clothing when they are taken outside prison for any purpose. The letter addressed to the 1st Respondent bears the signatures of the Chief Secretary of the Sri Lankan Bhikkhu Association in Europe and Chief Sanghanayaka of Cyprus, Most Venerable Morawaka Soratha Nayaka Thero, and its President and Chief Adhikarana Sanghanayaka of Germany, Most Venerable Rathmale Punnaratana Nayaka Thero.

*A copy of the said letter is annexed hereto marked as **"P4"** and is pleaded as part and parcel hereof.*

35. The 2nd Respondent, in his capacity as Media Spokesman of the Department of Prisons, thereafter publicly stated as follows:

> *"According to prison rules and regulations, if a venerable Buddhist monk has been sentenced to simple imprisonment by a respected court, they may remain in their monastic robes while serving the relevant prison sentence within the correctional facility. If the sentence involves rigorous imprisonment, any individual must wear the prison uniform. When producing individuals sentenced by a court to prison, if their prison sentence is less than three years, the prison superintendent may permit them to wear the civil clothing they were wearing prior to the sentence when being presented to court. However, any person considered under any circumstance to have been sentenced to imprisonment exceeding*

three years must be dressed in the attire issued by the prison when being presented to court."

Copies of the press reports of the said statement are annexed hereto marked as ***"P5(a)", "P5(b)",*** *and* ***"P5(c)"*** *and are pleaded as part and parcel hereof.*

36. On the 2nd Respondent's own statement, therefore, the position applied by the Respondents is that

    (a) a bhikkhu sentenced to simple imprisonment may remain in his robes while in prison;

    (b) a bhikkhu sentenced to rigorous imprisonment must wear the prison uniform; and

    (c) a person sentenced to imprisonment exceeding three years must be produced in court in prison-issued attire, while the Superintendent has a discretion in the case of shorter sentences.

37. The Petitioner has not been able to obtain the instrument upon which the Respondents rely. The Petitioner most respectfully reserves the right to submit a copy of the said instrument as soon as the Petitioner obtains a copy of the same and reserves the right to submit it marked **P6** and plead to be part and parcel hereof. The Petitioner most respectfully moves that the 1st and 2nd Respondents be directed to produce the said instrument and all documents relating to the impugned decision and reserves the right to amend this Petition upon such production.

38. As at the date of this Petition the 7th Respondent continues to be denied his robes.

GROUNDS ON WHICH RELIEF IS SOUGHT

39. The Petitioner states that the impugned decision is illegal, ultra vires, irrational, disproportionate, procedurally unfair and contrary to Article 9 of

the Constitution, and is liable to be quashed, inter alia, on the following grounds, each of which is pleaded without prejudice to the others.

Ground 1: The impugned decision usurps a matter within the exclusive cognisance of the Sangha

40. The powers of the 1st, 2nd and 8th Respondents are statutory, and are confined to the custody, discipline and administration of prisoners under the Prisons Ordinance and the rules lawfully made thereunder. No provision of the Prisons Ordinance, or of any other written law, confers upon them any power to determine, alter or derogate from the ecclesiastical status of a member of the Sangha.

41. The removal of the robe from a bhikkhu is, in substance and in the eyes of the Sangha and of the public, a disrobing. A public officer cannot do indirectly what he has no power to do directly. By requiring the 7th Respondent to surrender his robes, the Respondents have arrogated to themselves a function which, under the Vinaya and under the scheme of sections 41 and 42 of the Buddhist Temporalities Ordinance, belongs to the Sangha alone.

42. The Respondents have further misdirected themselves in law by treating the robes of a bhikkhu as no more than "civil clothing" or personal attire, to be regulated on the same footing as the clothes of a layman. The robe is the mark of a status conferred by the Sangha according to the Vinaya, and cannot lawfully be removed by an officer of the State.

