

20, 1968

20

IN THE PRIVY COUNCIL

No. 9 of 1966

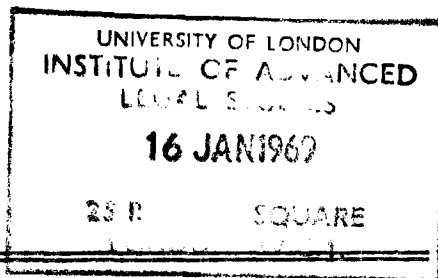
ON APPEAL
FROM THE SUPREME COURT OF CEYLON

B E T W E E N:

MARIKKAR THAMBY KADER SAHIB
SEYED AHAMED NAINA MOHAMED SAHIB
(Applicant-Appellant) Appellant

- and -

THE COMMISSIONER FOR THE REGISTRATION OF
INDIAN AND PAKISTANI RESIDENTS, COLOMBO Respondent



R E C O R D O F P R O C E E D I N G S

LEE & PEMBERTONS,
11, South Square,
Gray's Inn,
London, W.C.1.

HATCHETT JONES & CO.,
90, Fenchurch Street,
London, E.C.3.

Solicitors for the Appellant

Solicitors for the Respondent

O N A P P E A L
FROM THE SUPREME COURT OF CEYLON

B E T W E E N:

MARIKKAR THAMBY KADER SAHIB
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COLOMBO Respondent

RECORD OF PROCEEDINGS

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P2	Certified extract of Surrender Certificate	6th October 1945
P3	Certified extract of Surrender Certificate	16th October 1946
P4	Certified extract of Surrender Certificate	8th December 1947
P5	Certified extract of Surrender Certificate	15th December 1948
P6	Certificate of Nationality	3rd January 1955

ON APPEAL
FROM THE SUPREME COURT OF CEYLON

B E T W E E N:

MARIKKAR THAMBY KADER SAHIB
SEYED AHAMED NAINA MOHAMED SAHIB
(Applicant-Appellant) Appellant

-- and --

10 THE COMMISSIONER FOR THE REGISTRATION OF
INDIAN AND PAKISTANI RESIDENTS, COLOMBO Respondent

RECORD OF PROCEEDINGS

No.1
APPLICATION UNDER SECTION 4(1) OF THE
INDIAN & PAKISTANI RESIDENTS (CITIZENSHIP)
ACT, No.3 of 1949

Form 1A

District

Application No. C. 9933

Registered Under No:.....

No.1
Application
under
Section 4(1)
of the
Indian &
Pakistani
Residents
(Citizen-
ship) Act,
No.3 of 1949
4th December
1956

20 THE INDIAN AND PAKISTANI RESIDENTS (CITIZENSHIP)
ACT, No. 3 of 1949

Application under Section 4(1) of the Act,
for registration as a citizen of Ceylon by
a person who is unmarried at the date of the
application and is not a minor

Note: (1) The application shall, as required by
section 7(1) (b) of the Act, be supported by an
affidavit of the applicant as to the facts and
particulars set out in the application and be
30 transmitted or delivered to the Commissioner for

No.1
 Application
 under Section
 4(1) of the
 Indian &
 Pakistani
 Residents
 (Citizenship)
 Act, No.3 of
 1949
 4th December
 1956
 (Contd.)

the Registration of Indian and Pakistani Residents.

(2) The applicant may, at any time before the disposal of the application, submit to the Commissioner affidavits of other persons who have direct knowledge of any facts or particulars set out in the application or the names of any such persons or certified copies of any documents on which the applicant relies for proof of anything set out in the application. If the applicant wishes to attach any such affidavits or certified copies of documents to the application, he or she may do so, marking such affidavits and copies and referring to them in the relevant paragraphs of the application. The applicant may also annex to the application a list of persons on whose evidence he or she relies, noting thereon the matters which are within the knowledge of each such person. 10

(3) The applicant shall write his or her signature on the application in ink. If the applicant cannot write the signature, the applicant shall affix his or her left thumb impression in ink in such part of the application as is provided for the applicant's signature. 20

(4) The signature or the left thumb impression of the applicant shall be written or affixed by him or her on the application in the presence of, and be attested by, two witnesses.

(5) Where the applicant is an unmarried female having any illegitimate minor child or children of hers who is or are ordinarily resident in Ceylon and dependant on her, she is advised, if she desires to procure the registration of that child or those children simultaneously with her registration, to set out in paragraph 10 of and in the Schedule to, the application such particulars relating to that child or those children as are required to be specified. Instead of including in the application a request for the registration of such minor child or children, the applicant may, by a subsequent letter sent to the Commissioner at any time before the disposal of the application, request the registration of such child or each such 30 40

child as a citizen of Ceylon. Such letter shall contain the aforesaid particulars.

(6) In the Act, "Indian or Pakistani resident" means a person

(a) whose origin was in any territory which, immediately prior to the passing of the Indian Independence Act, 1947, of the Parliament of the United Kingdom, formed part of British India or any Indian State, and

(b) who has emigrated therefrom and permanently settled in Ceylon,

and includes a descendant of any such person.

(7) For the purposes of the Act, the continuity of residence of an Indian or Pakistani in Ceylon is, notwithstanding his casual absence from Ceylon, deemed to have been uninterrupted if such absence did not on any one occasion exceed twelve months in duration.

I. I, MARAIKAR THALIBY KADER SAHIB SEYED AHAMED NAINA MOHAMED SAHIB in the exercise of the privilege conferred by section 4(1) of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, do hereby apply to the Commissioner for the Registration of Indian and Pakistani Residents, for registration as a citizen of Ceylon.

II. I request that, simultaneously with myself, my illegitimate minor child/each illegitimate minor child of mine mentioned in paragraph 10 of this application be registered as a citizen of Ceylon.

III. I am an Indian.

IV. I am an unmarried person and am not a minor.

V. I have been continuously resident in Ceylon during the period of ten years commencing on January 1, 1936, and ending on December 31, 1945.

No.1 Application under Section 4(1) of the Indian & Pakistani Residents (Citizenship) Act, No.3 of 1949 4th December 1956 (Contd.)

10

20

30

No.1
Application
under Section
4(1) of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No.3 of
1949
4th December
1956
(Contd.)

VI. I have been continuously resident in Ceylon from January 1, 1946, to the date of this application.

VII. I declare that I am free from any disability or incapacity which may render it difficult or impossible for me to live in Ceylon according to the laws of Ceylon.

I understand clearly that, in the event of my being registered as a citizen of Ceylon -

(a) I shall be deemed in law to have renounced all rights to the civil and political status which I have had, or would, but for registration as a citizen of Ceylon, have had, under any law in force in the territory from which I/my father/ancestor emigrated, and 10

(b) in all matters relating to or connected with status, personal rights and duties and property in Ceylon, I shall be subject to the laws of Ceylon. 20

VIII. The necessary particulars are set out below.

Sgd: M. K.S. Naina Mohamed Sahib

Signature of Applicant

Witnesses:

1. Signature: Signed.....

Name, occupation and address: M.K.S.
Mohamed Hussain Abdul Cader
Planter of Messrs. Husain & Brothers,
96/4 & 5, Prince Street,
Colombo

30

5.

2. Signature: O.S.M. Shareef

Name occupation and address: O.S. Mohamed
Shareef,

Messrs. S. V. M. Mohamed

Jamaldeen and Brothers (Ceylon) Ltd.,
53 & 55, 4th Cross Street,
Colombo 11.

No.1
Application
under Section
4(1) of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No. 3
of 1949
4th December
1956
(Contd.)

No.1
 Application
 under Section
 4(1) of the
 Indian &
 Pakistani
 Residents
 (Citizenship)
 Act, No. 3
 of 1949
 4th December
 1956
 (Contd.)

1. Full Name: MARAIKAR THAMBY KADER SAHIB SEYED AHAMED NAINA MOHAMED SAHIB
2. Full Address: 96/5, Prince Street, Colombo.
3. Sex: Male
4. Age: 26
 Date of birth (if below 25 years of age)
5. Place of birth: Kilakarai (Rannad District, South India)
6. The places of residence of the applicant in Ceylon from January 1, 1936, to the date of this application, and the period of residence at each such place are stated in the Schedule to this application.

7. Names, addresses and relationship to the applicant of all dependants:-

6.

Names	Addresses	Relationship
.....
.....
.....

8. If the applicant has a business or employment claimed by him to be sufficient to support the applicant and dependants, if any, the description of the business or employment: Business: Partner of Messrs. Husain & Brothers, 96/5, Prince Street, Colombo. Doing business from 1951.

9. Other sources of income derived whether by the applicant alone or by the applicant and any dependants which can be applied for support of the applicant and dependants, if any:-

Name of person deriving income	Source of Income	Income per mensem Rs. Cts.
1. S.V.M. Mohamed Jamaldeen & Brothers, (Ceylon) Limited	Salesman, 1949 - 51	145/-
2. Husain & Brothers, 96/4 & 5, Prince Street, Colombo.	Partner	500/-

10. Where the applicant is an unmarried female, the names and dates of birth of any illegitimate minor children of hers, who are ordinarily resident in Ceylon and dependent on her and whose registration she desires simultaneously with her registration:-

Names	Date of Birth
.....
.....
.....
.....
.....

11. The places of residence in Ceylon of each illegitimate minor child mentioned in paragraph 10 above from January 1, 1936, or from the date of birth, whichever is the later date, to the date of this application, and the period of residence at each such place are stated in the Schedule to this application.

No.1
Application
under Section
4(1) of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No. 3
of 1949
4th December
1956
(Contd.)

No.1
 Application
 under Section
 4(1) of the
 Indian &
 Pakistani
 Residents
 (Citizenship)
 Act, No. 3
 of 1949
 4th December
 1956
 (Contd.)

SCHEDULE

(See paragraph 6 and 11 above)

Any place at which the applicant or an illegitimate minor child has resided for less than three months need not be mentioned.

Applicant		Illegitimate minor children mentioned in paragraph 10 of the application	
Places of residence in Ceylon from January 1, 1936, to the date of the application	Approximate period of residence at each place of residence in Ceylon	Name of each of the aforesaid children	Places of residence in Ceylon of each of the aforesaid children from January 1, 1936, or from the date of birth, whichever is the later date, to the date of the application.
KABARAGALE ESTATE Madulkelle Town BAZAAR STREET, Kurunegala 53 & 55, 4th Cross Street Colombo 96/5, Prince Street, Colombo	End of 1933-1943 1944-1949 1949-1951 Up to date.		Approximate period of residence of each of the aforesaid children at each place of residence in Ceylon.

SCHEDULE (Contd.)

AFFIDAVIT

(To be completed by the applicant in support of the application)

I do swear solemnly, sincerely and truly declare and affirm application are true, and I make this statement conscientiously believing the same to be true. that the foregoing particulars stated in this application are true, and I make this statement conscientiously believing the same to be true.

Sgd:
Signature of applicant

Affirmed at Colombo this 4 day of December 1956, before me.

Sgd: D. T. de S. Gunewardene
Commissioner of Oaths.

Sgd:
(Signature of Commissioner
of Oaths)

4/12/56

No.1
Application
under Section
4(1) of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No. 3
of 1949
4th December
1956
(Contd.)

No.2
Questionnaire
relating to
permanent
settlement
28th January
1957

No.2
QUESTIONNAIRE RELATING TO PERMANENT
SETTLEMENT

Form AD/6

QUESTIONNAIRE RELATING TO PERMANENT
SETTLEMENT

1. What immovable property do you, your wife and minor Children own:-

(a) In India, Pakistan and elsewhere:

Nil

10

(b) in Ceylon: 1/5th share in a business
at 96/5, Prince Street,
Capital Rs. 10,000/-

2. What business or shares in companies registered in India or Pakistan or elsewhere other than Ceylon do you or your wife or minor children own, and what was the income from them in the last year or other period for which accounts have been prepared?

Nil

20

3. What visits have you, your wife and minor children paid to India and Pakistan since January 1, 1936/January 1, 1939, and what was the duration and purpose of each visit?

Once every year on a Visa. This expired in 1952, No visits thereafter. Each visit does not exceed one month - to see relations, on pilgrimage etc.,

4. I have not remitted money to India.

5. I signed the application before the Commissioner.

30

Read over, explained and admitted.

Sgd: R.P.V. Gunasekera

Date: 28.1.1957 Sgd: M.K.S. Naina Mohamed Sahib
Signature of Applicant

No.2(b)
 Statement
 of Accounts
 of Husain
 & Brothers
 20th August
 1956

No.2(b)
STATEMENT OF ACCOUNTS OF HUSAIN & BROTHERS

V. GANAPATHY, B.A., A.C.A. 70, 3rd Cross Street
 Chartered Accountant Colombo, 11.

Dated: 20th August 1956

Telephone: 6496

Your file No. 86CT/6312

My file No. 72

NAME: Messrs. Husain & Brothers,
 96/4 & 5, Prince Street,
 Colombo 10

STATUS: Partnership:

1. M.K.S. Mohamed Husain Abdul Cader	2 shares
2. M.K.S. Seyed Mohamed Shareef	1 share
3. M.K.S. Naina Mohamed Sahib	1 share
4. M.K.S. Mohamed Aboobucker Sahib	1 share

NATURE OF BUSINESS: General Merchants

ACCOUNT PERIOD: 1/4/1955 to 31.3.1956 20

BOOK PRODUCED: Day Book and Ledger

ASSESSABLE INCOME: Net profit as per Profit and
 Loss Account Rs. 2152

<u>Add</u> Bad Debts disallowed	Rs. 1654.30	
Depreciation Van	Rs. 2137.70	
" " Furniture	Rs. 102.50	
Charity etc.	Rs. 458.73	
Mess to partners	Rs.3000.00	Rs. 7353
		<u>Rs.28890</u>
		30
<u>Less</u> Depreciation on Van at 25% of written value Rs. 8531.25		Rs. 2132
		<u>Rs.26757</u>

DISTRIBUTION

1. M.K.S. Mohamed Husain Abdul Cader	2 shares	Rs.10703
2. M.K.S. Seyed Mohamed Shareef	1 share	Rs. 5351
3. M.K.S. Naina Mohamed Sahib	1 share	Rs. 5351
4. M.K.S. Mohamed Aboobucker Sahib	1 share	Rs. 5351
		<u>26757</u>

No.2(b)
Statement
of Accounts
of Husain
& Brothers
20th August
1956
(Contd.)

TRADING AND PROFIT AND LOSS ACCOUNT FOR THE
YEAR ENDING 31st MARCH 1956

10	To Opening Stock	Rs. 48294.47	By Sales	Rs.409917.72
	" Purchases	Rs.367397.07	" Closing	
	" Gross profit	Rs. 45691.88	Stock	Rs.51465.70
		<u>Rs.461383.42</u>		<u>Rs.461383.42</u>
	To Salaries (Staff)	Rs. 4523.70	By Gross	
	" Rent	Rs. 1675.00	profit	Rs. 46691.88
	" Mess	Rs. 4470.72	By sundry	
	" Stationery	Rs. 1221.40	receipts	1480.93
	" Insurance	Rs. 249.25		
	" Van maintenance	Rs. 7286.94		
20	" Case expenses (Van)	Rs. 75.00		
	" Cooly	Rs. 597.20		
	" Dhoby	Rs. 133.85		
	" Charity etc.	Rs. 458.73		
	" Bank Commission	Rs. 66.23		
	" Van depreciation	Rs. 2137.70		
	" Furniture	Rs. 102.45		
	" Audit fees	Rs. 105.00		
	" Postage	Rs. 25.00		
30	" Bad debts	Rs. 1654.30		
	" Festival expenses	Rs. 796.65		
	" Sundry expenses	Rs. 56.38		
	" Net profit	Rs. 21537.31		
		<u>Rs. 47172.81</u>		<u>Rs. 47172.81</u>

No.2(b)
Statement of
Accounts of
Husain &
Brothers
20th August
1956
(Contd.)

