
**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 Democratic Socialist Republic of Sri Lanka in respect of violation and/or continuing violation and/or imminent violation of Article 12(1) of the Constitution.

1. **Hon. Ranjith Madumma Bandara**
General Secretary,
Samagi Jana Balawegaya,
No 852,
E W Perera Mawatha,
Sri Jayawardenapura Kotte

2. **Indika Priyadarshana Ediribandu**
President- Samagi Sewaka Sangamaya, Sri Lanka Telecom
No 66, KapturuSewana 2,
Delduwa Wadduwa

3. **Narathota Hewage Doil Ranjaka Kumarasinghe**
Secretary- Samagi Sewaka Sangamaya, Sri Lanka Telecom
106/D, Tangalle Road,
Devunuwara

4. **Niroshan Padukka**
Treasurer- Samagi Sewaka Sangamaya, Sri Lanka Telecom
No. 68, Kottawa Road,
Piliyandala

5. **Athuraliyage Piyananda Prabath Piyananda Athuraliya**
308/37, Medahena Para,

Welegoda,
Matara

Petitioners

1. **Auditor General**
Auditor Generals Department,
306, 72 Polduwa Rd,
Battaramulla
2. **K M Mahinda Siriwardena**
Secretary to the Treasury and Secretary,
Ministry of Finance, Economic Stabilization
and National Policies,
The Secretariat,
Colombo 01
3. **Dinesh Chandra Rupasingha
Gunawardena,**
Prime Minister,
Minister of Public Administration,
Home Affairs, Provincial Councils and
Local Government.
Office of the Cabinet of Ministers
Lloyd's Building, Sir Baron Jayathilaka
Mw., Colombo 01.
4. **Nimal Siripala De
Silva,**
Minister of Ports, Shipping and
Aviation
Office of the Cabinet of
Ministers,
Lloyd's Building, Sir Baron Jayathilaka
Mw., Colombo 01.
5. **Pavithra Devi Vanniarachchi,**
Minister of Wildlife and Forest
Resources Conservation,
Office of the Cabinet of
Ministers,

Lloyd's Building, Sir Baron Jayathilaka
Mw., Colombo 01

6. **Douglas Devananda**
Minister of Fisheries
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
7. **Arachchige Don Susil Premajyantha**
Minister of Education
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
8. **Bandula Gunawardena**
Minister of Transport Highways,
Minister of Mass media,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
9. **Kheloya Rambukwella**
Minister of Health
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
10. **Mahinda Amaraweera**
Minister of Agriculture,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
11. **Wijayadasa Rajapaksha**
Minister of Justice, Prison Affairs and
Constitutional Reforms
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01

12. **Nalaka Jude Hareen Fernando**
Minister of Tourism and Lands
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
13. **Ramesh Pathirana**
Minister of Plantation Industries
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
14. **Prasanna Ranathunga**
Minister of Urban Development and
Housing,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
15. **M U M Ali Sabri**
Minister of Foreign Affairs,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
16. **Vidura Wickramanayake**
Minister of Buddhasasena, Religious and
Cultural Affairs,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
17. **Kanchana Wijesekara**
Minister of Power and Energy
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
18. **Ahamed Zenulabdeen Naseer**
Minister of Environment,
Office of the Cabinet of Ministers,

Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01

19. **Anuruddha Ranasinghe Arachchige Roshan**
Minister of Sports and Youth Affairs,
Minister of Irrigation,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
20. **Maligaspe Koralege Nalin Manusha Nannayakkara,**
Minister of Labour and Foreign
Employment,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
21. **Tiran Alles**
Minster of Public Security,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
22. **Kachchakaduge Nalin Ruwanjiwa Fernando**
Minister of Trade, Commerce and Food
Security,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
23. **Jeevan Thondaman**
Minister of Water Supply and Estate
Infrastructure Development,
Office of the Cabinet of Ministers,
Lloyds Building,
Sir Baron Jayathileka Mawatha,
Colombo 01
24. **Sri Lanka Telecom,**

P.O Box 503,
Lotus Road,
Colombo 01

25. **Rohan Fernando**
Director/Chairman,
Sri LankaTelecom,
P.O Box 503,
Lotus Road,
Colombo 01
26. **Lalith Seneviratne**
Executive Director/Group Chief Executive
Officer,
Sri LankaTelecom,
P.O Box 503,
Lotus Road,
Colombo 01
27. **Janaka Abeysinghe**
Chief Executive Officer,
Sri LankaTelecom,
P.O Box 503,
Lotus Road,
Colombo 01
28. **Ajith M. D. S Jayaratne**
Chairman,
Colombo Stock Exchange,
No 04-01, West Block,
World Trade Center,
Echelon Square,
Colombo 01.
29. **Nilupa Perera**
Senior Vice President- Trading Operation,
Market Surveillance and Listed Entity
Compliance,
Colombo Stock Exchange,
No 04-01, West Block,
World Trade Center,
Echelon Square,
Colombo 01.
30. **Suresh Shah**
Director General

State-Owned Enterprises Restructuring
Unit
Ministry of Finance,
The Secretariat,
Colombo 01.

