



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**HIGH COURT OF THE PROVINCES
(SPECIAL PROVISIONS)
ACT, No. 19 OF 1990**

[Certified on 15th May, 1990]

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L. D.—O. 31/89

AN ACT TO MAKE PROVISION REGARDING THE PROCEDURE TO BE FOLLOWED IN, AND THE RIGHT TO APPEAL TO, AND FROM, THE HIGH COURT ESTABLISHED UNDER ARTICLE 154P OF THE CONSTITUTION; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the High Court of the Provinces (Special Provisions) Act, No. 19 of 1990. Short title.

2. (1) The provisions of written law applicable to the exercise of the original criminal jurisdiction of the High Court of Sri Lanka, and to appeals to the Court of Appeal from such High Court, shall, *mutatis mutandis*, apply to— Procedure for exercise of original criminal jurisdiction of High Court.

- (a) the institution of proceedings and the procedure for trials (including trials by jury and trials at bar), in;
- (b) the right of appeal to the Court of Appeal from judgments, convictions, orders or sentences entered or imposed by;
- (c) the hearing, by the Court of Appeal, of appeals preferred to it from judgments, convictions, orders or sentences entered or imposed by,

a High Court established by Article 154P of the Constitution in the exercise of the original criminal jurisdiction conferred on it.

(2) The provisions of the Judicature Act applicable to the transfer of any action, prosecution, proceeding or matter pending before any court, to any other court, shall apply to the transfer of any action, prosecution, proceeding or matter pending before any High Court established by Article 154P of the Constitution for a Province, to any other High Court established under that Article.

(3) The provisions of the Judicature Act shall, *mutatis mutandis*, apply to offences of contempt committed against, or in disrespect of the authority of a High Court established by Article 154P of the Constitution.

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Jurisdiction of High Court to hear appeals from Labour Tribunals and orders under Agrarian Services Act.

3. A High Court established by Article 154P of the Constitution for a Province shall, subject to any law, exercise appellate and revisionary jurisdiction in respect of orders made by Labour Tribunals within that Province and orders made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979, in respect of any land situated within that Province.

Right of Appeal to High Court.

4. A party aggrieved by any conviction, sentence or order, entered or imposed, by a Magistrate's Court, a Primary Court, a Labour Tribunal or by an order made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979 may, subject to the provisions of any written law applicable to the procedure and manner for appealing and the time for preferring such appeals, appeal therefrom to the High Court established by Article 154P of the Constitution for the Province within which such court or tribunal is situated or within which the land which is the subject of the order made under the Agrarian Services Act, is situated.

Procedure for appealing to High Court.

5. The Provisions of written law applicable to appeals to the Court of Appeal, from convictions, sentences or orders entered or imposed by a Magistrate's Court, and to applications made to the Court of Appeal for revision of any such conviction, sentence or order shall, *mutatis mutandis*, apply to appeals to the High Court established by Article 154P of the Constitution for a Province, from convictions, sentences or orders entered or imposed by Magistrate's Courts, Primary Courts and Labour Tribunals within that Province and from orders made under section 5 or section 9 of the Agrarian Services Act, No. 58 of 1979, in respect of land situated within that Province and to applications made to such High Court, for revision of any such conviction, sentence or order.

Powers of High Court on appeal.

6. (a) A High Court established by Article 154P of the Constitution may in the exercise of any appellate jurisdiction vested in it by the Constitution or section 3 or any other law, affirm, reverse, correct or modify any order, judgment, decree or sentence according to law or may give directions to any Court of First Instance, or tribunal or institution or order a new trial or further hearing upon such terms as the court may think fit.

(b) The High Court may further receive and admit new evidence additional to, or supplementary of, the evidence already taken in the Court of First Instance touching the matters at issue in any original case, suit, prosecution, or action, as the justice of the case may require.

7. The provisions of written law applicable to applications the Court of Appeal invoking the jurisdiction vested in that Court by Articles 140 and 141 of the Constitution shall, *mutatis mutandis*, apply to applications made to a High Court established by Article 154P of the Constitution invoking the jurisdiction vested in that Court by paragraph (4) of Article 154P of the Constitution.

Procedure for exercise of writ jurisdiction of High Court.

8. (1) Where in the course of hearing in a High Court established by Article 154P of the Constitution, into an application for an order in the nature of a writ of *habeas corpus*, *certiorari*, prohibition *procedendo*, *mandamus* or *quo warranto*, it appears to such court that there is *prima facie* evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV of the Constitution by a party to such application, such court shall forthwith refer such matter for determination by the Supreme Court.

Reference to Supreme Court of cases involving infringement of fundamental rights and language rights.

(2) The Supreme Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any reference referred to in subsection (1) or refer the matter back to such High Court, if in its opinion there is no infringement of a fundamental right or language right.

(3) The Supreme Court shall hear and finally dispose of a reference under this section within two months of the making of such reference.

9. Subject to the provisions of this Act or any other law, any person aggrieved by—

Appeal to Supreme Court from High Court in certain cases.