BALANCE SHEET AS AT 31.3.56

LIABILITIES

Deity account		Rs. 101.00	
<u>Capital Accounts:-</u>			
<u>M.K.S. Mohamed Hussain</u>			
<u>Abdul Cader</u>	Opening Balance		
	Rs. 14000.00		
	<u>Add from</u>		
	current		
	account	Rs. 6000.00	Rs.20000.00 10
<u>M.K.S. Seyed Mohamed</u>			
<u>Shareef:-</u>			
	Opening Balance		
	Rs. 7000.00		
	<u>Add from</u>		
	current		
	account	Rs. 3000.00	Rs.10000.00
<u>M.K.S. Naina Mohamed</u>			
<u>Sahib:</u>			
	Opening Balance		
	Rs. 7000.00		20
	<u>Add from</u>		
	current		
	account	Rs. 3000.00	Rs.10000.00
<u>M.K.S. Mohamed Aboobucker</u>			
<u>Sahib:</u>			
	Opening Balance		
	Rs. 7000.00		
	<u>Add from</u>		
	current		
	account	Rs. 3000.00	Rs.10000.00
<u>Current Accounts:-</u>			
<u>M.K.S. Mohamed Hussain Abdul</u>			
<u>Cader:</u>			
	Opening Balance		
	Dr. 314.33		
	Carried forward	314.33	

2.2(b)
Statement of
Accounts of
Husain &
Brothers
20th August
1956
(Contd.)

	Brought forward	Rs. 314.33	
	<u>Add Drawings</u>	417.40	
	To Capital		
	Account	<u>6000.00</u>	Dr. 6417.40
			<u>" 6731.73</u>
	Less cash		" 200.00
			<u>" 6531.73</u>
	<u>Less 2 share of profit</u>		<u>" 8614.93</u> Rs. 2083.20
10	<u>M.K.S. Seyed Mohamed</u>		
	<u>Shareef:</u>	Opening Balance	
		Rs. 462.41	
	<u>Add 1 share of profit</u>	Rs. 4307.46	
			4769.87
	<u>Less drawings</u>	142.35	
	Capital Account	<u>3000.00</u>	Rs. 3142.35
			Rs. 1627.52
		Carried forward	<u>Rs. 53811.72</u>

Page 3
Balance Sheet continued

LIABILITIES

	Balance brought forward		Rs. 53811.72
20	<u>M.K.S. Naina Mohamed Sahib:</u>		
		Opening Balance	
		Rs. 1476.94	
	<u>Add 1 share of profit</u>	Rs. 4307.46	
			5784.40
	<u>Less Drawings</u>	1178.12	
	Capital Account	<u>3000.00</u>	Rs. 4178.12
			Rs. 1606.28
	<u>M.K.S. Aboobucker Sahib:</u>	Opening Balance	
		Rs. 1820.89	
	<u>Add 1 share of profit</u>	Rs. 4307.46	
			6128.35
30	<u>Less drawings</u>	1124.00	
	Capital Account	<u>3000.00</u>	Rs. 4124.00
			Rs. 2004.35
	Sundry Creditors		<u>Rs. 30205.62</u>
			<u>Rs. 87627.97</u>

No.2(b)
Statement of
Accounts of
Husain &
Brothers
20th August
1956
(Contd.)

		<u>ASSETS</u>	
Van Account	Opening Balance		
	Rs. 10218.69		
Additions	Rs. 469.83		
	10688.52		
	<u>Less</u>		
	<u>Depreciation</u>	2137.70	Rs. 8550.82
 <u>Furniture account</u>			
	Opening Balance		
	Rs. 1000.00		
Additions	Rs. 202.45		
	1202.45	Rs.	1100.00
	<u>Less</u>		
	<u>Depreciation</u>	Rs. 102.45	
Sundry debtors			Rs.20854.17
Closing Stock			Rs.51465.70
Cash at Mercantile Bank			Rs. 699.2
Cash on hand			Rs. 4958.00
			Rs.87627.9
			Rs.87627.9

10

I certify that I have examined the books of accounts of Messrs. Hussain & Brothers, 96/4 & 5, Prince Street, Colombo 11 and the statements are prepared in accordance with the books of accounts and explanation and information furnished.

20

Sgd: V. Ganapathy

Chartered Accountant

No.2(c)
DEED OF PARTNERSHIP OF AKFAS TRADING
COMPANY

DEED OF PARTNERSHIP OF AKFAS TRADING COMPANY

No. 111

No.2(c)
Deed of
Partnership
of Akfas
Trading
Company
24th August
1951

10 This agreement entered among (1) S.V.S. Seyed Ibrahim (2) M.K.S. Mohamed Hussain Abdul Cader, (3) M.K.S. Seyed Mohamed Shareef, (4) M.K.S. Naina Mohamed Sahib and (5) T.M. Hassan Alli all of Colombo hereinafter called and referred to as the PARTNERS of the 1st, 2nd, 3rd, 4th and 5th part respectively.

WITNESSETH that it is hereby mutually agreed that the said parties hereto shall become PARTNERS upon the terms and conditions hereinafter contained, namely:

20 1. The partnership business shall be that of Import, Export and General Merchants which shall be deemed to have commenced on the 17th day of August 1951 and shall be carried on at premises No. 96/4 and 5 Prince Street Colombo or at such other places as the First and Second Partners may from time to time agree and decide upon.

2. The business shall be carried on under the name style and firm of AKFAS TRADING COMPANY.

30 3. The Bankers of the said partnership shall be one or more local banks which the First and or Second Partner shall decide as and when necessary for the carrying on the business of the said partnership.

4. The Bank account or accounts shall be in the name of the said partnership and the said account shall be operated by the First and Second Partners only or by a nominee of the First and/or the Second Partner when necessary.

5. The capital of the Partnership shall be Rs.44,000/- which shall be constituted as follows:

No.2(c) Deed of Partnership of Akfas Trading Company 24th August 1951 (Contd.)	First Partner	Rs. 20,000.00
	Second Partner	10,000.00
	Third Partner	5,000.00
	Fourth Partner	5,000.00
	Fifth Partner	4,000.00
	Total	<u>Rs. 44,000.00</u>

The above said sums of money shall be brought into the said business which shall be credited to the respective partners as his share of the capital.

10

Any further sums of money which any Partner shall with the written consent of the First and/or Second Partner from time to time contribute for capital purposes shall be credited to his respective capital account.

6. The nett profits of the business shall be divided among the Partners proportionately in the same proportion as the capital is constituted. And the Partners shall bear all losses of the business in the same proportion.

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7. The First and/or Second Partner shall be authorised to raise loans when necessary for the purpose of the partnership business anything to the contrary hereinafter contained notwithstanding.

8. On the 31st day of March 1952 and on the 31st day in each succeeding year during the continuance of the Partnership an account shall be taken (by some qualified accountant to be agreed by the First and/or Second Partner) of all the capital assets and liabilities for the time being of the partnership and a Balance Sheet and a Profit and Loss Account making due allowance for depreciation and for recouping of lost capital shall be prepared by such accountant and a copy thereof furnished to each of the Partners

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who shall be bound thereby unless some manifest error shall be rectified. Immediately after the preparation of such Balance Sheet and Profit and Loss Account, the net profit if any shown in such account shall be divided.

No.2(c)
Deed of
Partnership
of Akfas
Trading
Company

24th August
1951
(Contd.)

10 9. Each Partner may draw during the continuance of the partnership out of the partnership account such sums on account of his share of the profits but such drawings shall be at the discretion of the First and/or Second Partner unless the drawing be at the end of the financial year as aforesaid. But if when the annual account is taken at the end of the financial year of the partnership it shall appear that a partner has drawn any sum in excess of his share of the profits he shall forthwith repay such excess to the said Partnership Account.

20 10. The First and/or Second Partner shall when necessary borrow money or incur other debts for and on behalf of the said Partnership business or give security or purchase goods on credit and all such transactions will be partnership transactions which will constitute a partnership liability, anything to the contrary hereinafter contained notwithstanding.

11. Each Partner shall:-

- 30 (a) diligently attend to the said business (except during holidays) and devote his whole time and attention thereto.
- (b) punctually pay his separate debts and indemnify the other partners and the assets of the firm against the same and all expenses and accounts thereof.
- 40 (c) forthwith pay all monies cheques and negotiable instruments received by him on account of the firm into the said bank account of the firm.
- (d) be just and faithful to one another

No.2(c)
Deed of
Partnership
of Akfas
Trading
Company
24th August
1951
(Contd.)

and at all times give to such others and/or others full information and truthful explanation of all matters and afford every assistance in his or their powers in carrying on the business for their common advantage.

12. No Partner shall without the written consent of the First and/or Second Partner:-

- (a) either directly or indirectly engage in any other business. 10
- (b) take any apprentice or hire or dismiss any agent or servant of the firm.
- (c) Lend any of the monies or deliver upon credit any of the goods of the firm to any person or persons.
- (d) give any security or promise for the payment of money on account of the firm unless in ordinary course of business. 20
- (e) enter into any bond or become bail or surety for any person or knowingly cause or suffer to be done anything whereby the partnership property may be endangered.
- (f) mortgage or charge his share in the assets or profits of the firm.
- (g) draw accept or endorse any Bill of Exchange or Promissory Note on account of the partnership. 30
- (h) sign any cheque on behalf of the partnership.

Any partner committing any breach of any foregoing stipulations shall indemnify the others of them from all losses and expenses on account thereof.

13. If any partner shall:-

- (a) commit any breach of any of the provisions of clauses 12 and 13 of these presents
- (b) commit any act of insolvency
- (c) become physically or mentally unfit to attend to the business or
- (d) commit any criminal offence or
- (e) do or suffer any act which would be ground for the dissolution of the partnership by the Courts

No.2(c)
 Deed of
 Partnership
 of Akfas
 Trading
 Company
 24th August
 1951
 (Contd.)

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then and in any such event the First and/or Second partner may within three calendar months after becoming aware thereof by notice in writing determine the partnership and in that case shall have the option (to be exercised at the time of giving of such notice) of purchasing the shares of such partner in the capital and assets of the business.

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- 1. Sgd: (Illegibly)
- 2. Sgd: (Illegibly)
- 3. Sgd: (Illegibly)
- 4. Sgd: (Illegibly)
- 5. Sgd: (Illegibly)

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14. The control and management of the said Partnership business shall be in Ceylon and vested in the First and/or Second Partner and in their absence in a Partner to be nominated by the First and Second Partner or by both. None of the Partners or their agents is entitled to exercise any control over the management or manage the said partnership business or its affairs from any where outside the Island of Ceylon.

15. The Third, Fourth and Fifth Partners shall diligently perform all duties assigned to them by the First and/or Second Partners.

No.2(c)
 Deed of
 Partnership
 of Akfas
 Trading
 Company
 24th August
 1951
 (Contd.)

16. If any further capital shall at any time or times be considered by the First and or Second Partner to be necessary or expedient for efficiently carrying on the business the same shall be contributed by the Partners in the shares in which they are for the time being entitled to the existing capital of the Partnership.

17. The death (or retirement of any of the Partners shall not dissolve the Partnership and the partnership business shall continue among the remaining Partners.

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18. Upon the determination of the Partnership on the decision of the First and Second Partners or by any other event not provided for in these presents a full and general account shall be taken of the assets credits debts and liabilities of the Partnership and of the transaction and dealings thereof and with all convenient speed such assets and credits shall be sold realised and got in and the proceeds applied in paying and discharging the debts and liabilities and the expenses of and incidental to the premises and the winding up of the partnership affairs and subject thereto in paying to each Partner any unpaid profits which may be due to him and his share of the capital and the balance if any of such proceeds shall be divided among the partners in the proportion in which the capital has been constituted.

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19. All disputes which shall arise among the Partners or between one of them and the personal representative of the other and whether during or after the determination of the Partnership and whether in relation to the Interpretation of these presents or to any act or omission of the Partners or to any act which ought to have been done by a Partner or in relation to any other matter whatsoever touching the partnership affairs shall be referred to a single arbitrator to be nominated in case the First and Second Partners cannot agree by the Chairman of the Ceylon Chamber of Commerce and

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such Arbitrator shall have full power to dissolve the Partnership if he shall think fit.

No.2(c)
Deed of
Partnership
of Akfas
Trading
Company
24th August
1951
(Contd.)

IN WITNESS whereof we do set our respective hands hereunto and to two others of the same date and tenor as these presents at Colombo on this 24th day of August One thousand nine hundred and fifty one

- 1. Sgd: (Illegibly)
- 2. Sgd: (Illegibly)
- 10 3. Sgd: (Illegibly)
- 4. Sgd: (Illegibly)
- 5. Sgd: (Illegibly)

Witnesses:

We do hereby declare that)
we are well acquainted with)
the executants and know their)
proper names occupations and)
residences)

Sgd: S.V.M.E. Cassim

20 Sgd: A.R.A. Kaloff

Sgd: L. Senaratne

N.P.

I, LLEWELLYN LESLIE PUNIYASIRI DE SILVA SENARATNE of Colombo, Notary Public do hereby certify and attest that the foregoing instrument was read over and explained by me to the executants within named who are not known to me and who have placed their respective signatures in the presence of Seyed Vapu Mohamed Seyed Cassim and Abdul Rahim Abdul Kaloff both of Colombo who are known to me and who have signed as "S.V.M.S. Cassim" and "A.R.A. Kaloff" the subscribing witnesses hereto and the same

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No.2(c)
Deed of
Partnership
of Akfas
Trading
Company
24th August
1951
(Contd.)

was signed by the said executants, by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this twenty fourth day of August One thousand nine hundred and fifty one

And I further certify and attest that in the original page 1 lines 1 and 19 "AKFAS" were typed over erasures page 2 line 1 "said" was struck off, lines 11, 17 page 4 lines 11, 32 page 5 lines 4, 13 corrections were made and in the Duplicate page 1 lines 1 and 19 "AKFAS" was typed over an erasure lines 5 and 6 "Mohamed" and "Naina" were typed over erasures line 34 "4,000/00 was typed over an erasure page 3 line 5 page 4 line 3, 22 page 5 lines 5 and 7 corrections were made before the foregoing instrument was read over and signed as aforesaid.

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AND I also certify and attest that the Duplicate of this Instrument bears one stamp for the value of Rs. 10/- and the Original one stamp for the value of Rs. 1/- and the said stamps were supplied by me.

20

Date of attestation.

24th August 1951.

Sgd: L. Senaratne

Notary Public

No.3
MINUTES OF INVESTIGATION, NOTES
OF EVIDENCE AND REPORT

No.3
Minutes
of
Investigation,
Notes of
Evidence
and Report
23rd March
to 9th May
1957

Form INO/9

Application No. C 9933

Investigating Officer's Area: A to D

Address: P.O. Box 587
Colombo 1

10 To: Investigating Officer,
Madulkelle

The applicant Naina Mohamed Sahib son of Seyed Ahamed Thamby now resident at Colombo has stated that he, his wife and dependent minor children were resident within your area as noted overleaf. Please indicate in the last column overleaf the evidence, if any, that is available in support of this statement. Please also report what evidence is available in regard to the following statements made by the applicant.

20 Date: 23.3.1957

Sgd:

Investigating Officer.

No.3
Minutes of
Investigation,
Notes of
Evidence and
Report

23rd March to
9th May 1957
(Contd.)

	Addresses at which residence claimed.	Dates between which residence claimed at each address	Evidence available
<p>Applicant: Naina Mohamed Salib</p> <p>Wife:</p> <p>Children:</p> <p>(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p>	<p>Bopitiya Estate, Tamil Mixed School Admission No. 22</p>	<p>17.11.35 to 1.12.1943</p>	

Signature:
Investigating Officer,
..... Area.