31. **Sunil Hettiarachchi**,
Deputy Director General,
State-Owned Enterprises Restructuring
Unit
Ministry of Finance,
The Secretariat,
Colombo 01.

32. **Nabiha Mohomad**
Transaction Team Leader,
State-Owned Enterprises Restructuring
Unit
Ministry of Finance,
The Secretariat,
Colombo 01.

33. **Shivantha Athukorale**
Transaction Team Leader,
State-Owned Enterprises Restructuring
Unit
Ministry of Finance,
The Secretariat,
Colombo 01.

34. **Hon. Attorney General**
Attorney Generals Department
Colombo 12

(Made a Respondent in terms of the proviso
to Article 35(3) of the Constitution.)

Respondents

On this day of May 2023,

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

The Petition of the Petitioners above named appearing by Dimuthu Kurupparachchi their registered Attorney-at-Law, states as follow:

The Petitioners

1. The 1st Petitioner is the General Secretary of the Samagi Jana Balawegaya and a Member of Parliament acting in the Public Interest of the citizens of Sri Lanka.
2. The 2nd Petitioner is the President of the Samagi Sewaka Sangamaya of Sri Lanka Telecom (24th Respondent) (hereinafter sometimes referred to as SLT)
3. The 3rd Respondent is the Secretary of the Samagi Sewaka Sangamaya of Sri Lanka Telecom (24th Respondent).
4. The 4th Respondent is the Treasurer of the Samagi Sewaka Sangamaya of Sri Lanka Telecom (24th Respondent).
5. The 5th Respondent is a shareholder of SLT (24th Respondent) who holds One Thousand one hundred and thirty one (1131) shares in SLT (24th Respondent)
6. The 2nd to 5th Petitioners are employees and/or shareholders of SLT (24th Respondent) and/or has an interest in the 24th Respondent Company and institute this application personally for and on behalf of themselves as well as for and on behalf of employees and/or shareholders of SLT (24th Respondent) as well as acting in the interests of the public that have been impacted by the actions and/or the inactions of one or more of the several respondents as herein forth stated

The Respondents

The Respondents are as follows:

7. The 1st Respondent is the Auditor General whose duties and functions are set out in terms of Article 153 and/or 154 of the Constitution and has been made a party to this application to carry out the legitimate duties as prayed for by the Petitioners in the prayers **(j)** and **(k)** upon direction of Your Lordships Court.
8. The 2nd Respondent is the Secretary to the Treasury, who holds 49.50% of the shares in the 24th Respondent Company on behalf of the Government of Sri Lanka and thus on behalf of the People of Sri Lanka in trust. The 2nd Respondent is also the Secretary to the Ministry of Finance under which the said purported State Owned Enterprises Restructuring Unit functions.

9. The 3rd to 23rd Respondents are members of the Cabinet of Ministers.
10. The 24th Respondent Sri Lanka Telecom PLC is a Public Limited Company duly incorporated under the laws of Sri Lanka and is listed in the Colombo Stock Exchange. The 2nd Respondent is the majority shareholder of the 24th Respondent Company.
11. The 25th Respondent is the Director/Chairman of the 24th Respondent Company.
12. The 26th Respondent is the Executive Director/ Group Chief Executive Officer of the 24th Respondent Company and is added as a Respondent.
13. The 27th Respondent is the Chief Executive Officer of the 24th Respondent Company.
14. The 28th Respondent is the Chairman of the Colombo Stock Exchange.
15. The 29th Respondent is the Vice President – Trading Operation Market Surveillance and Listed Entity Compliance of the Colombo Stock Exchange
16. The 30th to the 33rd Respondents are officials of the purported State-Owned Enterprise Restructuring Unit. The petitioners specifically plead that citing the said 30th to 33rd Respondents as parties to this application does not amount to acceptance by the Petitioners of the legality of the purported State Owned Enterprise Restructuring Unit.
17. The 34th Respondent is the Hon. Attorney General of Sri Lanka, and is made a party to this application under and in terms of Article 134 (1) of the Constitution and in compliance with the requirements of Supreme Court Rule 44 (1)(b)

The Hon. Attorney General who is also made a Respondent in compliance with the requirements of Article 35(3) of the Constitution as this application is, *inter alia*, in relation to powers exercised by President Ranil Wickremesinghe, President of the Democratic Socialist Republic of Sri Lanka, in his capacity as the Minister of Finance, Economic Stabilisation and National Policies.

