

1962

*Present : Sri Skanda Rajah, J.*

J. E. PERERA, Petitioner, *and* THE MAYOR OF COLOMBO,  
Respondent

*S. C. 466/1962—Application for a Mandate in the nature of a Writ  
of Prohibition on the Mayor of Colombo*

*Writ of Prohibition—Scope.*

A Writ of Prohibition lies only for questioning the jurisdiction of an inferior court. It does not lie in respect of a purely administrative act.

**A**PPPLICATION for a Writ of Prohibition.

*Frederick W. Obeyesekere, for Petitioner.*

November 8, 1962. SRI SKANDA RAJAH, J.—

At the beginning I asked Mr. Obeyesekere, who appears in support of this application, as to the nature of this application, and he informed me that it is an application for the issue of a Writ of Prohibition on the Mayor

<sup>1</sup> (1949) 51 N.L.R. 282.

of Colombo. I thereupon asked him as to the circumstances under which a Writ of Prohibition can issue. Then he referred me to the case of *Subramaniam v. The Minister of Local Government and Cultural Affairs*<sup>1</sup> and to the case of *Wijesuriya v. Moonesinghe*<sup>2</sup>. The former case dealt with applications for Writs of Certiorari and Quo Warranto, and the latter dealt with an application for Mandamus. So, in my opinion, neither case has any relevance to the matter under consideration. Halsbury's Laws of England, 3rd Edition, Volume 11, page 113, Article 211, runs thus: "The order of prohibition is an order, issuing out of the High Court of Justice and directed to an ecclesiastical or an inferior temporal court which forbids that court to continue proceedings therein in excess of its jurisdiction or in contravention of the laws of the land". Crown Practice by Short and Meller 1890 at page 70 runs thus: "A Writ of Prohibition is a judicial writ, issuing out of a court of superior jurisdiction and directed to an inferior court for the purpose of preventing the inferior court from usurping a jurisdiction with which it is not legally vested. The writ is of very ancient origin and was generally issued by the court of Queen's Bench (although not exclusively so) being a prerogative writ to prevent the encroachment of the ecclesiastical upon the civil courts". Further, the following passage appears: "It must not be confounded with the remedy of injunction issued out of the Courts of Chancery or Common Law against proceedings at law. Both have the same object, but the difference between them is that an injunction is directed against the parties litigant, while a prohibition is directed to the Court itself. An injunction usually recognises the jurisdiction of the Court in which the proceedings are pending, but the prohibition strikes at once at its jurisdiction".

I would draw special attention to the fact that this writ lies only for questioning the jurisdiction of an inferior court and that it does not lie in respect of this matter which is purely an administrative act of the Mayor. Obviously, this application has been misconceived and I therefore refuse the application.

*Application refused.*

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