Application No. C. 9933

MINUTES OF INVESTIAGTION

No.3
Minutes of
Investigation,
Notes of
Evidence and
Report

23rd March to
9th May 1957
(Contd.)

- 1. Applicant: Naina Mohamed Sahib Son of Seyed Ahamed Thamby
- 2. Age: 26 years Proof of Indian Origin: Nil
- 3. Place of Birth: Ramanad District, South India.
- 4. Residence:

vide notes below

10

(a) 1.1.1936 to 1.12.1943 at School -
Vide certificate at (14)A and INO/9
at (15) Kabaragalla Estate, Madulkelle.

(b) 1944 to 1949 as a Salesman at M.P.M.S.
Mohamood, 84, Bazaar Street, Kurunegala.
Name is not reflected in the books.
A report will be submitted after
scrutinising the file.

20

(c) 1949 to 1955 as a Salesman at S.V.M.
Mohamed Jamaldeen & Brothers (Ceylon)
Limited, 53, 55, 4th Cross Street,
Pettah. The shop act register at the
shop was checked as follows:-

10/49, 9/50, 8/51, 7/52, 6/53

He has been away in India from 30.11.53
to 14.6.1954. He has left the firm
in January 1955.

xx xx xx xx xx xx xx xx xx xx xx

8. Visits to India: One visit yearly up to 1952.

9. Remittances: Nil

10. Legal disability: None.

30

11. Proof of Income of Applicant: Applicant is a
partner on a business. Please see (14)B and (14)D.
He appears to be financially sound.

Sgd:

Signature of Investigating
Officer

Date: 23.3.1957.

Form No. INO/8 (Contd.)

No.3
Minutes of
Investigation,
Notes of
Evidence and
Report

23rd March to
9th May 1957
(Contd).

	Whether furnished	Reference to papers in file
(4) That the applicant is possessed of and insured income	Yes/ A annual income Rs.6000/- (approx).	(14)b and (14)d.

10 The applicant is not under legal disability.

Sgd:

Investigating Officer

23.3.57

No.3
Minutes of
Investigation,
Notes of
Evidence and
Report

23rd March to
9th May 1957
(Contd.)

Form INO/9

Application No. C. 9933

Investigating Officer's Area A to D

Address: P.O. Box 587

Colombo 1

To: Investigating Officer,
Madulkelle

The applicant, Naina Mohamed Sahib son of Seyed Ahamed Thamby resident at Colombo, has stated that he, his wife and dependent minor children were resident within your area as noted overleaf. Please indicate in the last column overleaf the evidence, if any, that is available in support of this statement. Please also report what evidence is available in regard to the following statements made by the applicant:

10

Date: 23.3.1957

Sgd:

Investigating Officer.

	Address at which residence claimed	Dates between which residence claimed at each address.	Evidence available
<p>Applicant: Naina Mohamed Sahib</p> <p>Wife:</p> <p>Children:</p> <p>(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p>	<p>Bopitiya Estate Tamil Mixed School Admission No.22</p>	<p>17.11.1935 to 1.12.1943</p>	<p>Name not traced in the school admission registers made available to me.</p>

Sgd:
Investigating Officer
.....Area
9.5.57

No.3
Minutes of
Investigation,
Notes of
Evidence
and Report
23rd March to
9th May 1957
(Contd.)

No.4
Letter
Deputy
Commissioner,
Colombo, to
Deputy
Commissioner
(Adm.)
Kandy

25th July,
1957

No.4
LETTER, DEPUTY COMMISSIONER, COLOMBO,
TO DEPUTY COMMISSIONER (ADM.), KANDY
Registered Post
Confidential

No. C 9933

Office of the Commissioner for
the Registration of Indian &
Pakistani Residents, P.O. Box
587, Colombo 1

10

25th July 1957

G.M. Udalagama Esq.,
Deputy Commissioner (Adm.),
Kandy.

Application for Registration as
citizen of Ceylon - Marikkar Thamby
Kader Sahib Ahamed Naina
Mohamed Sahib, 96/5, Prince
Street, Colombo

I enclose a copy of a School Schedule
furnished by the applicant - Although the
schedule has been issued under date 1.12.43,
the writing appears to have been done recently.
According to the evidence available to me the
applicant had not been in Ceylon at any rate
during the earlier period mentioned in the schedule.
You will observe that the date of admission is
given as 17.11.1935 and the date of withdrawal
1.12.43. I shall be very grateful if you will
please detail an Investigating Officer to visit
the school and check up the genuineness of this
school schedule. He should report whether the
school registers from which the particulars have
been extracted was made available for his
inspection and whether he is satisfied that the
particulars in the schedule are correct.

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2. A copy of report made on INO/9
reference of 23.3.57 issued by Mr. R.P.V.
Gunasekera I.O. is enclosed for reference.

Sgd:.....25/7/57
Deputy Commissioner.

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No.5

NOTICE UNDER SECTION 9(1) OF THE
INDIAN & PAKISTANI RESIDENTS
(CITIZENSHIP) ACT, No. 3 of 1949

No.5
Notice under
Section 9(1)
of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No.3 of
1949

REGISTERED

C 9933

THE INDIAN AND PAKISTANI RESIDENTS (CITIZENSHIP)
ACT No. 3 of 1949

5th August,
1957

NOTICE UNDER SECTION 9 (1) OF THE ACT

10 To: Mr. Maraikar Thamby Kader Sahib Seyed Ahamed
Naina Mohamed Sahib, of 96/5, Prince Street,
Colombo.

I, DOUGLAS THEOBALD DE SILVA GUNAWARDENA,
Deputy Commissioner for the Registration of Indian
and Pakistani Residents, do hereby give you notice,
under Section 9(1) of the Indian and Pakistani
Residents (Citizenship) Act, No. 3 of 1949, that I have
decided to refuse your application under that Act
dated 4th December 1956 on the grounds specified
20 in the Schedule hereto unless you show cause to
the contrary within a period of three months from
the date hereof by letter addressed to me.

Sgd:

Deputy Commissioner for the
Registration of Indian and
Pakistani Residents

P.O. Box 587,
Colombo 1

5th August, 1957

No.5
Notice under
Section 9(1)
of the
Indian &
Pakistani
Residents
(Citizenship)
Act, No.3 of
1949

5th August,
1957
(Contd.)

S C H E D U L E

You have failed to prove:-

1. that you are an Indian or Pakistani Resident. No evidence has been offered that your origin or the origin of an ancestor of yours was in Prepartition British India or an Indian State.
2. that you were resident in Ceylon from 1.1.36 to 8.6.51, without absence exceeding 12 months on any single occasion.
3. that you were on the date of your application, possessed of an assured income of a reasonable amount or had some suitable business or employment or other lawful means of livelihood to support yourself.
4. That you had permanently settled in Ceylon.

10

Sgd:5/8/57

Deputy Commissioner

No.6
INVESTIGATING OFFICER'S REPORT

Hotel Suisse, Kandy
August 6, 1957

The Deputy Commissioner,
R.I. & P.R.,
P.O. Box 587,
Colombo

Application for Registration
as a citizen of Ceylon. Mohamed Shareef
and Naina Mohamed Sahib sons of
Marikarthamby Kader Sahib Seyed Ahamed
No. 96/5, Prince Street, Colombo.

With reference to your letters No. C.8009/
G/C of 20.7.57 and C.9933 of 25.7.57, I have to
forward herewith the report furnished by the
Investigating Officer.

Sgd: C. B. RANASINGHE
for Deputy Commissioner (Adm.)
Kandy

No.6
Investigating
Officer's
Report
6th/3rd
August 1957

No.6
Investigating
Officer's
Report

D/C

INO/9's C 8009/G/C and C 9933

6th/3rd
August 1957
(Contd.)

The school schedule and the school admission and withdrawal register of K/Bopitiya Estate Tamil Mixed school were examined by me and were found to be incorrect. They cannot be accepted for the following reasons.

1. Copies of school schedule (Q)

(a) Name: M.K.S. Mugahamed Shareef

Date of withdrawal - 1.12.43

10

Admission Number - 8

_____, 1935

Signature of Teacher

(b) Name: M.K.S. Naina Mohamed

Date of withdrawal - 1.12.43

admission number 22

_____, 1935

Signature of teacher

It would appear from the above copies that the dates of admission are not given but only the year. Also the pupils ages at admission or the standard passed with subjects are not given as indicated in the copies handed to you.

20

These two Q - Schedules have been issued consecutively. The copy of the Q - Schedule preceding these two gives the date of withdrawal of a student as 1.1.52 and the Q - Schedule immediately following that of Naina Mohamed gives the date of withdrawal as 1.9.53. Therefore the earlier Q - Schedule would have been issued on or after 1.1.52 whilst the latter would have been issued on or after 1.9.53. Hence the Head Teacher would not have issued these

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two Schedules on 1.12.43. When I asked him for the Examination Schedule Book from which he would have taken these particulars he told me that it was lost in December 1953.

No.6
Investigating
Officer's
Report

6th/3rd
August 1957
(Contd.)

Admission and Withdrawal Register:

10 The first 23 pages of the Old Admission and Withdrawal Register are missing. On page 25 is a fresh registration which is not in chronological order. There are two other fresh registrations on P.24 and P.37. These names appear on P.37 which is towards the end of the book giving the admission Nos. as 8 and 22 and the dates of admission and withdrawal as 17.11.35 and 1.12.43 respectively. It does not give the last standards they have passed. The writing appears to be fresh. On asking the teacher from where he obtained these particulars he said it was from the old register whose pages were missing.

20

Sgd: B. Elikewela

3/8/57.

No.7
Letter,
Deputy
Commissioner,
Colombo, to
Deputy
Commissioner,
Kandy
20th August
1957

No.7
LETTER, DEPUTY COMMISSIONER, COLOMBO,
TO DEPUTY COMMISSIONER, KANDY

Registered

My No. C. 9933

Office of the Commissioner for the
Registration of Indian and Pakistani
Residents, P.O. Box 587, Colombo.

20th August 1957

The Deputy Commissioner,
Kandy

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Reports re application C.8009/G/C
and C. 9933

I annexed a copy of report made by Mr. B. Elikewela I.O. and shall be much thankful if you will please instruct the Investigating Officer to write the two reports separately as the papers have to be filed with the respective applications. It would be very much helpful if the Investigating Officer will report whether the Schedule issued are genuine or not and give clear reasons for his views.

20

2. As the final disposal of the applications will be taken up towards the end of the month, I shall be grateful if you could arrange to have the reports expedited.

Sgd: 20.8.57

Deputy Commissioner

No.8
INVESTIGATING OFFICER'S REPORT
Report on copy of School Schedule
Q - INO/9 C.9933

No.8
Investigating
Officer's
Report
2nd September
1957

I examined the original of the schedule Q in the Q Schedule book of the K/Bopitiya Estate Tamil School. The following is a copy of the original:-

Name: M.K.S. Naina Mohamed

10 Date of withdrawal: 1-12-43

Admission No. 22

.....1935

Signature of Teacher

It would appear from the above that the copy handed over to you is not a true copy of the original which does not contain the date of admission except the year. The pupil's age is not given nor the standard passed with subjects.

20 The Head Teacher could not have issued this Q Schedule on 1.12.43 because the Q Schedule leaf prior to this gives the date of withdrawal of a student as 1.1.52 and the Q Schedule following this gives the date of withdrawal as 1.9.53. Therefore he should have issued this Q Schedule sometime between 1.1.52 and 1.9.53.

When I asked the Head Teacher for the examination Schedule Book from which he would have taken these particulars he told me that it was lost in December 1953.

30 Admission and Withdrawal Register

The first 23 pages of the old admission and withdrawal Register are missing. On page 25 is a fresh registration which is not in chronological order. There are two other fresh registrations on P.24 and).37. This name appears on P. 37, which is towards the end of the book giving the

No.8
Investigating
Officer's
Report
2nd September
1957
(Contd.)

admission No.22 and the date of admission and withdrawal as 17.11.35 and 1.12.43 respectively. It does not give the last standard passed. The writing appears to be fresh. On asking the teacher from where he obtained these particulars he said it was from the old Register whose pages are missing.

Sgd: B. Elikewela

2/9/57

No.9
Letter,
Deputy
Commissioner
to Director
of Education
19th September
1957

No.9
LETTER, DEPUTY COMMISSIONER TO
DIRECTOR OF EDUCATION

10

Registered: My No. C.9933
19th September 1957
The Director of Education
Colombo

Application for Registration as a
Citizen of Ceylon under Act No. 3
of 1949 - Maraikar Thamby Kader Sahib
Sayed Ahamed Naina Mohamed Sahib.

20

I forward herewith a copy of a Schedule Q. issued by the Head Teacher of K/Bopitiya Estate Tamil Mixed School and a copy of the report of my Investigating Officer made thereon. Please be good enough to direct one of your officers to look into this matter and report on the genuineness of the School Schedule furnished by the applicant. I shall be much thankful, if your reply to me can be expedited as the application has to be finally disposed of before the end of this month.

30

Sgd:19.9.57

Deputy Commissioner

No. 10
EVIDENCE OF SABAPATHY PONNIAH

C. 8009/G/C

21. 9. 57

Before the
Deputy
Commissioner

No.10
Sabapathy
Ponniah

21st
September
1957

10.30 a.m.

The applicant is present with Mr. B.H. Aluwihare, Advocate. Mr. Aluwihare desires that the evidence of the School Master who issued the School Schedule Q dated 1.12.43 at folio 71 - be recorded.

Sabapathy Ponniah: Affirmed, 49 years.

I am the Head Teacher of the Kl/Bopitiya Estate Tamil Mixed School since 1935. I continue in that capacity even now. I am the Head Teacher and the only teacher. (Shown the school Schedule P71) - the Schedule was issued by me. The signature on the document is mine. I issued the certificate (Schedule) in the year 1951. I have read the particulars in the Schedule now. They are correct. Normally these particulars are taken from the Admission Register, Examination Schedule and Logbook. The particulars entered in the Admission Register are - date of admission, age of the student, name of parent or Guardian, Address of parent or Guardian. It contains the date of withdrawal. This date is actually entered on the date the pupil is withdrawn from the school. The admission register will also contain the admission number. The standard of the pupil is also entered in the register. The examination Schedules will contain the name of child, age, the number of days attended during the year and the subjects studied and passed. These particulars are not entered in the admission register. Attendance register is entered annually. When a pupil is withdrawn only the date of leaving is entered in the admission register. The Government gave assistance from the year 1935, and Inspectors of the Department examined the registers accurately. A "Q" Schedule register with foil and counterfoil maintained at the school. The counterfoil does not contain all the particulars

Before the
Deputy
Commissioner

No.10
Sabapathy
Ponniah

21st
September
1957
(Ccntd.)

given in the foil of Q Schedule. The counterfoil contains particulars of name of pupil, date of admission and date of withdrawal. No particulars of standard passed are entered. No pupil record sheet is issued to a pupil in an estate school. If the pupil applies for a certificate I issue a certificate - this is not done on a printed form. A "Q" Schedule is issued only if a pupil applies for it. If a pupil does not apply, a "Q" Schedule is not issued. A pupil wishing to join another school for higher studies will be issued a Q Schedule and no other certificate. In December 1953, the School Inspector inspected my books and after this the admission register and the Logbook was sent to the Superintendent for his information. It is the order of the Superintendent that these should be submitted. The old attendance registers and the 4 unused attendance registers, Schedules book, examination register, Slates books and my own belongings were inside the almira at my resident a few yards from the school. The school closed on 12th December, 1956 and the books were submitted to the Superintendent, and I went to my home in Jaffna. I returned on receiving a telegram about the burglary at my residence and found that the slate books, all old attendance registers, one new attendance register, Examination Schedule. The "Q" Schedule books was in school drawer. The drawer was small and therefore the registers were taken to my home. The school room windows were not secure and I removed the other registers to my estate home. In December, 1953, the Superintendent of the estate reported the burglary and the loss of the registers to the Education Department. Details of the books lost were mentioned by the Superintendent Mr. Pope to the Director of Education. All the registers that I removed home, except 3 new attendance registers were lost in the burglary. I am certain that the "Q" Schedule at (71) was issued by me in the year 1951 - I cannot remember the month. The pupil's age is not entered in the counterfoil of the "Q" Schedule book. The admission is entered. Standard passed and other particulars are not entered in the Counterfoil. I deny that the "Q" Schedule at (71) was issued at a

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Before the
Deputy
Commissioner

No.10
Sabapathy
Ponniah

21st
September
1957
(Contd.)