Background to the application

18. Sri Lanka Telecom (Hereinafter sometimes referred to as 'SLT') was incorporated under and in terms of Section 2 of the State Industrial Corporations Act, No. 49 of 1957 and published in Gazette Extraordinary No. 596/11 dated 6th February 1990.

(The Petitioner annexes hereto marked 'X1a' and 'X1b' the Gazette Extraordinary No. 596/11 dated 6th February 1990 and the Certificate of Incorporation for the ease of reference and pleads the same as part and parcel hereof)

19. SLT was converted to a public limited company on 25th September 1996 under and in terms of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Limited Companies Act, No. 23 of 1987, by way of Gazette Extraordinary No. 942/7 dated 25th September 1996.

(The Petitioner annexes hereto marked 'X2' the Gazette Extraordinary No. 942/7 dated 25th September 2006 for the ease of reference and pleads the same as part and parcel hereof)

20. The Petitioners state that as at 31st December, 2021 the Secretary to the Treasury (2nd Respondent) holds 49.50% of the total issued shares of the 24th Respondent on behalf of the Government of Sri Lanka, whilst Global Telecommunications Holdings N.V. of Netherlands holds 44.98% of the total issued shares.

Scope of the application

21. The Petitioners state that this application concerns, *inter alia*, a purported decision taken by the Cabinet of Ministers dated 13th of March 2023 to divest the shares of SLT (24th Respondent) held by the Secretary to the Treasury (2nd Respondent).
22. The Petitioners state that the Petitioners are unaware and/or uninformed regarding this purported Cabinet Decision that was taken by the Cabinet of Ministers on the 13th of March 2023 as such decision has not been made public up to date.
23. The Petitioners state that to the utter shock and/or dismay of the Petitioners a letter dated 20th March 2023, was sent from the 27th Respondent to the 29th Respondent stating *inter alia* that the Cabinet of Ministers has granted its approval in principle for the divestment of the share held by the Secretary to the Treasury in SLT.

The events that transpired subsequent to the Cabinet Decision dated 5th September 2022

24. The Petitioners state that the Cabinet *inter alia* approved a proposal made by the President Ranil Wickremasinghe to establish the State-Owned Enterprise Restructuring Unit (hereinafter sometimes referred to as SRU) under the Ministry of Finance, Economic Stabilization and National Policies to identify possible ways to minimize the fiscal burden on the General Treasury by way of the Cabinet Decision dated 5th of September 2022.

(The Petitioner annexes hereto marked 'X3' the said cabinet Decision dated 5th September 2022 for the ease of reference and pleads the same as part and parcel hereof)

25. The Petitioners state that consequent to the aforementioned Cabinet Decision marked as 'X3' the 27th Respondent conveyed a letter dated 20th March 2023 to the 29th Respondent which stated as follows,

"We write with reference to your letter dated 17th March 2023 and wish to state that the Secretary to the Treasury has informed the Board of Directors of the SLT that the Cabinet of Ministers has granted its approval in principle for the divestment of the state held by the Secretary to the Treasury in SLT. The divestment will be implemented by the State-Owned Enterprises Restructuring Unit established under the Ministry of Finance, Economic Stabilisation and National Policies, subject to following the due process."

(The Petitioner annexes hereto marked 'X4' the said letter dated 20th March 2023 for the ease of reference and pleads the same as part and parcel hereof)

26. The Petitioners state that on or about the 23rd of March 2023 the Ministry of Finance, Economic Stabilization and National Policies issued a Press release in both Sinhalese and English language regarding the divestiture of State owned Enterprises.

27. The Petitioners state that the Sinhalese press release that was issued states *inter alia*,

- a. වසර ගණනාවක සිට ශ්‍රී ලංකා ආර්ථිකයට මුල්ය වැය බරක් වී ඇති රජය සතු වාණිජ විය වසාය අංශය මේ යටතේ ජර මුඛත්වය ලබා දී ජරානිව්‍යුහකරණයට හඳුනාගෙන ඇත.
- b. 2023 මාර්තු 13 දින එළඹුණ අමාත්‍ය මණ්ඩල තීරණයට අනුව, ජර නිපත්තිමය වශයෙන් පහත සඳහන් රාජ්‍යා වියලවසායන් හි රජය සතු කොටස් අයිතිය පැවරීම අනුමත කර ඇත.