Ground 2: The impugned decision is contrary to the duty imposed on the State by Article 9 of the Constitution

43. Article 9 imposes upon the State, in mandatory terms, a "duty … to protect and foster the Buddha Sasana". Article 9 forms part of Chapter II of the Constitution. Unlike the Directive Principles of State Policy in Chapter VI, which Article 29 declares not to confer legal rights or obligations and not to be enforceable in any court, Article 9 is subject to no such exclusion. It binds every organ and agent of the State, including the 1st to 6th and 8th

Respondents, and every statutory discretion vested in them must be exercised consistently with it.

44. The duty to "protect" the Buddha Sasana obliges the State, at the least, to refrain from any act that injures, diminishes or brings into disrepute the Sasana, of which the Sangha is an integral part. The duty to "foster" the Sasana is a positive duty. A State that is bound to foster the Sasana cannot, a fortiori, act to its detriment.

45. The compulsory removal of the robe of a bhikkhu by the State, followed by his public production before a court in lay garments, injures the Sasana irrespective of the conduct for which the bhikkhu has been sentenced. It degrades the robe, which is revered by the Buddhist public as the emblem of the Sangha; it compels a member of the Sangha into continuing breach of the Vinaya; and it subordinates the discipline of the Sangha to the convenience of prison administration. The impugned decision is therefore in direct conflict with Article 9.

46. The relief sought by the Petitioner does not derogate from the rights assured to all religions by Articles 10 and 14(1)(e). On the contrary, the principle on which the Petitioner relies, namely that the State may not compel a minister of religion to discard the habit, which is the mark of his ordination, is equally consistent with respect for the clergy of every faith.

47. The 3rd to 6th Respondents have failed to discharge the duty cast upon the State by Article 9 by taking any step to prevent or remedy the impugned decision.

Ground 3: The impugned decision is disproportionate and irrational, and disregards *Jakóbski v. Poland* and Sri Lanka's international obligations

48. In *Jakóbski v. Poland* (Application No. 18429/06, judgment of 7th December 2010), the European Court of Human Rights considered the refusal of prison authorities to provide a practising Buddhist prisoner with a meat-free diet. The Court held, *inter alia*:

(a) that "the State's duty of neutrality and impartiality ... is incompatible with any power on the State's part to assess the legitimacy of religious beliefs" (paragraph 44);

(b) that observance of the rules of Buddhism by a prisoner falls within the protection of the freedom to manifest religion, the Court noting that "Buddhism is one of the world's major religions officially recognised in numerous countries" (paragraph 45);

(c) that, while special arrangements for one prisoner may have implications for the institution, the authorities must strike "a fair balance between the interests of the institution, other prisoners and the particular interests of the applicant" (paragraph 50);

(d) that the applicant "was not offered any alternative ... nor was the Buddhist Mission consulted", and that the Court was "not persuaded that the provision of a vegetarian diet to the applicant would have entailed any disruption to the management of the prison" (paragraph 52); and

(e) that the authorities had "failed to strike a fair balance between the interests of the prison authorities and those of the applicant, namely the right to manifest his religion through observance of the rules of the Buddhist religion", in breach of Article 9 of the Convention (paragraphs 54 and 55).

A copy of the said judgment is annexed hereto marked as ***"P7"*** *and is pleaded as part and parcel hereof.*

49. Although the decisions of the European Court of Human Rights do not bind Your Lordships' Court, the Petitioner respectfully submits that the principles stated in *Jakóbski* are of high persuasive authority, since they rest upon a guarantee materially identical to Article 18 of the International Covenant on Civil and Political Rights, to which Sri Lanka is a party. The Human Rights Committee, in General Comment No. 22 (1993) on Article 18, paragraph 8, has stated that "persons already subject to certain legitimate constraints,

such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint." The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules, 2015) require that "the religious beliefs and moral precepts of prisoners shall be respected" (Rule 2(1)), and that prison clothing "shall in no manner be degrading or humiliating" (Rule 19(1)). A statutory discretion is to be exercised, so far as possible, consistently with the international obligations of the State.

50. Applying those principles, the impugned decision fails any test of proportionality or rationality:

(a) The Respondents' own rules permit a bhikkhu sentenced to simple imprisonment to remain in his robes within the prison. The Respondents have thereby accepted that the wearing of robes is compatible with the security, discipline and good order of the prison. The robes do not become a threat to security merely because the sentence is one of rigorous rather than simple imprisonment.