10 date between 1.1.52 and 1.9.53. "Q" Schedules
are issued as they are applied for. The date
of issue of the "foil" of "Q" schedule was
entered in the counterfoil only from a date
in 1953, when an Inspector of the Education
Department requested me to do so. Prior to
this date I did not enter the date of issue
of Schedules. There would be no reference
to this in the logbook. The instructions given
10 by an Inspector are not entered anywhere.
I do not know whether such instructions are
entered in his own diary. There are only 2
admission registers with me. The earlier one
commences with the year 1935 and the second
from a date when the last ended. I cannot
recall the last date in the first book.
The old admission register contained entries
only from folio No. 22. Folios 1-21 were left
blank because the particulars required to be
20 entered applied only to a management School.

Folios 22 onwards contained the particulars
relating to estate schools. I therefore,
started my entries from folio 22. I cannot
say how many folios there are in each register.

The School admission register will contain
only entries from folio 22. I am certain that
the commencing folio in the second register
will contain an "Admission Number" following
the last admission number in the first register.
30 I admit that the first 23 folios in the register
are missing. This register was taken to the
estate office on many occasions for the Investi-
gating of this Department to examine and in
the process the loose leaves had dropped. When
I found the leaves dropping, I had the book
pasted but the constant use could not prevent
the further loss of folios. I agree that by a
further use I may have lost folios containing
my entries also. I found that folios 21 and 22
40 were loose. On the instructions of the
Superintendent of the estate I transferred the
particulars to the new register - i.e. I trans-
ferred the partuculars contained in folio 22
and 23 to folios 37 and 38 in the new register.
It may be that I have continued the entries
into folio 39 of the new register. I am certain
that folio 37 in the new register was the first

Before the
Deputy
Commissioner

No.10
Sabapathy
Ponniah

21st
September
1957
(Contd.)

blank page available to me to make these entries. I did not get these new entries authenticated by a responsible person. I lost the original folio 21 and 22 in the old register in the process of the register being carried from the school to the office. I fastened the remaining folios in the old admission register and therefore I did not transfer these entries into the new register.

The Superintendent of the estate gave me oral instructions to transfer the entries on these folios only into the new register. I agree that the prudent thing to have been done was to transfer all the entries in the old register into a new register and preserved the old register. I am unaware of entry at page 25 which is not in chronological order or that these are first registrations at pages 24 and 37 in either the old or the new admission register. I admit that page 37 in the new register contains particulars relating to the applicant Mohamed Saribu. The transferred item would not contain the last standard passed. The standard passed could not at any stage be entered in the admission register. The entries are fresh because these were new entries made on the instructions of the Superintendent.

10

20

Examined by Mr. Aluwihare:

I started entering the date of issue of the "Q" Schedule only from a date in 1953 when an Inspector of the Education Department instructed us to do so. When the Superintendent asked me to transfer entries of two torn pages in the old admission register, the Superintendent of the estate Mr. Pope told me that he would take the responsibility for it. In the second Admission register the first 22 pages are blank.

30

At this stage I adjourn enquiry as the time is 1 o'clock. Mr. Aluwihare tells me that the applicant will endeavour to ask the School Teacher to produce the register but no date can be mentioned now. Enquiry into the other issues also remains to be done. I therefore inform Mr. Aluwihare and the applicant that

40

I will not fix a date for resumption of enquiry until I hear from them. I inform them however that this must be done during the course of the next few days.

Sgd: D.T. de S. Gunnawardena

Deputy Commissioner

21.9.57

Before the
Deputy
Commissioner

No.10
Sabapathy
Ponniah

21st
September
1957
(Contd.)

10 I certify that the foregoing is a true copy of the evidence given before me by Sabapathy Ponniah, Head Teacher, K/Bopitiya Estate Tamil Mixed School, on 21st September, 1957, in connection with School Schedules issued by him to Seyed Mohamed Shareef (and Marikkar Thamby Kader Sahib Seyed Ahamed Naina Mohamed Sahib) who are brothers.

20 The evidence was given in connection with the application for Citizenship made by Seyed Mohamed Shariff, but is explanative of the Schedule issued to his brother, (in whose application file this copy is filed).

The application of Seyed Mohamed Shariff is in file No. C.8009/G/C.

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

8th September, 1958

46.

Before the
Deputy
Commissioner

No.11

LETTER, DIRECTOR OF EDUCATION TO
COMMISSIONER, COLOMBO

No.11
Letter,
Director
of Education
to
Commissioner
Colombo
26th
September
1957

My No. ASP/2110
Your No. C. 9933 of 19.9.57

The Commissioner,
Registration of Indian and Pakistani
Residents.

Application for Registration as a
Citizen of Ceylon under Act No. 3 of 1949.

Maraikar Thamby Kader Sahib Seyed
Ahamed Naina Mohamed Sahib

10

The matter has been referred to the
Education Officer, Central Province, for
the report and a reply will be sent on hearing
from him.

Sgd:

for Director of Education

Education Department,
Malay Street,
Colombo 2

20

26th September 1957

typ/25.

No.12
LETTER, DEPUTY COMMISSIONER, COLOMBO,
TO DIRECTOR EDUCATION

Before the
Deputy
Commissioner

REGISTERED

My No. C. 8009/G/C

Office of the Commissioner for the
Registration of Indian & Pakistani
Residents, P.O. Box 587, Colombo 1.

25th October 1957

No.12
Letter,
Deputy
Commissioner,
Colombo, to
the Director
of Education
25th October
1957

10 The Director of Education,
Colombo

Application for Registration as a
Citizen of Ceylon under Act No. 3 of
1949 - Seyed Mohamed Shareef son of
Marikarthamby Kader Sahib Seyed
Ahmed Thamby

20 Reference your letter No. ASP/2109 of 26th
September, 1957, I now enclose an extract from the
evidence given by the School Master before me.
I shall be glad if you will please forward this
to your Education Officer to assist him in his
investigation.

Sgd:

Deputy Commissioner

25.10.57

I certify that the above is a true copy of
letter appearing at Page 135 in Citizenship
Application No. C.8009/G/C.

(Applicant Seyed Mohamed Shareff)

30 Sgd: D. T. de S. Gunawardena

Deputy Commissioner

8/9/58

Before the
Deputy
Commissioner

No.13

LETTER, APPELLANT TO DEPUTY COMMISSIONER,
COLOMBO

No.13
Letter,
Appellant
to Deputy
Commissioner
Colombo
2nd November
1957

96/5 Prince Street,
Colombo

2.11.57

The Deputy Commissioner,
R.I. & P.R.,
Colombo

Application No. C 9933

10

Dear Sir,

In reference to your notice under
Section 9(1) of Act No. 3 of 1949, dated 5.8.57
I have the honour to inform you that I have
evidence to prove that

- (1) I am of Indian Origin;
- (2) I have been uninterruptedly resident
in Ceylon in the period 1.1.36 to 6.8.51;
- (3) I was on the date of application
possessed of an assured income and
that
- (4) I had permanently settled in Ceylon.

20

Therefore, I shall be grateful if
you will kindly fix my application for an inquiry
under section 9(3) (a) of the Act.

Thanking you,

Yours faithfully,

Sgd: M.T.K.S. Naina Mohamed Sahib

49.

No.14

LETTER, DEPUTY COMMISSIONER TO
DIRECTOR OF EDUCATION

Before the
Deputy
Commissioner

My No. C. 9933

Registered

15th November, 1957

Your No. ASP/2110 of 26.9.57

The Director of Education,
Colombo

No.14
Letter,
Deputy
Commissioner
to Director
of Education
15th November
1957

10

Application for registration as a
Citizen of Ceylon under Act No. 3 of
1949 - Marikar Thamby Kader Sahib
Seyed Ahamed Naina Mohamed Sahib

I shall be very grateful if the report
of the Education Officer, C.P., can be
secured without delay. The report that you
will furnish will be very material in the
disposal of the application for Citizenship.

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

Before the
Deputy
Commissioner

No.15

LETTER, DEPUTY COMMISSIONER TO DIRECTOR
OF EDUCATION

No.15
Letter,
Deputy
Commissioner
to Director
of Education
31st December
1957

Registered:

URGENT

My No. C.9933

31st December, 1957

Your No. ASP/2110 of 26.9.57

The Director of Education,
Colombo.

10

Application for Registration as a
Citizen of Ceylon under Act No.3 of
1949 - Marikar Thamby Kader Sahib
Seyed Ahamed Naina Mohamed Sahib

The favour of your immediate attention
is invited to my letter of 19th September, 1957,
regarding the above. In the absence of a report
from you I am unable to proceed to enquiry in
this case. Official investigations made by me
in this connection gives me the indication that
your report on the matter referred to in my
letter of 19th September, 1957, would be very
vital in disposing of the application for
Citizenship.

20

2. I shall be very grateful if your
report can be sent without further delay.

Sgd: D.T. de S. Gunawardena
31/12/57

Deputy Commissioner

51.

No.16

LETTER, DIRECTOR OF EDUCATION TO DEPUTY
COMMISSIONER

Before the
Deputy
Commissioner

Copy

My Nos. ASP/2109 and 2110
Your Nos. C.8009/G/C & C9933
of 31.12.57

No.16
Letter,
Director
of Education
to Deputy
Commissioner

10 The Deputy Commissioner of
Registration of Indian and Pakistani Residents,
Colombo.

2nd January,
1958

The immediate attention of the
Education Officer, C.P., Kandy has been invited
by wire on 31.12.57 and his reply is awaited.

Reference your letter No. C.8997/L/C
of 31.12.57 a reply has been sent today by letter
No. GTC 9771.

Sgd:

for Director of Education

20 Education Office,
Colombo

2.1.58.

I certify that the above is a true copy
of letter from the Director of Education filed
at page 139 in File No. C. 8009/G/C.

Sgd: D. T. de S. Gunawardena
Deputy Commissioner,
R.I. & P.R.,

29th January 1958

Before the
Deputy
Commissioner

No.17

LETTER, DIRECTOR OF EDUCATION TO
DEPUTY COMMISSIONER

No.17
Letter,
Director of
Education
to Deputy
Commissioner
20th January
1958

(Original in file No. C.8009/G/C)

My No. ASP 2109 and 2110

Yr. Nos. C. 8009/G/C & C. 9933
of 19.9.57

COPY

Registered

The Deputy Commissioner of
Registration of Indian and Pakistani
Residents, Colombo.

10

In continuation of my letter
of 2.1.58, it is reported that Q Schedules in
question have been issued under false pretexts
and that they are not genuine.

Sgd:

.....

for D.E.

EDUCATION DEPARTMENT,
Colombo 2

20

20th January, 1958.

I certify that the above is a
true copy of letter from the Director of
Education filed at folios 140 in File
No. C. 8009/G/C.

Sgd: D.T. de S. Gunawardena
Deputy Commissioner

R.I. & P.R.

29th January, 1958

No.18

LETTER, DEPUTY COMMISSIONER TO APPELLANTBefore the
Deputy
CommissionerREGISTERED:

My No. C. 9933

Department for the
Registration of Indian
and Pakistani Residents
P.O. Box 587, Colombo 1No.18
Letter,
Deputy
Commissioner
to Appellant

30th January, 1958

30th January
1958

10 Sir,

I have the honour to inform you that I have fixed your application for registration as a citizen of Ceylon under Act No.3 of 1949, for inquiry under Section 9(3)a at this office 1st floor, Simes Building, Colombo 1, on 19th February, 1958.

20 2. You should attend at 9.30 a.m. with such documents and witnesses as you rely on to prove that you have complied with the requirements stated overleaf. In general, no certificates issued after December 31, 1948, will be received in evidence unless the signatories are present for examination on oath or affirmation.

30 3. If you desire summons on any witness, you should apply to me for the same within a week from today furnishing the name and address in full of such person. In issuing any summons, I shall indicate that the witness need attend only if his expenses are paid to him direct by you.

4. If you fail to attend the inquiry at the appointed date and time without excuse, your application is liable to be refused.

I am, Sir,

Your obedient Servant,

Sgd: D. T. de S. Gunawardena, 31/1/58

Deputy Commissioner.

40 Mr. Marikkar Thamby Kader Sahib Seyed Ahamed,
Naina Mohamed Sahib,
96/5, Prince Street, Colombo.

Before the
Deputy
Commissioner

No.18
Letter,
Deputy
Commissioner
to Appellant
30th January
1958
(Contd.)

Requirements referred to:

1. that you are an Indian or Pakistani Resident. No evidence has been offered that your origin or the origin of an ancestor of yours was in pre-partition British India or an Indian State,
2. that you were resident in Ceylon from 1.1.36 to 6.8.51 without absence exceeding 12 months on any single occasion.
3. that you were on the date of your application possessed of an assured income of a reasonable amount or had some suitable business or employment or other lawful means of livelihood to support yourself.
4. that you had permanently settled in Ceylon.

10

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

No.19

LETTER, DEPUTY COMMISSIONER TO DIRECTOR
OF EDUCATION

Before the
Deputy
Commissioner

Registered:

My No. C. 8009/G/C

Your Nos. ASP 2109/2110

Office of the
Commissioner of the
Registration for Indian
and Pakistani Residents,
P.O. Box 587, Colombo 1
18th February, 1958

No.19
Letter,
Deputy
Commissioner
to Director
of Education
18th February,
1958

10

The Director of Education,
Colombo

Application for Ceylon Citizenship
made by Seyed Mohamed Shareef

Reference your letter of 20th January, 1958 -
the applicant for Citizenship was confronted with
the contents of your report at the resumed inquiry
in the application today. Counsel for the applicant
has taken objection to my admitting your report
in the proceedings unless the officer who inquired
into the matter and made the report to you, is
summoned to give evidence at the inquiry.

20

2. In the circumstances the inquiry remains
adjourned. I shall be grateful if you will please
supply me with the name of your officer and his
address to enable me to issue summons on him
requiring him to attend the resumed inquiry. His
expenses of attending inquiry will be met by the
Department.

30

Sgd:
Deputy Commissioner

18.2.58

Before the
Deputy
Commissioner

I certify that the above is
a true copy of letter appearing at Page
156 in Citizenship application file No.
C. 8009/G/C (Applicant Seyed Mohamed
Shareef).

No.19
Letter,
Deputy
Commissioner
to Director
of Education
18th February,
1958
(Contd.)

Sgd: D. T. de S. Gunawardena
Deputy Commissioner
8. 9. 58.

No.20
Evidence of
Applicant
(Appellant)
19th February
1958

No.20
EVIDENCE OF APPLICANT (APPELLANT)

10

C.9933

For enquiry at 9.30 a.m. on 19th February 1958

The applicant is present. Mr. B. H. Aluwihare,
Advocate, for him. The issues are taken
as understood.

Marrikkar Thamby Kader Sahib Seyed Ahamed
Naina Mohamed Sahib

29 years, affirmed.

