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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

DIRECTIONS TO PREVENT THE MISUSE OF MOVABLE OR IMMOVABLE PROPERTIES BELONGING TO THE STATE OR STATE CORPORATIONS DURING THE PERIOD OF AN ELECTION FOR THE PROMOTION OF OR IN PREJUDICE TO ANY PARTY, GROUP OR CANDIDATE OR OBSTRUCTING THE CONDUCT OF THE ELECTIONS

IN terms of the powers vested in the Election Commission under Article 5(C)(ii) of the Constitution of the Democratic Socialist Republic of Sri Lanka to be read with Article 104(B)(4)(a) of the said Constitution, the following orders are hereby made to prevent the utilization of movable or immovable assets belonging to the State or to State Corporations for the promotion or demotion of parties/groups/candidates at the election or the utilization of such assets so as to hinder the conduct of a free and fair election.

By order and advice of the Election Commission,

M. A. P. C. PERERA,
Commissioner General of Elections.

On this 10th day of November 2018,
Election Commission,
Rajagiriya.

In terms of Article 104B(04)(a) of the Constitution, the Election Commission or the Commissioner General of Elections shall have the power during the period of the election to prohibit the use of any movable or immovable property belonging to the State or any State Corporation for the purpose of promoting or preventing the election of any candidate of any political party or independent group contesting the election. Under Sub-paragraph (b) of that Article it shall be the duty of every person or officer in whose custody or under whose control such property is for the time being, to comply with, and give effect to such directions issued by the Election Commission or Commissioner General of Elections. All Public Officers including all Secretaries to Ministries, and Chief Secretaries of Provinces should comply with these directions. Also the Heads of institutions should ensure that all officers coming under their control comply with these directions. These directions are applicable to all public institutions such as Ministries, Departments, Commissions, Provincial Councils, Local Authorities, State Corporations, Statutory Boards, State Banks, State Universities and Companies taken over by the government.



02. Officials

- (i) Since the skills and knowledge of public officers and their time are deemed to be State property, no public officer should engage in any activity to promote any political party, independent group or candidate inside office premises or within the prescribed office hours or after reporting to work or while on duty leave. Officers who are not entitled to political rights should not engage in political activities even when on leave. Even the officers who are entitled to political rights may engage in political activities during office hours, only when on personal leave or special leave approved in advance.
- (ii) No officer or employee is entitled to use State properties *viz.* other public officers, vehicles, communication equipment, printers, telephone facilities, *etc.* for political activities and such use is strictly prohibited.
- (iii) Officers of public institutions should refrain from making any recruitment, appointment and promotion or transfer of whatever nature in public institutions without the approval of the Election Commission other than those which are formally executed under the powers vested in the Commissions appointed on the recommendation of the Constitutional Council.
- (iv) General transfers of all public officers including teachers and principals of government schools who would be deployed for election duties in the areas where an election is to be held should be suspended for the period starting from the day on which the nominations are received and ending two weeks after the date of poll. Transfers of public officers or officers of State Corporations who would not be engaged in election duties should not be carried out on political grounds during the period of election and it is the responsibility of all relevant authorities to give effect to transfers without leaving room for complaints of political intervention. This is not applicable to transfers done on disciplinary orders and if any transfer is required to be made on exigency of service or under special circumstances such requirement should be brought to the notice of the Election Commission and approval obtained.
- (v) The consent of the Election Commission may be granted for recruitment/internal promotions initiated before the election is declared and was considered by the Secretary to a ministry or head of a department to implement such recruitment or promotion without postponement under an all island programme and when the Commission is satisfied that recruitment/promotion common to whole public service or public sector is being out without any political intervention. In any of these instances, a request should be made to the Commission.
- (vi) When recruitments are made at divisional or provincial levels for the purpose of avoiding interruption to sanitary, janitorial or maintenance services and of maintaining essential services, such recruitments should be made with the concurrence of the Election Commission and it is the responsibility of relevant authorities to carry out such recruitment in a transparent manner, free of political intervention.

03. Functions, Mobile Services and Trade Fairs

- (i) Functions :

Functions such as laying foundation stones, opening ceremonies and vesting in the public utilizing government funds and State properties should not be organized or conducted during the period of election since the politicians who attend these functions may express opinions and views on the election and the conduct of these function ceremonially may lead to the promotion or cause prejudice to a party, group or candidate.

In the case of functions scheduled before the publication of the poll notice and which cannot be cancelled or postponed, the Election Commission should be informed for instructions of the Commission to proceed ahead.