(The Petitioner annexes hereto marked 'X5' a copy of the said Sinhalese press release dated 23rd March 2023 for the ease of reference and pleads the same as part and parcel hereof)

28. The Petitioners state that the English press release that was issued states *inter alia*,

- a. The Government of Sri Lanka has identified that the State-Owned Sector, which has for many years been a **severe burden** on the Sri Lankan economy will be given priority when implementing structural reforms.
- b. In accordance with the Cabinet Decision dated 13th March 2023 the Cabinet of Ministers has approved the divestiture of seven State-owned enterprises (hereinafter sometimes referred to as SOE's) which includes Sri Lanka Telecom PLC.

(The Petitioner annexes hereto marked 'X6' a copy of the said English press release dated 23rd of March 2023 for the ease of reference and pleads the same as part and parcel hereof)

29. The Petitioners state that at the outset, the aforesaid press releases marked X5 and X6 hereto appear contradictory.

30. The Petitioner states that consequent to the aforementioned press releases marked as 'X5' and 'X6' hereto, several leading news papers in the country published articles regarding the said divestiture of seven State-owned enterprises which includes SLT (24th Respondent).

(The Petitioner annexes hereto marked 'X7a' and 'X7b' copies of the said News Paper Articles for the ease of reference and pleads the same as part and parcel hereof)

31. The Petitioners further state that the Parliamentary Hansard bearing No 23/0431/604/046, *inter alia* states that in accordance with **the policy decision** that was taken on 13th March 2023, several steps are to be taken with regard to the restructuring of SLT (24th Respondent).

(The Petitioner annexes hereto marked 'X8' a copy of the said Parliamentary Hansard for the ease of reference and pleads the same as part and parcel hereof)

32. The Petitioners state that the Petitioners are not aware of any Decision of the Cabinet of Ministers, Gazette notification, circular or any other relevant document in the public domain for authorising and/or enabling and/or carrying out such restructuring procedures with regards to SLT (24th Respondent) without consulting the necessary persons and/or stakeholders and/or conducting proper fiscal audit and/or financial evaluation into such re-structuring mechanisms.

33. The Petitioners state with the limited material that has been made available to the Petitioners, the purported Cabinet Decision that was taken on the 13th of March 2023, which has not been made public up to date is a clear indication that such decision has been taken in secrecy by the 2nd to 23rd Respondents in an ad-hoc and/or arbitrary and/or vexatious and/or capricious manner and is prima facie void ab initio and/or illegal.

The procedural flaw regarding the Purported Cabinet Decision dated 13th of March 2023

34. The Petitioners state that in conjunction with the Cabinet Decision dated 5th of September 2022 marked as 'X3' hereto , the purported Cabinet Decision dated 13th March 2023 maybe arrived at by adhering to the due process of Law by adopting the following two methods,

a. State-Owned Enterprises Re-structuring unit can forward its proposals to the Cabinet or the Ministry of Finance, Economic Stabilization and National Policies or,

b. The Cabinet may make a Decision on its own motion

35. The Petitioners state that the Cabinet has made a Purported Decision regarding the divestiture of State Owned Enterprises on its own motion by way of a Cabinet Decision dated 13th of May 2023, However such Purported Decision has not been made public.

36. The Petitioners state that during the press release that was issued dated 23rd of March 2023 marked as 'X5' and 'X6' hereto, the Ministry of Finance, Economic Stabilization and National Policies has mandated the SRU to divest seven SOEs which includes Sri Lanka Telecom.

37. The Petitioners further state that upon perusal of the website of the Ministry of Finance, Economic Stabilization and National Policies it provides that the said Ministry has seemingly identified four SOE's which the SRU tasked with restructuring.

(The Petitioner annexes hereto marked 'X9' a screenshot of the Ministry of Finance Website for the ease of reference and pleads the same as part and parcel hereof)

38. The Petitioners state that as evident in the screenshot marked X9 hereto, SLT does not appear to be an identified SOE falling within the scope of SOEs subject to the restructuring process.

39. The Petitioners verily believe that the purported Cabinet Decision that was taken on the 13th of March 2023 is,

- a) In contravention of the procedures set out in terms of the cabinet decision dated 5th September 2022,
- b) shrouded in secrecy is done in mala fides for the personal benefit and/or gain of the 2nd to 23rd Respondents