(a) a final order, judgment, decree or sentence of a High Court established by Article 154P of the Constitution in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act or any other law, in any matter or proceeding whether civil or criminal which involves a substantial question of law, may appeal therefrom to the Supreme Court if the High Court grants leave to appeal to the Supreme Court *ex mero motu* or at the instance of any aggrieved party to such matter or proceedings :

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Provided that the Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgment, decree or sentence made by such High Court, in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act, or any other law where such High Court has refused to grant leave to appeal to the Supreme Court, or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court :

Provided further that the Supreme Court shall grant leave to appeal in every matter or proceeding in which it is satisfied that the question to be decided is of public or general importance ; and

- (b) a final order, judgment or sentence of a High Court established by Article 154P of the Constitution in the exercise of its jurisdiction conferred on it by paragraph (3) (a), or (4) of Article 154P of the Constitution may appeal therefrom to the Court of Appeal.

10. (1) The Supreme Court shall, subject to the Constitution be the final Court of appellate jurisdiction within Sri Lanka for the correction of all errors in fact or in law which shall be committed by a High Court established by Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act, or any other law and the judgments and orders of the Supreme Court shall, in such cases, be final and conclusive in all such matters.

(2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal from any order, judgment, decree or sentence made by a High Court established by Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in such High Court by paragraph (3) (b) of Article 154P of the Constitution or section 3 of this Act or any other law and it may affirm, reverse or vary any such order, judgment, decree or sentence of such High Court and may issue such directions to such High Court or Court of First Instance or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for

Powers of
Supreme
Court on
appeal.

and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by such High Court, or any Court of First Instance.

11. (1) The Court of Appeal shall have and exercise, subject to the provisions of this Act or any other law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by any High Court established by Article 154P of the Constitution in the exercise of its jurisdiction under paragraph (3) (a), or (4) of Article 154P of the Constitution and sole and exclusive cognizance by way of appeal, revision and *restitutio in integrum* of all causes, suits, actions, prosecutions, matters and things of which such High Court may have taken cognizance :

Appeal to Court of Appeal from High Court.

Provided that, no judgment, decree or order of any such High Court, shall be reversed or varied on account of any error, defect, or irregularity which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.

(2) The Court of Appeal may in the exercise of its jurisdiction, affirm, reverse, correct or modify any order, judgment, decree or sentence according to law or it may give directions to any High Court established by Article 154P of the Constitution or order a new trial or further hearing upon such terms as the Court of Appeal shall think fit.

(3) The Court of Appeal may further receive and admit new evidence additional to, or supplementary of, the evidence already taken in any High Court established by Article 154P of the Constitution touching the matters at issue in any original case, suit, prosecution or action, as the justice of the case may require.

12. (a) Where any appeal or application is filed in the Court of Appeal and an appeal or application in respect of the same matter has been filed in a High Court established by Article 154P of the Constitution invoking jurisdiction vested in that Court by paragraph (3) (b) or (4) of Article 154P of the Constitution, within the time allowed for the filing of such appeal or application, and the hearing of such appeal or application by such High Court has not commenced, the Court of Appeal may proceed to hear and determine such appeal or application or where it considers it expedient to do so, direct such High Court to hear and determine such appeal or application :

Where appeal or application in respect of same matter is filed in Court of Appeal and in High Court.

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Provided, however, that where any appeal or application which is within the jurisdiction of a High Court established by Article 154P of the Constitution is filed in the Court of Appeal, the Court of Appeal may if it considers it expedient to do so, order that such appeal or application be transferred to such High Court and such High Court shall hear and determine such appeal or application.

(b) Where the Court of Appeal decides to hear and determine any such appeal or application, as provided for in paragraph (a), the proceedings pending in the High Court shall stand removed to the Court of Appeal for its determination.

(c) No appeal shall lie from the decision of the Court of Appeal under this section to hear and determine such appeal or application or to transfer it to a High Court.

(d) Nothing in the preceding provisions of this section shall be read and construed as empowering the Court of Appeal to direct a High Court established by Article 154P of the Constitution to hear and determine any appeal preferred to the Court of Appeal from an order made by such High Court in the exercise of the jurisdiction conferred on it by paragraph (4) of Article 154P of the Constitution.

Validation.

13. Notwithstanding anything to the contrary in any other law—

(a) all proceedings instituted in a High Court established by Article 154P of the Constitution in the exercise of its jurisdiction conferred on it by paragraph (3) (a) of that Article and every conviction, sentence or order entered or imposed by such High Court in the exercise or purported exercise of the original criminal jurisdiction conferred on it by that paragraph;

(b) all appeals preferred to the Court of Appeal from any such conviction, sentence or order;

(c) every order made by the Court of Appeal on any appeal as is referred to in paragraph (b),

during the period commencing on November 14, 1987 and ending on the date of commencement of this Act shall be deemed to have been, and to be, valid and effectual as if the provisions of this Act had been in operation from November 14, 1987.

14. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala
text to
prevail
in case of
inconsis-
tency.

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