I first came to Ceylon when I was 4 or
5 years old. The year was probably 1934 or 1935. 20
I came with my father, mother and 2 brothers.
We made up residence at Chilaw. I was there
for 2 or 3 months. I then went to Girindi Ella,
Teldeniya. I went with my father and two
brothers Hussain and Shareef. We took up
residence in a small hut adjoining the house of
one Rayale who was a friend of my father. My
father started as a hawker selling goods like
powder etc., Hussain and Shareef were admitted
to the Bopitiya Estate School - I cannot say when 30

I was admitted to the same school - about 1935 or 1936. The school Schedule at folio 14(a) furnished by me covers the period of my study at this school. I was at this school till 1942 or 1943. I then left the school because my father went to India and died there during the latter part of 1943.

My Uncle Ibrahim took me to India.

10 At this stage Mr. Aluwihare takes objection to the interpretation of the word "Vude" used by the applicant. He contends that "Udu" was used with the word Kurunegala and that meant that the applicant was taken to the Uncles home in Kurunegala and not India. Mr. Aluwihare objects to the word "India" going into the record at all.

Evidence is resumed:

20 Leaving Girindi Ella, my uncle took me to Kurunegala along with my two brothers and not to India. I did not go to India for my father's funeral but visited India later. My uncle Ibrahim was hawking prepared tea. He resided oppoiste the bus stand - at Puttalam Road. He took me to P.M.S. Mohamed who had his own shop at Bazaar Street, Kurunegala. I was employed as a boy at the shop. I do not know where my brothers resided but they came to see me. I cannot say at what intervals. My uncle Ibrahim was at Kurunegala for some time and went to 30 India. He died in India. I was in the employ of Mohamed till the year 1948. In 1949 I came to Colombo and joined the shop of S.V.M. Mohamed Jamaldeen. I was a salesman there. I was paid a salary of Rs. 15/- per mensum. My food was provided by my employer. I was in his employment till 1954.

40 I then joined my brother Hussain who had started a business dealing in miscellaneous articles at 96 Prince Street, Colombo. I am still with him. At the time I left Jamaldeens service I was in receipt of a salary of Rs. 60/- My food was provided separately. At the time my brothers made applications for Citizenship including my name, I was in receipt of a salary

Before the
Deputy
Commissioner

No.20

Evidence of
Applicant
(Appellant)

19th February,
1958
(Contd.)

Before the
Deputy
Commissioner

No.20
Evidence of
Applicant
(Appellant)
19th February
1958
(Contd.)

of Rs.40/- or Rs. 50/- per mensum. My mother was resident at Chilaw till she went to India after my father's death. Since I came to Ceylon with my parents I visited India 6 or 7 times. My first visit must have been during the latter part of 1944 to see my mother and attend religious festivals. I was away for 2 or 3 months. I hand in P1 certificates from the D.F.C. Kurunegala showing the surrender of my rice ration book and its re-issue. I cannot remember the subsequent visits. My last visit was in 1948 to see my relatives in India. I was away 1 or 2 months. I submit P2 & P3, P4 and P5 showing the surrenders of my rice ration books in the years 1945, 1946, 1947 and 1948 respectively. I visited India during these years to see relations and also on pilgrimage. My mother died in India about the year 1948 or 1949. I have never remitted money to India. I have no property in India. I have no property in Ceylon.

10

20

Examined by Mr. Aluwihare:

I produce a certificate P6 regarding my Indian origin. My visits to India till 1949 was to see my mother in India. Since 1949 I have visited India twice - latter part of 1953 and again in 1956. I was in India 5 or 6 months on visit in 1953. I went to visit temples. I was also unwell and was in hospital at Madras Santhosam Sanatorium, Madras. On my visit in 1956 I was away for 2 or 3 months in India. I went on pilgrimage. I and my brothers started a business under the name of Agfas Trading Company. This business was started in 1951. Besides being an employee of Jamaldeen, I was at this time a share holder of this business. Agfas trading company was changed to Hussains Brothers in 1954. I was a partner of this business also. I have produced a copy of the balance of this business. My share of the profits for the years 1955/1956 was Rs. 5000/- per annum. I cannot say what my share of profits from Agfas Trading Company was. The capital of Agfas Trading Company was Rs. 44,000/- My contribution was Rs.5000/- I was a partner of these in addition to being an employee at Jamaldeens. At Jamaldeens my salary was in addition to board and lodging and the income

30

40

from the partnerships was in addition to this income.

I have no interests in India now except for my relations.

Sgd: D.T. de S. Gunawardena
Deputy Commissioner

Before the
Deputy
Commissioner

No.20
Evidence of
Applicant
(Appellant)
19th February
1958
(Contd.)

No.21
DON UBEYSENA LIYANA GUNewardENE

No.21
Don Ubeysena
Liyana
Gunewardene
19th February
1958

Don Ubeysena Liyana Gunewardene:

10 Clerk, Department of Immigration and
Emigration.

I produce an application for a Temporary
Residence permit made by M.K.S. Naina Mohamed
Saibo dated 30.11.55. The address of the
applicant is 96/4/5 Prince Street, Colombo 11.
The applicant was the holder of Passport No.
108840 issued at Colombo. He gives his fathers
name as Seyed Ahamed Thamby and his nationality
Indian. The date of birth is given as 1930
20 at Kilakarai. He has given his address abroad
as Middle Street, Kilakarai. The occupation
is given as - Business 96 4/5, Prince Street.
The salary or income per annum is given as
Rs. 3,300/- ... In cage 13 of the application
in answer to the enquiry "Financial position
with proof" the applicant had given the
Figure Rs. 15,000/- balance sheet enclosed.
The balance sheet is not available in the file -
probably to the applicant. In cage 14 of the
30 application - Inquiry 14(a) "If previously
resident in Ceylon, give full particulars
of total residence and periods of absence"

The answer is "from 1940." Enquiry 14 (b).

"Date of arrival and date of departure
in 1949" - the answer is not given. In
page 15 - Enquiry "Reasons in full for wishing
to obtain residence permit (satisfactory evidence

Before the
Deputy
Commissioner

No. 21

Don Ubeysena
Liyna
Gunewardene

19th February
1958
(Contd.)

will be required in support of the object of the application) - the answer is "to continue business". According to the application the applicant desired a residence permit for life. He had been issued Residence permit No.Y 1034 on 26.10.53 for a period of 2 years on Passport No. 108840.

At this stage I show the application to the applicant (for citizenship) and he acknowledges it as his own. The application is examined by Mr. Aluwihare. He has no Questions to ask of witness.

10

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

At this stage Mr. Aluwihare informs that he will call three witnesses -

Mohamed Shahul Hameed who will speak to applicant's residence in Ceylon throughout the period; Abdul Suban, Kangany at Girindi Ella Group who will speak to residence at that estate; and the Accountant of Jamaldeen Company.

20

Mr. Aluwihare will also the teacher of Bopitiya School and the Ex-Headman of the area in which Girindi Ella Estate is situated.

No.22

Mohamed
Shahul
Hameed

19th February
1958

No.22

MOHAMED SHAHUL HAMEED

Mohamed Shahul Hameed:

56 years, affirmed.

30

I am resident at Katugastota. I am a registered citizen of Ceylon. I have been resident in Ceylon since 1909. I know the applicant Naina Mohamed. I first came to know him at Girindi Ella Estate, Udispattuwa. I used to visit the estate to purchase tea sweepings. In the year 1934 the applicant was resident with his Father Seyed Ahamed who was a hawker. They were resident at Gorindi Ella

estate. The applicant was about 6 or 7 years old. According to my knowledge the applicant was at the estate with his father till the year 1942. Two brothers of the applicant were resident with them. I used to visit the estate every month. I did not go to the estate after 1942. Shortly afterwards applicant's brother Hussain told me that his father had died and that they were going to reside at Kurunegala.

10

I knew them at Kurunegala. The applicant was employed in a shop at Kurunegala - at Kechcheri Road. I cannot mention who was the owner of the shop. I have seen him at the shop but I cannot say how long he worked there.

I never visited the shop. I did not transport goods to the man who employed the applicant.

20

I used to transport copra from a shop belonging to Sena Umma. I was the driver of the lorry. I transported copra regularly. I cannot say where applicant went when he left Kurunegala. I am unaware of any visits to India by applicant during the period I knew him. I have seen the applicant's brothers at Kurunegala but I cannot say where they resided.

Examined by Mr, Aluwihare:

30

I am worth over Rs. 200,000/- today. I now own 3 lorries. The road I referred to is the Main Street, part of which is referred to as Dambulla Road, and part as Puttalam Road. I knew the applicant's father from 1918 in Colombo.

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

Before the
Deputy
Commissioner

No.22
Mohamed
Shahul
Hameed
19th
February
1958
(Contd.)

No.23
ABDUL RAZAK ABDUL SUBAN

Before the
Deputy
Commissioner

Abdul Razak Abdul Suban:

38 years, affirmed:

No.23
Abdul Razak
Suban

I am a watcher at Girindi Ella Estate. I have been a watcher for the past seven years. I have been resident on this estate for the past 26 years. I was born St. Martin estate. I know the applicant Naina Mohamradu. I came to know the applicant in the year 1934. I met him at my residence. My father and applicant's father were friends. In 1934 the applicant came with his father and two brothers.

10

I was about 15 years old then. The applicant, his brothers and father resided on a part of the house occupied by us. His father brought the children because their mother was dead.

At this stage Mr. Aluwihare wishes to lead the evidence as the witness is his own witness.

Examined by Mr. Aluwihare:

20

The applicant's father and children came and resided with us. They occupied the verandah of the house. The brothers attended the Bopitiya School. They resided with us for 8 or 9 years. As the applicant's father was not well he left the children at my father's house and left for India. Applicant's Uncle informed us that the applicant's father died in India. I do not know the applicant's Uncle's name. He took away the 3 brothers. The brothers went away in 1943. I do not know whether the mother was alive at the time. I do not know where the brothers went. They were taken away by their Uncle.

30

Sgd: D.T. de S. Gunawardena

Deputy Commissioner

No.24

ABDUL CASSIM SEGU DARWOODBefore the
Deputy
CommissionerMohamed Abdul Cassim Segu Darwood:

55 years, Affirmed.

No.24
Abdul Cassim
Segu Darwood
19th February
1958

I am the accountant at S.V.M. Mohamed Jamaldeen and Brothers (Ceylon) Limited. I have been the Accountant for the past 19 years. I produce the shop Act book relating to this firm. The applicant was an employee at the shop from 1.10.49 till 27.11.53. During this period he has been granted leave only once. That was on 27.11.53 when he went to India. Since 1949 and this date he has not been granted any leave. Applicant returned to Ceylon on 15.6.54 when he resumed employment. The applicant left the firm on 31.12.54.

At this stage I examine the shop act Register and find regular entries of attendance marked.

Evidence is resumed:

I agree that different ink has been used in entering the names (items) 28 and 29 - the latter number relating to the name of the applicant for October, 1949. Similarly in respect of November, 1949, item No. 29 - relating to the applicant's name alone has been entered in a different ink. I cannot offer any explanation of these. I produce the Ledger for the period April 1949 to March 1950. At folio 322 appears the personal account of M.K.S. Naina Mohamed Sahib. He has been credited regularly and monthly from October 1949 to March 31, 1950, at the rate of Rs.75/- per mensem as salary. The monthly debits of Rs.60/- represent his mess charges. That means he was not given free food. I produce the Ledger for the period April 1950 to March 1951. At folio 54 appears the personal account of M.K.S. Naina Mohamed Saibo. There are regular entries of salary of Rs.75/- per mensem and regular debits of Rs.60/- per mensem representing mess charges. He was not supplied with free food. He had free lodging at the shop premises. Applicant

Before the
Deputy
Commissioner

No.24
Abdul Cassim
Segu Darwood
19th February
1958
(Contd.)

has also been credited Rs. 75/- as bonus for the year, dearness allowance Rs. 50/- for the year and additional salary for January to March, 1951 - Rs. 45/-. I also produce the Ledger for the period April 1951 to March 1952. There have been regular credits of Rs.90/- per mensem as salary. Bonus for the year Rs.100/- dearness allowance for the year Rs.50/- There are no other credits. There have been regular monthly debits of Rs. 60/-. This represents mess charges. Cost of food was charged to the applicant and lodging free. These entries appear at folios 125 and 449 in Ledger. The debit under date 21st December 1951, is a remittance home of Rs. 25/- and commission -/20 cts. I cannot explain what it is. Similarly under date 1st January, 1952 is an entry "remitted for expenses Rs. 25/- and commission -/20 cts. This too I cannot explain.

10

Examined by Mr. Aluwihare:

20

At the date of the remittance of Rs. 25/- on 21st December 1951, there was to the credit of the applicant the sum 285/80 cts and at the time of the remittances on 18th January 1952, a credit balance of Rs. 375/80 cts. The commission on each remittance has been -/20 cts. which is the local commission rate. When the applicant left the firm in 1954 his salary was Rs.110/- per mensem. He was not entitled to bonus. The difference in writing in the shop act books relates only to months in the beginning of his service in 1949.

30

Sgd: D.T. de S. Gunawardena
Deputy Commissioner

No.25
EVIDENCE OF APPLICANT (APPELLANT)
(RESUMED)

Before the
Deputy
Commissioner

The evidence of the applicant is resumed:

No.25
Evidence
of Applicant
(Appellant)
(resumed)

19th February
1958

10 The drawing of Rs. 25/- in December 1951 shown as a "remittance home" is merely a drawing for my expenses. If I did not call it a remittance home the money would not have been given to me. Drawings were denied to me because I was young. The drawing "remittance for expenses may have been mis-written as expenses for "remittance for expenses".

Examined by Mr. Aluwihare:

I did not remit any money to India. Without a permit no remittances can be made. I had no permit.

20 At this stage the witness M.A.C.S. Darwood is dismissed and the evidence of the applicant is resumed. I inform him that the Director of Education has reported that the School Schedule furnished by him has been issued under false pretexts and that it is not genuine.

The applicant states:

I have attended the Bopitiya School. I was admitted to this school in 1936 or 1937. I went to the estate in 1935. Even before I was admitted to school, I used to accompany my brothers to school.

30 At this stage Mr. Aluwihare requests me that the officer in the Education Department who made this report should be summoned for the enquiry. The time is 1 o'clock. I adjourn enquiry. I inform the applicant and Mr. Aluwihare that a date for resuming enquiry will be communicated by letter.

Sgd: D.T. de S. Gunawardena
Deputy Commissioner
19th February 1958

Before the
Deputy
Commissioner

No. 26

LETTER, DIRECTOR OF EDUCATION TO
DEPUTY COMMISSIONER

No.26
Letter,
Director
of Education
to Deputy
Commissioner

My No. ASP. 2109

Yr. No. C. 8009/G/C of
18.2.58

13th March
1958

THE DEPUTY COMMISSIONER,
Office of the Commissioner for the
Registration of Indian & Pakistani
Residents, Colombo

10

Application for Ceylon Citizenship
made by Seyed Mohamed Shareef

The officer who inquired into the matter
and made the report is Mr. A. Sandarasegaram,
Inspector of Schools, whose address is Wattegama.

Sgd:
for D. E.

Education Department
Colombo 2

13th March, 1958

20

I certify that the above is a
true copy of letter appearing at P.157
in Citizenship Application File No.
C. 8009/G/C (Applicant Seyed Mohamed
Shareef)

Sgd: D. T. de S. Gunawardena
Deputy Commissioner

8/9/58

67.

No.27

LETTER, DIRECTOR OF EDUCATION
TO DEPUTY COMMISSIONER

Before the
Deputy
Commissioner

Redg: Express

My No. ASP 2109

No.27

Yr. No. C.8009/G/C

Letter,
Director of
Education to
Deputy
Commissioner

The Deputy Commissioner,
Office of the Commissioner for the
Registration of Indian & Pakistani Residents,
Colombo 1.

11th April,
1958

10

Application for Ceylon Citizenship
made by Seyed Mohamed Shareef

Please treat my letter No. ASP 2109 & 2110
of 20.1.58 as cancelled.