SLT (24th Respondent) is a profit making entity with a positive future outlook

40. The Petitioners state that by way of the Cabinet Decision dated 5th September 2022, the State-Owned Enterprises Restructuring Unit was mandated to look into the restructuring of **loss making State owned Enterprises.**
41. The Petitioner states that the ‘Statement of Profit or Loss and Other Comprehensive Income’ in the Annual Report for the year 2022 of SLT (24th Respondent), *inter alia* provides, that SLT (24th Respondent) recorded a revenue amounting to 107,710 million and a profit before tax of 10,588 million for the year ending 31st of December 2022.
42. The Petitioners state that the ‘Earnings before Interest, Tax, Depreciation, and Amortization (EBITDA)’ for the period stood at 40.8 billion Rupees.
43. The Petitioners state that the financial strength of the 24th Respondent Company is shown in an asset base of 240.6 billion Rupees, with fixed assets i.e Property, Plant and Equipment, accounting for 69% of a total asset base at a net book value of 164.9 billion Rupees.
44. The Petitioners state that the shareholders’ funds comprise of 92.5 billion Rupees.
45. The Petitioners further state that SLT (24th Respondent) invested 43.3 billion Rupees in acquisition of property, plant and equipment, signifying and/or evidencing the entity’s commitment and/or ability for future growth and expansion through strategic investments.

(The Petitioner annexes hereto marked ‘X10’ the relevant pages of the Annual Report of 2022 for the ease of reference and pleads the same as part and parcel hereof)

46. The Petitioners state that upon perusal of the ‘Ten Year Progress’ of the SLT group (24th Respondent), it is *inter alia* apparent,
 - a. There is a steady growth trend in the total assets of the group.
 - b. There is a steady growth trend in the Revenue generated by SLT (24th Respondent)

- c. There is a steady growth trend in the Net cash used in investing activities.
- d. There is a healthy operating margin of 11.2%.

47. The Petitioners state that despite the worst economic crisis faced by Sri Lanka in the year 2022 there has been no significant reduction in the operating profits and operating margin of SLT (24th Respondent), further evidencing the strength of the Enterprise.

(The Petitioner annexes hereto marked 'X11' the relevant pages of the Annual Report of 2022 for the ease of reference and pleads the same as part and parcel hereof)

48. The Petitioners state that the long term borrowing was reduced by 23.3% from 61.68 billion Rupees in 2019 to 47.29 billion Rupees in 2022.

49. The Petitioners state that as evidenced above it is clear that SLT (24th Respondent) is a profit generating enterprise and is not a loss making entity that warrants the privatization amidst alternative remedies.

SLT (24th Respondent) has been instrumental to the development and growth of the Sri Lankan economy

50. The Petitioners state SLT's fibre technology deploys over 65,000 km of cable and 500 nodes to provide Island wide coverage. It has even reached the most rural areas within Sri Lanka.

51. The Petitioners state SLT (24th Respondent) partners with local universities, including the University of Moratuwa, for vital research and development projects.

52. The Petitioners state that as at 31st December 2022 SLT (24th Respondent) has 9.3 million subscribers for the services provided by SLT (24th Respondent).

53. The Petitioners state that SLT (24th Respondent) has been a vital partner in the health care and education sector of Sri Lanka, providing indispensable support services during the Covid-19 pandemic between 2020-2021 and the worst economic crisis in Sri Lanka in the year 2022.

54. The Petitioners state that the SLT Group's (24th Respondent) investments in 4G LTE, 5G, and fibre propel have made Sri Lanka a giant in technology in South Asia, keeping pace with emerging technologies such as AI, ML, IoT, virtual reality etc.
55. The Petitioners state that in the year 2013, SLT (24th Respondent) launched the country's first ultra-speed Nationwide DWDM (Dense Wavelength Division Multiplexing) fibre optic backbone transmission Network (NBN) in Sri Lanka. SLT is currently licensed to operate a national backbone network enabling them to function as the National Broadband Network (NBN) operator.
56. The Petitioners state that in the year 2016, SLT (24th Respondent) registered a new subsidiary namely Galle Submarine Cable Depot Ltd, which is South Asia's first submarine cable depot, located in Galle. This was a joint venture between SLT and Indian Ocean Cables Private Limited (IOCPL) seeking to provide submarine cable spare storage facilities for regional telecom operators under the South East Asia Indian Ocean Cable Maintenance Agreement (SEAIOCMA) zone.
57. The Petitioners state that for the year 2022 alone SLT (24th Respondent) has continued to generate substantial profits amidst the worst economic crisis in Sri Lanka,
- a. Phase 1 of the construction of the nine-story SLT-MOBITEL headquarters in Welikada was completed within one year. The operational offices are scheduled to transfer into the new building enabling SLT to save approximately 300-400 million Rupees per annum.
 - b. The SLT-MOBITEL headquarters constructed at a cost of approximately 2.5 billion Rupees is one of the most modern, green buildings in Sri Lanka, powered through renewable energy and water saving through rainwater harvesting.
 - c. Connecting Sri Lanka to the Global the SEA-ME-WE 6 cable project is in the course of being executed with the involvement of the US Company SubCom.
 - d. Development of the Training Centre in Welisara in order to get UGC approval and university status. The Training Centre is estimated to educate up to 2000 students annually in the field of Information Technology.