(b) The distinction between simple and rigorous imprisonment relates to the liability of the prisoner to labour. It has no rational connection with the garments in which that labour is performed. Nothing prevents a bhikkhu in robes from performing such labour as may lawfully be required of him.

(c) Likewise, the length of a sentence, whether more or less than three years, has no rational connection with whether a bhikkhu may appear in court in his robes. A bhikkhu sentenced to two years and eleven months may, at the Superintendent's discretion, appear in court in his robes; a bhikkhu sentenced to three years and one month may not. The distinction is arbitrary, capricious, irrational, illogical, unfair, and unreasonable.

(d) The provision of robes would impose no burden on the State. The robes would be supplied by the lay supporters (*"gihi dayakayan"*), like the Petitioner, at no cost to the State, and may be subjected to

such reasonable inspection as security may require. As in *Jakóbski*, there would be no disruption to the management of the prison.

(e) As in *Jakóbski*, where the Buddhist Mission was not consulted, the Respondents neither consulted the Maha Sangha nor considered any alternative, and disregarded the representations of the senior prelates of the Sangha.

51. The Petitioner states that he does not, by this Application, invoke the jurisdiction which Article 126 of the Constitution vests exclusively in the Supreme Court in respect of the infringement of fundamental rights. The Petitioner relies upon the freedoms recognised in Articles 10 and 14(1)(e) of the Constitution, Article 18 of the International Covenant on Civil and Political Rights and the principles in *Jakóbski* as considerations which the Respondents were bound to take into account, as informing the content of the duty imposed by Article 9, and as establishing that the impugned decision is arbitrary, capricious, irrational, illogical, unfair, and unreasonable and disproportionate.

Ground 4: The Respondents have fettered their discretion and failed to take into account relevant considerations

52. The Respondents have applied a blanket rule mechanically, without regard to the circumstances of the case and without exercising any discretion. In so doing they have fettered such discretion as they possess. In particular, they failed to take into account

(a) the status of the 7th Respondent as an *bhikkhu*;
(b) the consequences of the impugned decision under the Vinaya;
(c) the duty of the State under Article 9;
(d) the representations of the senior prelates of the Maha Sangha;
(e) the fact that their own rules permit bhikkhus sentenced to simple imprisonment to wear their robes; and
(f) the availability of less restrictive alternatives. They have taken into account an irrelevant consideration, namely the length and description of the sentence, in determining the attire of a bhikkhu.

Ground 5: The impugned decision was made in breach of the rules of natural justice

53. A decision carrying such grave consequences for the ecclesiastical standing of a bhikkhu, and for the Sangha of which he is a member, required, at the least, that the 7th Respondent and the competent ecclesiastical authorities of the Sangha be given notice and an opportunity to be heard. No such opportunity was afforded. The representations made in were disregarded without reasons.

Ground 6: The rule or direction relied upon is, insofar as it applies to bhikkhus, ultra vires and of no force or effect

54. Section 94(3) of the Prisons Ordinance provides that no rule made under that section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette. Insofar as the Respondents rely on a circular, direction or practice that has not been so approved and notified, it has no force as a rule and cannot found the impugned decision.

55. In any event, no rule made under section 94 can authorise an act that is contrary to Article 9 of the Constitution. Any such rule must be construed so as not to extend to the robes of a bhikkhu, and, insofar as it purports to do so, is ultra vires and liable to be quashed to that extent.

THE PETITIONER'S *LOCUS STANDI*

56. The Petitioner states that he has sufficient interest, and is vitally concerned, in the subject matter of this Application, *inter alia*, for the following reasons:

(a) The impugned decision usurps the exclusive jurisdiction of the Sangha, which is one of the three refuges in which the Petitioner, as a practising Buddhist, has taken refuge, and the custodian of the Buddha Sasana which the State is bound by Article 9 to protect and foster. The Vinaya speaks of the Sangha of the four quarters (*cātuddisa saṅgha*); an injury to the robe of one bhikkhu is an injury

to the Sangha as a whole, and to the Buddha Sasana in which every Buddhist has a direct and abiding interest.