2. The matter is being further investigated
into and a reply will be sent to you as early as
possible.

Sgd:
for D.E.

20

Education Department,
Colombo 2.

11th April 1958

I certify that the above is a true copy of
letter appearing at page 158 in Citizenship application
file No. C.8009/G/C (Applicant Seyed Mohamed
Shareef).

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

8/9/58

Before the
Deputy
Commissioner

No. 28
LETTER DIRECTOR OF EDUCATION TO
DEPUTY COMMISSIONER

No.28
Letter,
Director of
Education to
Deputy
Commissioner
19th May,
1958

My No. ASP/2109
Yr No. C. 8009/G/C & C. 9933

The Deputy Commissioner,
Office of the Commissioner for the
Registration of Indian and Pakistani Residents,
Colombo 1.

Application for Ceylon Citizenship
made by Seyed Mohamed Shareef
and Naina Mohamed

10

Further to my letter of even number
dated 11.4.58, I have to inform you that the "Q"
Schedules in question are genuine.

Sgd:
for Director of Education

Education Department,
Colombo 2.

19th May, 1958

20

I certify that the above is a true
copy of letter at folio (160) in Citizenship
application File No. C. 8000/G/C

(Applicant Seyed Mohamed Shareef).

Sgd: D. T. de S. Gunawarddena
Deputy Commissioner

8/9/58

No.29
LETTER, DEPUTY COMMISSIONER TO
DIRECTOR OF EDUCATION

Before the
Deputy
Commissioner

Registered:

My No. C. 8009/C

Yr. No. ASP/2109

No.29
Letter,
Deputy
Commissioner
to Director
of Education

23rd May,
1958

Office of the Commissioner for the
Registration of Indian and Pakistani
Residents, P.O. Box 587, Colombo 1.
23rd May 1958

10

The Director of Education,
Colombo

Application for Ceylon Citizenship
Seyed Mohamed Shareef and
Naina Mohamed

I acknowledge the receipt of your letter
of 19th May, 1958. According to your letter of
13th March 1958, the matter was inquired into by Mr.
A. Sandarasegaram, Inspector of Schools. I shall be
grateful if you will please let me know whether the
further enquiries mentioned in your letter of
11th April, 1958, were also made by the same
officer. I make this enquiry as it appears to me
necessary that the officer should be summoned to
give evidence at the resumed enquiries into the
applications for the citizenship made by the
above parties.

20

Sgd:

Deputy Commissioner

Before the
Deputy
Commissioner

I certify that the above is a
true copy of letter at folio (162)
in citizenship application File No.
C. 8009/G/C.

No.29
Letter,
Deputy
Commissioner
to Director
of
Education

(Applicant Seyed Mohamed Shareef)

Sgd: D. T. de S. Gunawardena
Deputy Commissioner

23rd May,
1958
(Contd.)

8/9/58

No.30
Letter,
Director
of
Education
to Deputy
Commissioner

No. 30

LETTER, DIRECTOR OF EDUCATION TO
DEPUTY COMMISSIONER

10

20th June,
1958

My No. ASP 2109
Yr. No. C. 8009/G/C

The Deputy Commissioner,
Office of the Commissioner for the
Registration of Indian and Pakistani
Residents, Colombo 1.

Application for Ceylon Citizenship
Seyed Mohamed Shareef & Naina Mohamed

Reference your letters of 23.5.58 and 13.6.58,
I have to inform you that the further enquiries
mentioned in my letter of 11th April, 1958 were
made by Mr. M.J.M. Mushsin, C.C.S., Assistant
Secretary, Ministry of Education, Colombo.

20

Sgd:

For Director of Education

Education Department,
Colombo 2
20.6.58

I certify that the above is a true copy of letter at folio (164) in Citizenship application file No. C. 8009/G/C.

(Applicant Seyed Mohamed Shareef)

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

8/9/58

Before the
Deputy
Commissioner

No.30
Letter,
Director
of Education
to Deputy
Commissioner

20th June
1958
(Contd.)

No. 31

NOTE BY DEPUTY COMMISSIONER

C. 9933

No.31
Note by
Deputy
Commissioner

29th August,
1958

- 10 Enquiry to be resumed at 2.30 p.m. on 29th August, 1958. The applicant is present. Mr. B. H. Aluwihare, Advocate, for him. I inform Mr. Aluwihare that I will file in record of these proceedings a certified copy of the evidence of the Head Master of the Bopitiya School, given on 29th September, 1957 (folio 129 in that file) in connection with the School Schedules issued by him in respect of the period the
- 20 applicant in this case and the applicant in the other case (C.8009/G/C) received education at the Bopitiya School. I will also file copies of letters from the Director of Education regarding the genuineness of the school schedules submitted in the two cases. On his application I inform Mr. Aluwihare that I will file a certified copy of the evidence of the Inspector of Schools (Mr. A. Sandarasegaram)
- 30 who gave evidence this morning in connection with the application of applicant's brother's (case C.8009/G/C) as the same evidence covers the issue and genuineness of the school schedule submitted in this case as proof of residence from 1936 to 1943.

Before the
Deputy
Commissioner

Mr. Aluwihare informs me that he will not lead further evidence. He closes his evidence. He hands me a statement (unsigned) typed and handwritten embodying his submission on behalf of his client the applicant.

No.31

Note by
Deputy
Commissioner

29th August,
1958
(Contd.)

No.32

Evidence
of Applicant
(Appellant)
(recalled)

29th August,
1958

No.32

EVIDENCE OF APPLICANT (APPELLANT)
(RECALLED)

Marikkar Thamby Kader Sahib Seyed Ahamed
Naina Mohamed Sahib:

(Applicant) affirmed.

In answer to me states as follows:-

I and two of my brothers Hussain Abdul Cader M.K.S. Seyed Mohamed Sheriff left Girindi Ella Estate and went to Kurunegala. I and Sheriff left the Bopitiya school together. That was immediately before we left for Kurunegala, Hussain also attended the same school, but I cannot remember whether Hussain left school at the time we left. I attended the school for some time without my name being entered in the register. I surrendered my Indian passport to the Indian High Commissioner in 1956. On this passport I travelled to India in 1954. I made two subsequent visits to India. I correct my statement. I went in 1955. I did not go thereafter. I am certain about that. Since my first arrival in Ceylon I may have visited India 5 or 6 times. I cannot recall my earlier visits. I did not go to India before 1954. At Kurunegala I was a servant under a relative M.P.M.S. Mohamoodu who is a dealer in hardware. I was with him from 1944 to 1948. The business was in Bazaar Street,

10

20

30

Kurunegala. My brothers Hussain and Sheriff were hawkers and lived with friends and relatives in Kurunegala when they returned to town.

Sgd: D.T. de S. Gunawardena
Deputy Commissioner
29th August, 1958

Before the
Deputy
Commissioner

No.32
Evidence
of Applicant
(Appellant)
(recalled)
29th August,
1958
(Contd.)

No. 33

G. ABEY GUNARATNE

No.33
G.. Abey
Gunaratne
29th August,
1958

10 G. Abey Gunaratne: Clerk, Exchange Control
Department.

I produce travel India card maintained at the Exchange Control Department, in favour of one M.K.S. Naina Mohamed Sahib of 96/4/5, Prince Street, Colombo. The particulars entered in this card are:-

Date: 15.8.55

Ref: No. M/55/BR/IN/229

Period: 2 months

20 Amount: Rs. 250/-

The connected papers are not traceable. The permit was connected with a travel to India in 1955 and not for maintenance purposes.

Sgd: D. T. de S. Gunawardena
Deputy Commissioner

I reserve my order for 9.30 a.m. on 15th August, 1958 and so inform the applicant and Mr. Aluwihare.

Sgd: D. T. de S. Gunawardena
Deputy Commissioner

Before the
Deputy
Commissioner

I hand over to the applicant
the official receipt for Rs. 25/- remitted
by him to meet the travelling expenses
of the Inspector of Schools who was
summoned to give evidence today at these
proceedings.

No.33
G. Abey
Gunaratne

29th August,
1958
(Contd.)

Intd:

29/8/58

No.34
Arunasalam
Sandarasegaram

29th August,
1958

No. 34

ARUNASALAM SANDARASEGARAM

10

C. 8009/G/C

Arunasalam Sandarasegaram:

Inspector of Schools.

I am the Inspector of Schools for the
Wattegama area. On the instructions of the
Education Officer of the area I visited the
Bopitiya Estate School to ascertain the genuineness
of a school schedule referred to me for report.
I met the Head Teacher of the School and examined
the relevant records. I reported to the Education
Officer my conclusions based on my examination of
the records. I did not visit the school on a
subsequent date in this connection. 20

At this stage I read out a letter of the
Director of Education dated 20th January, 1958
(at folio 140).

Evidence resumed:

What has been reported by the Director of
Education in this letter is not a exact
reproduction of what I had stated. I did not
state that the Schedules were issued under false
pretexts. I found by indirect evidence that the
Schedules in question were not genuine. By
'indirect' I mean circumstantial evidence. If 30

the records of the school are available to me now I could explain what I meant by circumstantial evidence.

Before the
Deputy
Commissioner

At this stage I ascertain that the School Teacher's records have not been brought by the Head Teacher of the School who is present.

No.34
Arunasalam
Sandarasegaram

Evidence resumed:

29th August,
1958
(Contd.)

10 Mr. Aluwihare objects that the witness is the witness for the Commissioner and he should not, therefore, be cross examined by me.

Evidence resumed:

I would wish that the word "circumstantial" be substituted for the word 'indirect' used by me earlier. The report made by me in my opinion, complete.

Examined by Mr. Aluwihare:

20 Whatever report that is made by subordinate officer is subject to revision or alteration or modification or even correction by a person who has authority over the officer. The Assistant Secretary at the Ministry of Education summoned me for a further enquiry into the genuineness of the School Schedules. I have not been informed in writing of the Assistant Secretary's finding but I was given to understand at the enquiry that the benefit of the doubt in regard to the genuineness of the school schedules should be given to the Head Teacher of the School. The
30 official who inquired took into account my report and the meritorious record of the teacher and the documents produced, of which I am unaware. The teacher himself was present at the enquiry. The officer who inquired into the matter is a member of the Ceylon Civil Service. A School Schedule is based on particulars obtaining in the admission register of a school, Examination Schedules and attendance Registers. A genuine "Q"
40 Schedule can result only from genuine entries in the admission and other registers.

Before the
Deputy
Commissioner

No.34
Arunasalam
Sandarasegaram

29th August
1958
(Contd.)

In considering the genuiness of the School Schedules I had gone into the question of the genuiness of the entries in the Admission Register. My report was specifically directed to the question of the genuiness of the school schedules.

Sgd: D. T. de. S. Gunawardena

Deputy Commissioner

I certify that the above is a true copy of evidence given before me by Mr. Arunasalam Sandarasegaram, Inspector of Schools, Wattedagama, on 29th August, 1958 in connection with the application for citizenship made by Seyed Mohamed Shareef - Application No. C. 8009/G/C.

10

I also certify that the evidence of Mr. Sandadarasegaram has been recorded at folios (173), (174) and (175) of that file.

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

20

8/9/58

No.35
Note by
Deputy
Commissioner
29th August,
1958

No. 35
NOTE BY DEPUTY COMMISSIONER

Vide proceedings of enquiry recorded at folio (89) - the folios in this file were re-numbered from folio (37) onwards in consequence of the filing of copies of relevant correspondence and extracts of evidence of Sabapathy Ponniah (School Teacher) and A. Sandarasegaram (Inspector of Schools from file No. C.8009/G/C where the applicant for citizenship is the brother of the applicant in this case. 30

<u>Details of papers filed</u>			Before the Deputy Commissioner
<u>Document</u>	<u>Page in File No.C. 8009/G/C</u>	<u>Page in this file</u>	<u>No.35</u>
Evidence of Sabapathy Ponniah, School Teacher	129-133	38-40	Note by Deputy Commissioner
Letter to the Director of Education dated 25/10/57	135	41	29th August 1958 (Contd.)
10 Letter to the Director of Education dated 18/2/58	156	60	
Letter from Director of Education dated 13/3/58	157	79	
20 Letter from the Director of Education dated 11/4/58	158	80	
Letter from the Director of Education dated 19/5/58	160	81	
Letter to the Director of Education dated 23/5/58	162	82	
30 Letter from the Director of Education dated 20/6/58	164	83	
40	<p>It is necessary to explain the circumstances in which it became necessary to file copies of correspondence and extracts of evidence in proceedings of enquiry in case C.8009/G/C. The School Schedules in proof of the alleged residence of the two applicants (brothers) were issued by the same Teacher, at the same time. The evidence of the teacher, in explanation of the issue of the School Schedules, is the same in both cases. The Director of Education to whom the Schedules were referred for verification of their genuineness, made a combined report in both cases. The evidence of the</p>		

Before the
Deputy
Commissioner

—————
No.35
Note by
Deputy
Commissioner
29th August,
1958
(Contd.)

Inspector of Schools who enquired into the matter (and also gave evidence in Case C. 8009/G/C) covers both cases. The Inspector's evidence was not recorded in these proceedings as Counsel for the applicant (Mr. Aluwihare) who was also Counsel in the other case, agreed that a copy of the Inspector's evidence in that case would be sufficient for the purpose of this enquiry.

Sgd: D. T. de S. Gunewardena

10

Deputy Commissioner

29/8/58

No.36
Statement
Tendered
by
Applicant's
(Appellant's)
Counsel

No.36

STATEMENT TENDERED BY APPLICANT'S
(APPELLANT'S) COUNSEL

We have to prove

- (1) residence from 1.1.36 to date of application without absence from the Island more than a year on any single occasion.
- (2) means of livelihood or employment
- (3) permanent settlement

20

(1) We have produced school registers and "Q" schedules covering the period 1.1.36 to 1944 i.e. for 10 years prior to 1946. The "Q" Schedules were admitted to be genuine i.e. The School certificate. The Education Officer stated that if the "Q" schedules were genuine, the supplementary documents i.e. the school register must be genuine. Even on the Inspector own reasoning, the school register, the genuineness of which he originally said was in doubt, has to be taken as genuine. The matter is now put beyond doubt by the authoritative letter of the Director of Education which was issued after the Inspector too had agreed. The terms of the letter are that "Q" schedules are genuine no qualification is mentioned.

30

It follows that all supplementary documents are genuine.

Before the
Deputy
Commissioner

Thus there is uncontroverted evidence of permanent residence prior to 1944 from at least 1.1.36. This corroborates the oral evidence which is uncontroverted and proves we were in Ceylon prior to 1936.

No.36
Statement
Tendered by
Applicant's
(Appellant's)
Counsel
(Contd.)

10 (2) In regard to residence after 1.1.44 the oral evidence is amply corroborated by the Shop Act books, certified copies of Rice Ration book surrender receipts and the documents of the Controller of Immigration and Emigration all of which are unchallenged which prove continuous residence as in Section 3 sub sec. 3 of the Act.

(3) Our means of livelihood and employment are proved by the Shop Registers, partnership deed, and the partnership accounts, the Income Tax documents as well as the oral evidence.

20 It is also in evidence that we have no other home than Ceylon. We stated in the application for our T.R.Ps that we were in residence in Ceylon from 1940 vide folio (65) because that was the date relevant to those applications.

No question has been raised of our Indian origin of which there is no doubt; there has been no disqualification to citizenship alleged. Apart from establishing a prima facie case we have established our qualification for citizenship on tested evidence.

30 No. 37

O R D E R

C.9933

ORDER

The issues for enquiry in this case are noted in the notice under Section 9(1) of the Act, dated 5th August, 1957 - copy filed at folio (28) - viz.

No.37
Order
15th
September,
1958

Before the
Deputy
Commissioner

No.37
Order
15th September,
1958
(Contd.)