58. The Petitioners state that SLT (24th Respondent) is the National Information and Communications Technology (ICT) solutions provider and the leading broadband and backbone infrastructure services provider of Sri Lanka for over 163 years. SLT (24th Respondent) provides diversified services and a wide range of ICT solutions to its diverse customer base through the latest technologies. These cover fixed and mobile telephones, broadband data services, Internet Protocol Television (IPTV), Cloud Computing and hosting services and networking solutions all while generating profit.

59. The Petitioners further state that SLT (24th Respondent) contributes to the Government Treasury by way of payment of taxes and dividends generating double revenue.

(The Petitioner annexes hereto marked 'X12' and 'X13' copies of the 2021 Annual Report and the 2022 Annual Report for the ease of reference and pleads the same as part and parcel hereof)

The negative impacts of privatisation

a. Economic Impact

60. The Petitioners state that the arbitrary and/or ad hoc and/or malicious Cabinet Decision purportedly taken to divest the shares held by the Secretary to the Treasury (2nd Respondent) affects other shareholders of the State sector, including *inter alia*,

- a. the Employees Provident Fund,
- b. Bank of Ceylon A/C Ceybank Trust,
- c. Sri Lanka Insurance Corporation Ltd Fund,
- d. Employees Trust Fund,
- e. National Savings Bank,
- f. Sri Lanka Insurance Corporation Ltd General Fund
- g. Bank of Ceylon No. 1 Account.

61. The Petitioners state that SLT (24th Respondent) contributes its taxes, profits and dividends to the Government Treasury which is in turn fuelled back into the Sri Lankan economy benefiting Sri Lanka and its citizenry. As at 31st December 2022 SLT has contributed a sum of 5,823 million Rupees as taxes to the Government Treasury.

b. The imminent threat to National Security

62. The Petitioners state that the South East Asia-Middle East- Western Europe 4 (SEA-ME-WE 4) is an optical fibre submarine communications cable completed on the 13th December 2005, that carries telecommunications between 16 telecommunications companies within 15 countries to which SLT (24th Respondent) is a party. This cable which is approximately 18,800 km long provides the primary internet backbone between South East Asia, Indian Subcontinent, the Middle East and Europe.

(The Petitioner annexes hereto marked 'X14' a copy of an Article regarding the same for the ease of reference and pleads the same as part and parcel hereof)

63. The Petitioners state that SLT (24th Respondent) entered into a partnership for the construction of a SEA-ME-WE 5 optical cable approximately 20,000km long in participation with 14 Global players. The SEA-ME-WE 5 cable has connected 17 countries globally.

(The Petitioner annexes hereto marked 'X15(a)' and 'X15(b)' a copy of an Article regarding the same for the ease of reference and pleads the same as part and parcel hereof)

64. The Petitioners further state the SEA-ME-WE 6 cable project is in the course of being executed with the involvement of the US Company SubCom.

(The Petitioner annexes hereto marked 'X16' the relevant pages of the Annual Report of 2022 for the ease of reference and pleads the same as part and parcel hereof)

65. The Petitioners state that SLT (24th Respondent) Mobitel introduced a state of the art Tier III Uptime Certified Data Centre for enterprises, inclusive of Uptime Data Centre Tier Certification, Green Gold Certification, ISO 27001 and ISO 9001 Quality Management System located in Pitipana Sri Lanka on or about the 16th January 2018

66. The Petitioners further state that SLT (24th Respondent) intends to provide expert knowledge and bear all costs associated with space, protection, disaster management etc. All data entrusted to the data centre will be stored lawfully following all necessary regulations and is thus secure against any vulnerability.

(The Petitioner annexes hereto marked 'X17' Extracts from the SLT Website regarding the same for the ease of reference and pleads the same as part and parcel hereof)

67. The Petitioners further state that the aforementioned Data Centre integrates all the information pertaining to all Government Agencies into one system, including the information of private individuals. Therefore it is necessary that the State should retain control of such Enterprises.

68. The Petitioners verily believe that if the control of such optical cables (SEA-ME-WE 4, SEA-ME-WE 5 and SEA-ME-WE 6) and Data Centre is given to a privatised entity, it would create a imminent threat to the National Security of our Country, as all the sensitive and confidential information will be in the control of a private entity as opposed to the State who are Constitutionally bound to uphold the Right to Privacy of its people.

c. **SLT (24th Respondent) owns and controls properties around Sri Lanka**

69. SLT owns and control properties which the market value is 164,916 million Rupees and accordingly is an entity that possesses substantial assets which cannot and should not be vested in any other entity other than the State..