(b) The Application raises a question of general public importance concerning the duty of the State under Article 9 of the Constitution, in which the Buddhist public, and the Sangha as custodian of the Sasana, have a direct interest.

URGENCY AND INTERIM RELIEF

57. The Petitioner states that he has a strong prima facie case, and that, unless interim relief is granted, the 7th Respondent, the Sangha and the Buddhist public, including the Petitioner, will suffer grave and irreparable harm, *inter alia*, for the following reasons:

(a) Each night that the 7th Respondent is separated from his robes, and each day that he is made to wear householders' garments, constitutes a fresh and continuing occasion of transgression of the Vinaya, which cannot be undone by any final order.

(b) The 7th Respondent is due to be produced before the High Court of Colombo on 23rd October 2026, when he will again be publicly exhibited in lay garments unless restrained.

(c) The injury to the dignity of the robe and to the *Buddha Sasana* is a grave violation not only of the rights of the Bhikkus but a continuing transgression of Article 9 of the Constitution, and are incapable of being compensated in money or otherwise.

(d) The balance of convenience lies overwhelmingly in favour of granting interim relief. The Respondents' own rules already permit bhikkhus sentenced to simple imprisonment to wear their robes. The robes will be supplied by the lay supporters (*"gihi dayakayan"*), like the Petitioner, at no cost to the State and may be subjected to reasonable security inspection. The interim relief sought does not affect the sentence or the custody of the 7th Respondent in any way.

(e) Unless interim relief is granted, this Application, if successful, would be rendered nugatory in respect of the period of the 7th Respondent's imprisonment pending its determination.

58. The Petitioner respectfully states that any person who directly commits, aids, abets, assists, facilitates, encourages, or otherwise contributes to the continuation of the unlawful disrobing of an *bhikkhu*, and any person who, having the authority, capacity, or opportunity to prevent such unlawful conduct, knowingly fails or refuses to take reasonable steps to do so, thereby participates in or permits the continuation of an act which constitutes a grave transgression of fundamental Buddhist religious principles and beliefs. The continued disrobing of a monk, in circumstances where such conduct is unlawful, is not merely an affront to the dignity and religious status of the monk concerned, but also constitutes, according to the Buddhist belief system, a matter which is unmeritorious, carrying serious spiritual and moral consequences for those who perpetrate, facilitate, or knowingly permit such conduct, and the consequences of such unmeritorious actions are not limited to this birth but continue over many eons.

59. In the circumstances, the Petitioner respectfully urges Your Lordships' Court to grant immediate interim relief and to issue such appropriate orders and directions as may be necessary to restrain the Respondents, and any other person having the power, authority, or ability to prevent the continuation of the impugned conduct, from further permitting, facilitating, aiding, abetting, or acquiescing in the same, so as to prevent the continued commission of an act which, apart from its unlawful character, carries grave unmeritorious religious and spiritual consequences for all persons knowingly involved therein or deliberately failing to prevent it.

60. The Petitioner states that there is no other remedy available to him that is equally speedy, adequate and efficacious, and that this Application has been made without delay.

61. The Petitioner has not previously invoked the jurisdiction of Your Lordships' Court or of any other court in respect of the subject matter of this Application.

62. The Petitioner annexes hereto an affidavit in support of the averments contained herein. In respect of any document not presently available to the Petitioner, the Petitioner respectfully moves for leave to tender the same upon its being obtained.

63. The Petitioner reserves the right to add further documents, add further parties, and to amend this Petition as may be necessary.