1. That you are an Indian or Pakistani resident. No evidence has been offered that your origin or the origin of an ancestor of yours was in prepartition British India or an Indian State.
2. That you were resident in Ceylon from 1.1.36 to 6.8.51 without absence exceeding 12 months on any single occasion
3. That you were on the date of your application possessed of an assured income of a reasonable amount or had some suitable business or employment or other lawful means of livelihood to support yourself. 10
4. That you had permanently settled in Ceylon.

Issue 1

From the evidence available to me I am satisfied that the applicant is a person of Indian origin and entitled to apply for citizenship in Ceylon under the provisions of Act No.3 of 1949. 20

I answer the issue in the affirmative.

Issue 2

The applicant's claim to residence continuously in Ceylon falls into 3 parts:-

1. Period of residence at Girindi Ella estate and schooling at the Bopitiya Tamil School from 1934 to 1943.
2. Period of residence at Kurunegala as an employee under M.P.M.S. Mohamed 1943 to 1949. 30
3. Period of employment under S.V.M. Mohamed Jamaldeen from 1949 to date of application.

For the sake of convenience I will first deal with the evidences for the second and third periods.

For the second period the applicant has

furnished "Certified extracts of Surrender certificates" - P1 to P5 (at folios (72) to (76) covering the period August 1944 to January 1949. These together with the oral evidence support him in proof of residence during the period. I accept this.

Before the
Deputy
Commissioner

No.37
Order

15th September
1958
(Contd.)

10 For the third period the Accountant of Messrs. S.V.M. Mohamed Jamaldeen & Brothers (Ceylon) Limited, produced the shop Act registers. The witness stated that the applicant was an employee at the shop from 1.10.49 to 31.12.54 with an interval of absence in India from November, 1943 (sic) to June 1954. The witness (M.A.C.S. Darwood - evidences folio 68) also produced the ledgers for the period April 1949 to March 1952, showing regular credits of salary to applicant's account. From a consideration of this evidence, I accept the third period of residence as also proved.

20 I will now deal with the evidence for the first period of residence 1936 to 1943. For this period the applicant produced "Q" Schedule which is filed at folio 14(a). Owing to the recent writing in this Schedule it appeared to me necessary to have it verified by an Investigating Officer of this Department. The officer's reports appear at folios 31 and 34. It was clear from these reports that further enquiry was imperative. A copy of the evidence of the School Teacher who issued this Schedule is filed at folios (38) and (40). No comment from me is necessary on this most unsatisfactory evidence given by this teacher. If his evidence proves anything, it proves that the Investigating Officers' inferences from an examination of the school records - were well founded. The matter was however, referred to the Director of Education for further clarification. He reported that the School Schedules had been issued under false pretexts and that they are not genuine (Vide copy of report at folio (55)). A copy of the evidence given before me by the Inspector of Schools on whose reports the Director of Education's letter was based is at folio (94) in file. By a subsequent letter the Director of Education reported that the Schedules in question were genuine (folio 81) I have not been informed of the reasons for making the further enquiries or the

30

40

Before the
Deputy
Commissioner

—
No. 37
Order
15th
September
1958
(Contd.)

basis on which the new finding was arrived at. I myself might have made the enquiry but it appeared to me that no purpose would be served by doing so, especially in view of the reports earlier made by my Investigating Officer and the Inspector of Schools, from which I could myself arrive at an independent decision. In fact that is the only course left to me. It appears to me from the evidence of the Inspector of Schools that the decision of the Assistant Secretary, Ministry of Education, who had made the second enquiry (vide folio 83) to regard the school schedules as genuine was prompted by a consideration of the meritorious record of this teacher. To my mind such a consideration is not relevant to a decision whether a given document is genuine or not. It is very significant that the Inspector of Schools to whom the suggestion was made by the applicant's Counsel that if the schedules in question was considered genuine, the registers on which they were based should also be genuine, did not subscribe to the view.

10

20

To revert to the Teacher's evidence, the Superintendent of the estate was not called as a witness to corroborate the teacher's statement about the loss of the old admission registers and the alleged report made to the Director of Education about the loss of the registers. The teacher's statement that he copied into the new admission register the original entries in folios 22 and 23 in the old admission register on the oral instructions of the Superintendent of the estate, who undertook to take the responsibility, remains uncorroborated. In the circumstances I cannot help coming to the conclusion that the teacher's story is a fabrication. I do not believe him. I have no hesitation whatsoever in coming to the conclusion the school schedule is not genuine.

30

40

I must now refer to the evidence of an officer from the Department of Immigration and Emigration who produced on behalf of the Controller of Immigration and Emigration (vide evidence at folios 64 and 65) an application for a Temporary Residence Permit (by the applicant

in this enquiry) M.K.S. Naina Mohamed Saibo dated 30/11/55. In cage 14 of that application answering the enquiry (a) "if previously resident in Ceylon, give full particulars of total residence and periods of absence" - the applicant had declared - "from 1940", and (b) "date of arrival and date of departure in 1949" no answer has been given.

Before the
Deputy
Commissioner

No.37
Order

15th
September,
1958
(Contd.)

10 No explanation of this declaration was given to me, and the declaration is unequivocal. This confirms the decision I have already taken that the school schedule is not genuine, and that the applicant has been resident in Ceylon only from 1940.

20 So far the evidence is so overwhelmingly against the claim of the applicant that he has been resident in Ceylon from 1934. Any other evidence to rebut this evidence, must necessarily be of such a convincing nature as to induce me to take a view favourable to the applicant. The evidence available is that of two witnesses M.S. Hameed (folio 66) and A.R. Abdul Suban (folio 67) called by the applicant. The evidence is of a formal nature that I am unable to accept it in rebuttal of the other evidence. I would, however, like to refer to one statement of witness Suban "his father brought the children (applicant and his brothers) because their mother was dead" The applicant has himself said that he came with his parents in 30 1934 or 1935 and took up residence at Chilaw (folio 61) and that his mother died in India in 1948 or 1949 (folio 63). I cannot help concluding that the evidence of this witness is untrue. I see no particular reason why I should accept the evidence of witness M.S. Hameed in preference to evidence of a more convincing nature elsewhere.

40 I am satisfied that the applicant was not in Ceylon prior to 1940 and so hold. The applicant therefore fails in his proof of residence from 1936 to 1943. I answer the issue in the negative.

Issue 3

The witness M.A.C.L. Dawood, Accountant at Messrs. S.V.M. Mohamed Jamaldeen and Brothers

Before the
Deputy
Commissioner

No. 37
Order

15th
September,
1958
(Contd.)

(Ceylon) Ltd., produced the Shop Act register and the ledgers. From that, without furthermore, I am satisfied that the applicant was in receipt of an income (salary) of a reasonable amount to support himself.

I answer the issue in the affirmative.

Issue 4

In view of my determination of Issue 2, I cannot say that the applicant is permanently settled in Ceylon.

10

I answer the issue in the negative.

I make order refusing the application of Marikkar Thamby Kader Sahib Seyed Mohamed Naina Mohamed Sahib to be registered a citizen of Ceylon under the provisions of Act No. 3 of 1949.

Sgd: D. T. de S. Gunewardena

Deputy Commissioner

15th September, 1958

The applicant is absent. Mr. B. H. Aluwihare, Advocate, is present. I inform him that I have made order refusing the application.

20

He requests that the order be communicated to the applicant.

Please do so.

Sgd: D. T. de S. Gunewardena

Deputy Commissioner

15/9/58.

85.

No. 38

LETTER, DEPUTY COMMISSIONER TO APPELLANT

Before the
Deputy
Commissioner

Registered Post

No. C. 9933

Office of the Commissioner for the
Registration of Indian and Pakistani
Residents, P.O. Box 587, Colombo 1.

15th September 1958

No. 38
Letter,
Deputy
Commissioner
to Appellant
15th
September,
1958

Sir,

10 Application for registration as a Citizen
of Ceylon.

With reference to the enquiry into your
application for registration as a citizen of Ceylon,
conducted before me on 29th August, 1958, I have
the honour to inform you that order was made
by me today refusing your application.

I am, Sir,

Your obedient Servant,

Sgd: D. T. de S. Gunawardena

Deputy Commissioner

20

Marikkar Thamby Kader Sahib
Seyed Ahamed Naina Mohamed Sahib,
No. 96/5, Prince Street,
Colombo.

In the
Supreme Court
of Ceylon

No. 39

PETITION

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No.39
Petition
3rd December,
1958

IN THE MATTER of an application under the
Indian and Pakistani Residents
(Citizenship) Act No. 3 of 1949

- and -

IN THE MATTER of an Appeal under Section
15 of the Indian and Pakistani Residents
(Citizenship) Act No. 3 of 1949

10

Application
No. C.9933

Marikkar Thamby Kader Sahib Seyed
Ahamed Naina Mohamed Sahib of No.96/5,
Prince Street, Colombo 11.

S.C. 160/1960

APPELLANT

Vs.

The Commissioner for the Registration
of Indian and Pakistani Residents,
Colombo, 1.

RESPONDENT

20

To:

The Honourable the Chief Justice and the
other Judges of the Honourable the Supreme
Court of the Island of Ceylon.

On this 3rd day of December 1958

The Petition of Appeal of the Appellant
above named appearing by DAVID NAIR THURAIRAJAH,
his Proctor, states as follows:-

1. The Appellant made an application under
the provisions of the Indian and Pakistani Residents 30
(Citizenship) Act No. 3 of 1949 for the
purpose of securing his registration as a
citizen of Ceylon and his application was
assigned Serial No. C. 9933.

2. The Deputy Commissioner for the
registration of Indian and Pakistani Residents

gave notice to the Appellant under Section 9(i) of the said Act that he had decided to refuse the said application on the grounds specified in the schedule to the said notice, unless the Appellant showed cause to the contrary within a period of three months from the date of the said notice.

In the
Supreme
Court of
Ceylon

No. 39
Petition

3rd December,
1958
(Contd.)

10 3. The Appellant thereupon showed cause within the aforesaid period and the Deputy Commissioner made order fixing the application for inquiry.

20 4. The said inquiry was held by the Deputy Commissioner on 21st September 1957, 19th February 1958 and on 29th August 1958 and after recording the evidence of the Appellant and his witnesses the Deputy Commissioner made order on 15th September 1958 refusing the application on the ground that the Appellant has failed to prove that (a) he was resident in Ceylon from 1st January 1936 to 31st December 1943 without absence exceeding 12 months on any single occasion and (b) he had permanently settled in Ceylon.

5. Being dissatisfied with the said order of refusal and the reasons given, therefor, the Appellant begs to appeal therefrom to Your Lordships' Court on the following among other grounds that may be urged by Counsel at the hearing of this appeal:-

- 30 (a) the said order is contrary to law and against the weight of evidence adduced;
- (b) The evidence furnished by the Appellant to the Investigating Officer who made investigations under Section 8 of the said Act together with the evidence furnished to the Deputy Commissioner at the aforesaid inquiry held under section 9(3)(a) of the said Act was sufficient to allow the Appellant's Application.
- 40 (c) the learned Deputy Commissioner has misdirected himself -
- i. as regards the quantum of proof necessary to prove the Appellant's case; and

In the
Supreme Court
of Ceylon

No. 39

Petition

3rd December,
1958

(Contd.)

- ii. in assessing the evidence of the Appellant and his witnesses
- (d) the Deputy Commissioner has misdirected himself with regard to the presumption of fact and law applicable to the case
- (e) the Deputy Commissioner has not looked at the surrounding circumstances to appreciate the evidence of the Appellant and his witnesses but has treated the whole question of proof as equivalent to a memory test; the Deputy Commissioner has not considered the evidence in the light of general probabilities in the circumstances of the case 10
- (f) the Deputy Commissioner has placed upon the Appellant an unduly heavy onus of proof and has contravened the requirements of natural justice
- (g) the Deputy Commissioner has erred in holding that the Appellant was not permanently settled in Ceylon within the meaning of the Act 20
- (h) the Deputy Commissioner has misdirected himself in rejecting the Education Department's School Schedule "Q" at folio 14(A)
- (i) the Deputy Commissioner has erred in the standard of proof required in these proceedings 30
- (j) the evidence led in the case is sufficient to entitle the Appellant to an order under Section 14(7)(a) of the Act in his favour

WHEREFORE the Appellant prays that Your Lordships' Court be pleased -

- i. to set aside the order of the Deputy Commissioner dated 15th September 1958

89.

- ii. to direct the Respondent to cause the Appellant to be registered as a citizen of Ceylon and to take all such steps as are necessary for that purpose; and
- iii. for costs and for such other and further relief as to Your Lordships' Court shall seem meet.

In the
Supreme
Court of
Ceylon

No.39
Petition

3rd December,
1958
(Contd.)

Sgd: D. N. Thurairajah

10

PROCTOR FOR APPELLANT

No. 40

ORDER

No.40
Order

19th December,
1960

No. S.C. 160/'60
(Citizenship)

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER
OTHER REALMS AND TERRITORIES, HEAD OF THE COMMON-
WEALTH

20

IN THE SUPREME COURT OF THE ISLAND OF CEYLON
IN THE MATTER of an Appeal under Section 15
of the Indian and Pakistani Residents
(Citizenship) Act No. 3 of 1949

Marikkar Thamby Kader Sahib Seyed Ahamed
Naina Mohamed Sahib of No. 96/5,
Prince Street, Colombo 11

Applicant-Appellant

Versus

The Commissioner for the Registration of
Indian and Pakistani Residents, Colombo

Respondent-Respondent

30

Application No. C. 9933

Counsel for Appellant: (No. appearance)

In the Supreme
Court of Ceylon

Counsel for Respondent: Mr. Advocate A.
Mahendrarajah,
Crown Counsel.

No.40
Order

19th December,
1960

(Contd.)

This case having come before the Hon.
Leonard Bernice de Silva, Puisne Justice, of
this Court, for hearing and determination on
19th December, 1960

It is considered and adjudged that this
appeal be and the same is hereby dismissed.

It is ordered and decreed that the
Applicant-Appellant do pay to the Respondent-
Respondent the costs of this appeal fixed at
Rs. 105/-

10

Sgd: L. B. de Silva

PUISNE JUSTICE

WITNESS, the Hon. Hema Henry Basnayake, Q.C.,
Chief Justice at Colombo, the 24th day of
December, in the year One thousand nine hundred
and sixty and of Our Reign the Ninth.

Sgd: N. Navaratnam

20

Deputy Registrar, S.C.

WR.

No.41

Order
directing
that Appeal
be re-listed
23rd February,
1961

No.41

ORDER DIRECTING THAT APPEAL BE RE-LISTED

Application to re-list the appeal in S.C. 160/'60
Indian and Pakistani Residents (Citizenship)
Application No. C.9933 (No. 17)

Present: Tambiah J.

Counsel: S. Sharvananda with M.T.M. Sivardeen
for the Petitioner. H. Deheragoda, C.C., 30
for the Respondent.

Argued and decided on: 23rd February, 1961.

Tambiah, J.

In the Supreme
Court of Ceylon

In this matter the petitioner is praying for an order to re-list the appeal filed in this case. The Petitioner states in his affidavit that when his Proctor sent the petition of appeal accompanied by a letter to the Commissioner, neither he nor his Proctor received a reply. He also avers that without his knowledge this appeal has been disposed of.

No.41
Order
directing
that Appeal
be re-listed
23rd February
1960
(Contd.)

10 Crown Counsel is not opposing this application. Therefore let this appeal be re-listed. No further notice of the date of re-listing will be given to the appellant. There will be no costs.

Sgd: H. W. Tambiah

PUISNE JUSTICE

No. 42

JUDGMENT

No.42
Judgment

10th October
1962

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

20 S.C. 160/1960

In the matter of an application under the Indian and Pakistani Residents (Citizenship) Act No.3 of 1949

Application
No. C.9933

and

In the matter of an appeal under Section 15 of the Indian and Pakistani Residents (Citizenship) Act No.3 of 1949

30

Marikkar Thamby Kader Sahib
Sayed Ahamed Naina Mohamed Sahib
of No.96/5, Prince Street, Colombo
11.