The Proposed Restructuring mechanism as opposed to Privatisation

70. The Petitioners verily believes privatisation of a profit generating State Owned Entity should be a last resort solution in a re-structuring process.

71. The Petitioners state that the Cabinet Decision dated 5th of September 2022 marked 'X3' hereto *inter alia* provides that the State-owned Enterprises Re-structuring Unit should provide necessary guidance and assist in reforming State-Owned enterprises aiming to identify possible ways to minimize the fiscal burden on the General Treasury and improving the overall performance of those State-Owned enterprises.

72. The Petitioners state that the authority given to the State-owned Enterprises Re-structuring Unit is to **identify possible ways to minimize** the fiscal burden on the General Treasury.

73. The Petitioners further state that the mandate of the State-owned Enterprises Re-structuring Unit is implementing deep economic reforms including in the SOE sector.

Such reforms are intended to enhance competition, productivity and efficiency across the economy.

(The Petitioner annexes hereto marked 'X18' Extracts from the Finance Ministry Website regarding the same for the ease of reference and pleads the same as part and parcel hereof)

74. The Petitioners further state that State-owned Enterprises Re-structuring Unit should navigate through all available courses, and find alternative re-structuring mechanisms that is favourable for the Enterprise, rather than privatising in the first instance.
75. The Petitioners state that in light of the authority and mandate that is given to the said Unit, they are well within their power to make recommendations to the relevant Ministries and make proposals that will promote good governance, efficiency and restrict political interference within State Owned Enterprises.
76. The Petitioners state that such recommendations may include,
 - a. Formulating a scheme of recruitment that will reduce the number of employees within SLT in the long run. The Petitioners state that as at 31st December 2022 SLT Group has employed over 8058 employees whereas SLT may be effectively sustained with up to 2000 employees if a proper audit is done with regards to the number of employees that is needed.
 - b. Strengthening the Board of Directors and reducing the Political Interference within the Enterprises by a direction of Your Lordships in conjunction with the 1st Respondent.
 - c. Introducing Rules and Regulations and internal reforms which will promote good governance and efficiency by a direction of Your Lordships in conjunction with the 1st Respondent.
 - d. Make a fixed cadre and specific rules for the Department of Management services to follow by a direction of Your Lordships in conjunction with the 1st Respondent.
 - e. Ensuring that the Auditor General and the Department of Management Services oversee the entire procedure by a direction of Your Lordships in conjunction with the 1st Respondent..
77. The Petitioners state that the duties and the functions of the Auditor General in accordance with Article 153 and/or 154 of the Constitution *inter alia* includes,
 - a. Audit accounts of all Public Corporations and business or other undertakings vested in the Government under any written law.

- b. If the Auditor General is of the opinion that it is necessary to obtain the assistance in examining any technical, scientific or professional problem regarding the audit he may engage the services of a body or authority who are not employees within that Department and/or Public Corporation.
- c. Such person or Institution shall act under the direction and control of the Auditor General.

78. The Petitioners further state the responsibilities of the Department of Management Services within the Ministry of Finance *inter alia* includes,

- a. Introduction of the required cadre to the Public Sector
- b. Conducting cadre reviews to introduce new systems and methodologies through identification of optimum cadre requirement in line with the mission and the objectives of the public sector institutions.
- c. Approving recruitment procedures and promotional procedures for the public corporations, statutory boards and fully government owned companies.
- d. Identifying excess staff, deploying them effectively and submission of proposals for revision and termination of service
- e. Conducting studies on recruitment policy, skills development training and planning of succession as well as assisting relevant authorities to implement such matters.
- f. Submission of updated cadre information report to the Cabinet quarterly
- g. Preparing and publishing and Report on Public Sector annually.

(The Petitioner annexes hereto marked 'X19' Extracts from the Finance Ministry Website regarding the same for the ease of reference and pleads the same as part and parcel hereof)

79. The Petitioners state that whilst privatisation can be proposed as a prudent remedy for loss making Enterprises classified as 'total failures' only due to political decisions made for personal gain which caused a profit making enterprise to be a catastrophic burden on the general public such as Sri Lankan Airlines by Mahinda Rajapaksha directing that the Joint Venture Agreement signed by and between the Government of Sri Lanka and The Emirates Group be terminated.

The Petitioners state that SLT (24th Respondent) is not under any form of financial duress or loss as evidenced above and therefore the Purported Cabinet Decision taken in an arbitrary and/or adhoc and/or malicious and/or vexatious manner seems to be a gimmick and/or attempt to sell SLT (24th Respondent) for an illegal purpose by the Respondents.