WHEREFORE, the Petitioner respectfully prays that Your Lordships' Court be pleased to:

(a) issue notice of this Application on the Respondents;

(b) grant and issue a mandate in the nature of a Writ of Certiorari quashing the decision of the 1st, 2nd and/or 8th Respondents requiring the 7th Respondent to remove his robes and to wear lay or prison-issued clothing;

(c) grant and issue a mandate in the nature of a Writ of Certiorari quashing the Prison rule, regulation and/or direction insofar as it requires a bhikkhu to wear lay or prison-issued clothing in place of his robes, whether in prison or when produced before any court;

(d) grant and issue a mandate in the nature of a Writ of Certiorari to quash any Prison rule, regulation, standing order and/or direction and/or the application of any such rule, regulation, standing order and/or direction in relation to any Bhikku to wear any clothing other than robes which are saffron colour when such Bhikku is serving the sentence in prison and/or any other place;

(e) grant and issue a mandate in the nature of a Writ of Certiorari to quash any Prison rule, regulation, standing order and/or direction and/or the application of any such rule, regulation, standing order and/or direction in relation to any Bhikku to wear any clothing other than the robes which are saffron colour when such Bhikku is brought before any court of law;

(f) grant and issue a mandate in the nature of a Writ of Mandamus directing the 1st, 2nd and 8th Respondents to permit the 7th Respondent to retain and wear his robes while in custody and when produced before any court, subject only to such reasonable security inspection as may be necessary;

(g) grant and issue a mandate in the nature of a Writ of Mandamus directing the 1st, 2nd and 8th Respondents to permit the Bhikkus belonging to the chapter to which the 7th Respondent belongs, to carry out the necessary Buddhist vinaya rites pertaining to vesting robes on the 7th Respondent;

(h) grant and issue a mandate in the nature of a Writ of Mandamus directing the 1st, 2nd and 8th Respondents to permit the Bhikkus of the relevant chapters to which Bhikkus who are imprisoned belong to, to carry out the necessary Buddhist vinaya rites pertaining to vesting robes on the said imprisoned Bhikkus who have been illegally and/or irregularly disrobed;

(i) grant and issue a mandate in the nature of a Writ of Mandamus directing the 1st, 3rd and 4th Respondents, in consultation with the 5th and 6th Respondents and the Maha Sangha, to take all necessary steps to ensure that any rule or direction governing the attire of prisoners is consistent with Article 9 of the Constitution and does not require any bhikkhu to remove his robes;

(j) grant and issue a mandate in the nature of a Writ of Prohibition prohibiting the 1st, 2nd and 8th Respondents, and their officers, servants and agents, from compelling the 7th Respondent, or any other bhikkhu in their custody, to remove his robes or to wear lay or prison-issued clothing in place of his robes, save upon a determination by the competent ecclesiastical authority of the Sangha that he has ceased to be a bhikkhu;

(k) grant an interim order staying the operation of the impugned decision, and of the Prison rule, regulation and/or direction insofar as it applies to the 7th Respondent or any Bhikkhu to wear lay or prison-issued clothing in place of his robes, whether in prison or when produced before any court, until the hearing and final determination of this Application;

(l) granting an interim order directing the 1st, 2nd and 8th Respondents to permit the Bhikkus belonging to the chapter to which the 7th Respondent belongs, to carry out the necessary Buddhist vinaya rites pertaining to vesting robes on the 7th Respondent;

(m) grant an interim order directing the 1st, 2nd and 8th Respondents to permit the 7th Respondent forthwith to wear his robes, including when produced before the High Court of Colombo on 23rd October 2026 and before any other court, until the hearing and final determination of this Application;

(n) direct the 1st and 2nd Respondents to produce before Your Lordships' Court the rule, regulation, circular or direction relied upon, and all documents relating to the impugned decision;

(o) grant an Interim Order to stay any Prison rule, regulation, standing order and/or direction and/or the application of any such rule, regulation, standing order and/or direction in relation to any Bhikku to wear any clothing other than the robes which are saffron colour when such Bhikku is brought before any court of law;

(p) grant costs; and

(q) grant such other and further relief as to Your Lordships' Court shall seem meet.

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Documents annexed to the Petition:

1. An Affidavit of the Petitioner

2. Annexures marked "P1", "P2(a)", "P2(b)", "P2(c)", "P2(d)", "P3", "P4", "P5(a)", "P5(b)", "P5(c)", "P7"

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