Vs

APPELLANT

The Commissioner for the Registration
of Indian and Pakistani Residents,
Colombo 1

RESPONDENT

In the
Supreme Court
of Ceylon

PRESENT: Tambiah J.,
Counsel: H.V. Perera Q.C., with S.
Sharvananda for the appellant.
Shiva Pasupati, Crown Counsel, for
the Respondent.
ARGUED ON: 18.9.1962
DECIDED ON: 10.10.62

No.42
Judgment
10th October,
1962
(Contd.)

Cur. adv. vult.

Tambiah J:

The appellant made an application under section 4 of the Indian and Pakistani Residents (Citizenship) Act (Cap. 350) to be registered as a Citizen of Ceylon. The application in Form iA, which contains the necessary particulars required by the said Act, was signed by the appellant on the 4th of December 1956. 10

At the inquiry before the Deputy Commissioner although he was satisfied that the appellant had resided in Ceylon during certain periods, nevertheless he called upon the appellant to adduce evidence that the appellant had been resident in Ceylon during the period 1.1.1936 - 31.12.1943. After inquiry, the Deputy Commissioner refused the appellant's application on the ground that the appellant had not proved that he had been resident in Ceylon during the said period. 20

In appeal, the counsel for the respondent took up the objection that the appellant had not made the application within the time prescribed by law to claim the privilege of being registered as a citizen of Ceylon and therefore the Deputy Commissioner should not have entertained this application nor should this Court entertain it. 30

Section 5 of the Indian and Pakistani Residents (Citizenship) Act (supra) enacts:-

"The privilege or extended privilege conferred by this Act shall be exercised in every case

before the expiry of a period of two years reckoned from the appointed date; and no application made after the expiry of that period shall be accepted or entertained, whatsoever the cause of the delay."

Section 24 of the Indian and Pakistani Residents (Citizenship) Act (Cap.350) defines the appointed date as "the 5th August 1949"

In the
Supreme Court
of Ceylon

No.42
Judgment

10th October,
1962
(Contd.)

10 Therefore, if the appellant's application is regarded as the application in Form 1A, signed by him on the 4th of December 1956, then his application should not have been entertained by the Deputy Commissioner nor should it be entertained by this Court.

20 It was submitted on behalf of the appellant that the latter had made an earlier application through his brother, one Mohamed Hussain Abdul Cader, son of Maraikarthamby Kader Sahib Seyedahamedthamby. The application of the appellant's brother which was produced by the Commissioner at the request of this Court, was carefully perused by me and I find nothing in it to suggest that the appellant's brother had made any application on behalf of the appellant.

30 The appellant's brother, by his application dated 4th August, 1951 in Form 1A, had made a request that he be registered as a citizen of Ceylon under the said Act. In cage II of the application, he stated: "I request that, simultaneously with myself, my illegitimate child/each illegitimate minor child of mine mentioned in paragraph 10 of this application be registered as a citizen of Ceylon". The cage in paragraph 10 of the application has the following printed words: "Where the applicant is an unmarried female, the names and dates of birth of any illegitimate minor children of hers, who are ordinarily resident in
40 Ceylon and dependant on her and whose registration she desires simultaneously with her registration". This cage was left blank by the appellant's brother. The appellant's name is only mentioned in cage 7 in which every applicant is required to state the

In the
Supreme Court
of Ceylon

No.42
Judgment

10th October,
1962

(Contd.)

names, addresses and relationship of all dependants. In this case, the appellant is referred to as the dependant brother of the applicant, carrying on business as a partner in premises No. 96/4 & 5, Prince Street, Colombo 11.

One of the formal requirements of an application for registration is that an applicant should mention also the names, addresses and relationship of all his dependants. Therefore, the entry of the name of the appellant in case 7 is one of the particulars which the appellant's brother had to mention in his own application. In no other place is the appellant's name found in the application made by his brother to indicate that an application was made on behalf of the appellant. The only reasonable conclusion which could be arrived at, therefore, is that the appellant's brother had made the application dated August 1952 only on his behalf and not on behalf of his brother, the appellant. In view of this finding, the contention of the appellant's counsel that the petition, which was inquired into by the Commissioner was not the petition dated 4th December 1956, signed by the appellant, but the petition of his brother, dated August 1951, becomes untenable. The further argument of the appellant's counsel that the petition filed by the appellant's brother, on behalf of himself as well as on behalf of the appellant, was adopted by the appellant when he filed the petition dated 4th December 1956, also fails. It must also be noted that the terms of the petition filed by the appellant dated December 1956, does not state that the appellant had adopted the earlier petition by his brother.

The contention of the counsel for the appellant that the appellant was a minor at the time of the appellant's brother made the application dated August 1951, is not borne out by the evidence in the instant case. The appellant, while giving evidence on the 19th of February 1958, stated that he was twenty nine years of age. Therefore, on the 19th of February 1951, he would have been about twenty one years of age. No proof

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has been adduced before this Court that the appellant was a minor at the time his brother made the application on his own behalf, dated 4th August 1951.

In the
Supreme Court
of Ceylon

Section 3A of the Regulations made under the Indian and Pakistani Residents (Citizenship) Regulations, 1949, states as follows (vide Government Gazette No.10,462, dated 10.10.1952, Part 1, Section 1, Volume 1 page 1732):

No.42
Judgment
10th October,
1962
(Contd.)

- 10 "(1) The Commissioner shall not entertain an application made by any Indian or Pakistani resident if that application is not in the appropriate form specified for that person in regulation 2 or regulation 3, as the case may be.
- 20 (2) Notwithstanding that an application made by any Indian or Pakistani resident is not in the appropriate form specified for that person in regulation 2 or regulation 3, the Commissioner may entertain any such application -
- 30 (a) if it contains all the information and particulars which are required to be specified in the form appropriate to that person, if and only if, that person on being requested by notice in writing by the Commissioner to supply the remaining information and particulars appropriate to his case within one month from the date of the notice, supplies such information and particulars within such time";
- 40 (b) if it does not contain all the information and particulars which are required to be specified in the form appropriate to that person, if and only if, that person on being requested by notice in writing by the Commissioner to supply the remaining information and particulars appropriate to his case within one month from the date of the notice, supplies such information and particulars within such time";

As there was no application made on behalf of the appellant by the appellant's brother, there was no necessity for the Commissioner even

In the
Supreme
Court of
Ceylon

No.42
Judgment

10th October,
1962
(Contd.)

to have called for particulars from anyone under sub-section 2(a) or (b) abovementioned.

The Counsel for the appellant also relied on a note, purported to have been made by an officer on the Commissioner's office which reads as follows:-

"With reference to your interview with the Commissioner on 28.11.56, I have the honour to request you to see me with your client on 3.12.56 at 10 a.m. at this office.

10

Under this note is found another note which reads as follows:-

"Get dependant brother fill in Form 1A".

It was submitted on the appellant's behalf that the latter note was an invitation by the Commissioner, or by an officer on the Commissioner's behalf, requesting the appellant to regularise the application made on his behalf by his brother, by filling in the proper form. I cannot agree.

20

In view of the imperative provisions of section 5 of the Indian and Pakistani (Citizenship) Act (supra), no officer can authorise a person to apply for registration under the said Act two years after the prescribed date. Even if any application had been received, the section clearly states that it should not be entertained by the Commissioner.

The Indian and Pakistani (Citizenship) Act (supra) confers a privilege on a person, whose alleged origin is India or Pakistan, to have his name registered as a citizen of Ceylon within the limited period prescribed by law. A Statute which confers a privilege must be strictly construed (vide Maxwell or interpretation of Statutes (9th Ed.) 298: (11th Ed.) p. 345).

30

The Counsel for the appellant, relying on the decisions in Caruppiah v. Commissioner for Registration of Indian and Pakistani Residents (1960 62 N.L.R. p.17 and S.S. Seyed Ali Idroos v.

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10 the Commissioner for the Registration of Indian and Pakistani Residents (1960) 62 N.L.R. p.109), submitted that once the issues have been framed by the Commissioner and an inquiry had been proceeded with on those issues, it was not open for the Crown to challenge the application on any other ground. In both the abovementioned cases, the applications were made within the prescribed time, but the Court in each case held that the mere failure to file an affidavit, as required by section 7 of the Act, did not render the proceedings null and void when there was evidence which contained all the requirements of the affidavit. These cases, therefore, stand on a different footing from the one before this Court, in the instant case, no application has been made, as required by the law, by the appellant to have his name registered as a citizen of Ceylon.

In the
Supreme
Court of
Ceylon

No.42
Judgment
10th October,
1962
(Contd.)

20 The counsel for the appellant also urged that, at the most, this was a case of contingent jurisdiction and, if the parties had proceeded on a particular footing and the inquiry was held, then it was too late in the day to raise any question of jurisdiction. It must however be noted that the doctrine of estoppel cannot be evoked to render valid a transaction which the Legislature has, on grounds of general public policy, enacted shall be invalid (vide Re Stapleford Colliery Co., Barrow's case (1880) 14 Ch. D. 432 C.A., at p.441) or to give the court a jurisdiction which is denied to it by statute (vide Griffiths v. Davies (1943) 1 K.B. 618 C.A.; J & F. Stone Lighting & Radio Ltd. v. Levitt (1947) A.C. 209 H.L.), or to oust the statutory jurisdiction of the court under an enactment which precludes the parties contracting out of its provisions (vide Solle v. Butcher (1950) 1 K.B. 671; C.A.). In my view, the instant case is not one where the tribunal has contingent jurisdiction, but rather one in which it has no jurisdiction since the appellant has made the application after the prescribed statutory period. It is with regret that I dismiss the appellant's appeal, since his application should not have been entertained by the Deputy Commissioner nor could it be entertained by this Court.

40 On the facts, no doubt, a good deal could be

In the
Supreme
Court of
Ceylon

No.42
Judgment

10th October,
1962
(Contd.)

said on behalf of the appellant. The Commissioner has misdirected himself on a number of matters, but it is unnecessary for me to go into the facts in view of my finding that the appellant had not made an application within the prescribed time.

I dismiss the appellant's appeal with costs fixed at Rs. 105/-.

Sgd: H. W. Tambiah

PUISNE JUSTICE

10

No.42(A)
Commissioner's
Office Note
referred to
in Judgment

No.42(A)

COMMISSIONER'S OFFICE NOTE REFERRED TO
IN JUDGMENT

Appn. No. C. 8063
F

Refused on
15.9.58

Please let me see this appln.

Intld.
26/xi/56

Transferred to Kandy on 20.4.54.

Intld. 27/11

20

RK.

Appln. refused.

Pl. submit immediately.

Intld.
27/11

Write Mr. Bernard Aluwihare.

Reference your interview with the Commissioner on 28/11/56, please see me with your client on 3.12.56 at 10 a.m. at this office.

In the
Supreme
Court of
Ceylon

Sgd:
D.C.

No.42(A)
Commissioner's
Office Note
referred to
in Judgment
(Contd.)

- 1. Get dependant brother to fill in Form 1A.
- 2. Issue letter C.I. & E. that his application is pending.
- 3. Pp to D.C. Mr. G. for disposal.
- 10 4. Return copy of certificate & pp to Mr. Aluwihare.

Intld.
29/11

No.43
ORDER

No.43
Order

10th October
1962

No. S.C.160/'60
(Citizenship)

20 ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF
HER OTHER REALMS AND TERRITORIES,
HEAD OF COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Appeal under Section 15
of the Indian and Pakistani Residents
(Citizenship) Act No.3 of 1949.

Marikkar Thamby Kader Sahib Seyed
Ahamed Naina Mohamed Sahib of 96/5,
Prince Street, Colombo.

Applicant-Appellant

Versus

30 The Commissioner for the Registration of
Indian and Pakistani Residents, Colombo

Respondent-Respondent

In the
Supreme
Court of
Ceylon

Application No. C. 9933

Counsel for Appellant: Mr. Advocate H.V. Perera,
Q.C. with Mr. Advocate
S. Sharavananda

No.43
Order

Counsel for Respondent: Mr. Advocate S.Pasupathi,
Crown Counsel.

10th October,
1962
(Contd.)

This case having come before the Hon.
Henry Wijayakone Tambiah, Q.C., Puisne Justice,
of this Court, for hearing and determination
on 18th September and 10th October, 1962.

10

It is considered and adjudged that this
appeal be and the same is hereby dismissed with
costs fixed at Rs. 105/-.

(Vide copy of order attached)

Witness the Hon. Hema Henry Banayake,
Q.C., Chief Justice, at Colombo, the 25th day of
October in the year One thousand nine hundred
and sixty two, and of Our Reign the Eleventh.

Sgd: N. Navaratnam

Deputy Registrar, S.C.

20

(SEAL)

No.44

ORDER GRANTING SPECIAL LEAVE TO APPEAL
TO HER MAJESTY IN COUNCIL

In the Privy
Council

AT THE COURT AT BUCKINGHAM PALACE

The 24th day of March 1965

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

Lord President
Mr. Jay

Chancellor of the
Duchy of Lancaster
Mr. Wigg

No.44
Order grant-
ing Special
Leave to
Appeal to
Her Majesty
in Council

24th March,
1965

10

WHEREAS there was this day read out at the Board
a Report from the Judicial Committee of the Privy
Council dated the 8th day of March 1965 in the
words following:-

20

"WHEREAS by virtue of His late Majesty King
Edward the Seventh's Order in Council of the 18th
day of October 1909 there was referred unto this
Committee a humble Petition of Markkar Thamby Kader
Sahib Seyed Ahamed Naina Mohamed Sahib in the matter
of an appeal from the Supreme Court of Ceylon
between the Petitioner and the Commissioner for
the Registration of Indian and Pakistani Residents
Respondent setting forth that the Petitioner
desires to obtain special leave to appeal to Your
Majesty in Council against the Order of the Supreme
Court of Ceylon dated the 10th day of October 1962
dismissing the Appeal of the Petitioner from the
Order of the Deputy Commissioner for the Registration
of Indian and Pakistani Residents dated the 15th
September 1958 refusing the application of the
Petitioner to be registered as a citizen of Ceylon
under the provisions of the Indian and Pakistani
Residents (Citizenship) Act No.3 of 1949: And
humbly praying Your Majesty in Council to grant
him special leave to appeal from the Order of
the Supreme Court of Ceylon dated the 10th
October 1962 or for further or other relief:

30

40

"THE LORDS OF THE COMMITTEE in obedience
to His late Majesty's said Order in Council have
taken the humble petition into consideration and
having heard Counsel in support thereof and in

In the Privy
Council

—————
No.44

Order granting
Special Leave
to Appeal to
Her Majesty
in Council

24th March,
1965

(Contd.)

opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the order of the Supreme Court of Ceylon dated the 10th day of October 1962 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs:

"AND THEIR LORDSHIPS do further report to Your Majesty that the proper Officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same".

10

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

20

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Sgd: W. G. AGNEW

O N A P P E A L
FROM THE SUPREME COURT OF CEYLON

B E T W E E N:

MARIKKAR THAMBY KADER SAHIB
SEYED AHAMED NAINA MOHAMED SAHIB
(Applicant-Appellant) Appellant

- and -

THE COMMISSIONER FOR THE REGISTRATION OF
INDIAN AND PAKISTANI RESIDENTS, COLOMBO Respondent

R E C O R D O F P R O C E E D I N G S

LEE & PEMBERTONS,
11, South Square,
Gray's Inn,
London, W.C.1.

HATCHETT JONES & CO.,
90, Fenchurch Street,
London, E.C.3.

Solicitors for the Appellant

Solicitors for the Respondent