(The Petitioner annexes hereto marked 'X20' Screenshot from the SOE Website regarding the same for the ease of reference and pleads the same as part and parcel hereof)

80. The Petitioners state that the purported Cabinet Decision dated 13th March 2023, which is unequivocally uninformed, and procedurally improper goes against the hallowed concept of public trust and the spirit of the Constitution as majority of shares of SLT (24th Respondent) amounting to 54.01% is held by the Government of Sri Lanka and by public corporations in which the State is the majority shareholder.
81. The Petitioners state that the Privatisation of SLT is a infringement of their Fundamental Right under Article 12(1) of the Constitution, and grave and irreparable damage and/loss will be caused to the Petitioners if such decision is carried out.
82. In view of the totality of the above the Petitioners are advised to state that the *ad hoc*, illegal, unjustifiable, arbitrary, inconsistent, whimsical and capricious actions by one or more Respondents as more fully explained above shall result in grave and irreparable losses to the Petitioners and the general public at large , and has infringed the Fundamental Right of the Petitioners and the citizenry amounting to gross violation and/or continuing violation and/or imminent violation of fundamental rights guaranteed under Article 12(1) Constitution
83. The Petitioners further state that in the aforesaid circumstances, grave and/or irreparable loss and/or damage would be caused to the Petitioners and the general public of the area and this instant application would be rendered nugatory unless Your Lordships' Court be pleased to grant and issue the interim orders prayed for by the Petitioners.
84. The Petitioners state that they have not previously invoked the jurisdiction of Your Lordships' Court in respect of the subject matter of this application.
85. The Petitioners respectfully seek Your Lordships' Court's indulgence and reserves their right due to the limited time period to prefer this application and due to the information and/or material specifically the purported Cabinet Decision dated 13th March 2023 being shrouded in secrecy and not in the public domain to amend the Petition/ add parties

including Respondents/to tender further documents/ and also to tender documents referred to in the Petition but have not been annexed.

WHEREFORE THE PETITIONERS PRAY THAT YOUR LORDSHIPS' COURT BE PLEASED TO:

- a) Issue notice to Respondents;
- b) Grant leave to proceed for the violation and/or continuing violation and/or imminent violation of Article 12(1) of the Constitution by the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them by the purported Cabinet Decision dated 13th of March 2023 ;
- c) Grant leave to proceed for the violation and/or continuing violation and/or imminent violation of Article 12(1) of the Constitution by the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them, in connection with the letter marked as 'X4' hereto dated 20th March 2023
- d) Declare that the Petitioner's fundamental rights guaranteed under Article 12(1) of the Constitution have been violated and/or are subject to continuing infringement by by the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them.
- e) The 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them have infringed and are continuously infringing the Fundamental Rights of the Petitioner and the people of Sri Lanka and /or any part thereof, guaranteed by Article 12(1) of the Constitution.
- f) A Declaration that the letter marked as 'X4' hereto dated 20th of March 2023 is in violation of the Fundamental Rights of the Petitioners guaranteed under 12(1) of the Constitution.

- g) A Declaration directing the letter marked as 'X4' hereto dated 20th of March 2023 is null and/or void and or has no force and/or avail in law.
- h) An interim order restraining the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them from acting under and in terms of the purported Cabinet Decision dated 13th of March 2023.
- i) An interim order restraining the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them from acting under and in terms of the letter marked as 'X4' hereto dated 20th of March 2023.
- j) An Order from Your Lordships Court directing the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them to obtain directions for the re-structuring of the 24th Respondent from the relevant authorities including but not limited to the 1st Respondent, Department of Management Services as *inter alia* pleaded in averment 74 of the Petition as an alternative to privatization.
- k) An Order from Your Lordships' Court directing the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them to obtain directions from the relevant authorities including but not limited to the 1st Respondent , Department of Management Services in respect of the issuance of an appropriate cadre and scheme of recruitment as *inter alia* pleaded in averment 74 of the Petition as an alternative to privatization..
- l) An Order from Your Lordships' Court directing the 2nd to the 23rd Respondents, or any one or more of the Respondents named above and/or anyone acting under them to obtain permission from Your Lordships Court in the event the directions made under prayers (j) and/or (k) to the instant petition are to be changed and/or tampered with.

m) For costs; and

for such further and other reliefs that Your Lordship's Court deem meet.

Settled by,

Jessica Abeyratne Attorney-at-Law

Vinura Kularatne Attorney-at-Law

Budwin Siriwardena Attorney-at-Law

Farman Cassim PC

Registered Attorney for the Petitioner