In the event of conducting such a function spending government funds and if a promotion of or prejudice to any party/group or candidate has taken place at such function, the officials who organized such function should be held responsible. The officers who organize functions/events should bring to the notice of the Returning Officers of respective districts of such events scheduled to be held during the period of election well in advance enabling them to make arrangements to observe such events and keep records. It is strictly prohibited to make any

statement or to do any act, display or distribute flags/banners/posters/leaflets/notices promoting parties/groups or candidates at any function conducted spending State funds during the period of election and the officers or authorities of State institutions who organize or fund such functions should prevent such promotions from taking place.

(ii) Mobile Services and Trade Fairs

Since there is a tendency to use those mobile services and trade fairs conducted during the election period utilizing public funds and State property to promote cause prejudice to parties/groups or candidates, organizing or conducting of such trade exhibitions or carnivals should be avoided during the period of the election. Any such trade exhibitions or carnivals which have been scheduled prior to the publication of the Notice of Poll to be held should be brought to the notice of the Election Commission during the period of election and impossible to be cancelled or postponed, for instructions of the Commission. In the event of conducting such trade exhibitions or carnivals using government funds and promotion of or prejudice to any party/group or candidate is caused at such trade exhibitions or carnivals, the officials who organized such events should be held responsible. The officers who organize mobile services and trade exhibitions should also take action to bring to the notice of the Returning Officers of respective districts of such event to be held during the period of election well in advances thereby enabling them to make arrangements to observe those and keep records.

It is strictly prohibited to make any statement or do any act, display or distribute flags/banners/posters/leaflets/notices promoting parties/groups or candidates at mobile services and trade exhibitions conducted spending State funds during the period of election and the official or State institutions that organize or fund such events should prevent such promotions and causing of prejudice to any candidate or party or group.

04. Implementation of programmes to provide common amenities and aids and Special Projects

- (i) Long term or medium term special programmes may be implemented for the provisions of facilities to the public or for the development of the country or continuing programmes to provide citizens with common amenities when they cannot be suspended due to the election. Action should be taken to ensure that no promotion of or causing of prejudice to any party/group or candidate takes place through the implementation of such special projects or continuing programmes after the issue of the Notice of Poll.
- (ii) The Election Commission will monitor whether any promotion of parties/groups or candidates is taking place through the implementaton of the aforesaid special projects or continuing programmes conducted during the period of election.
- (iii) During the period of elections the launch of programmes to distribute State lands, to award title deeds for state lands, deeds to transfer ownership of houses and reliefs to residents in election areas, providing subsidies, fertilizer, agro-equipment for the plantation industry, and providing sports goods, equipment for self employment, bicycles, solar power lamps and building material for house construction, release of housing loans/compensations *etc.* should be suspended. However, if it is apparent that suspension of the programmes will impede the meeting of needs of the general public, the Election Commission should be consulted for necessary instructions. In the event the programmes are already initiated or for which approval has already been obtained they be proceeded with it should be the responsibility of the officers who are charged with the implementation of such programme to implement them with the participation of only the relevant officials without leaving any room for the promotion of parties/groups or candidates.

05. Vehicles

- (i) All officers in whose custody the vehicles belonging to the State including motor cars, jeeps, cabs and buses, should take extra care in maintaining vehicle pools and assigning such vehicles during the period of election so as to prevent such vehicles from being used for the promotion of election campaigns of any political party, independent group or candidate. It should be noted that assigned vehicles belonging to the State and vehicles rented to be used for specific duties are included in the said category. During the period of election running

charts should be properly maintained particularly in respect of pool vehicles and vehicles other than assigned vehicles and the running charts should be scrutinized by a staff officer on a daily basis to make sure that such vehicles are not being used for any political promotional purpose. Action should be taken to ensure that State vehicles are not used for the promotion of or causing prejudice to any political party on the pretext that they are used for official purposes with fraudulent entries to that effect in the running charts.

- (ii) No vehicle other than those two vehicles assigned for the purpose of providing security to H. E. the President can be operated without the exclusive registration number issued by the Department of Motor Traffic and as such no Minister, Deputy Minister, member of their staff or an other person can use State vehicles or vehicles belonging to public institutions without the relevant registration number. Therefore, Secretaries of Ministries and Heads of Departments should ensure that no vehicle belonging to State Departments or State institutions is operated with garage numbers (fake numbers).
- (iii) All Secretaries of Ministries/Heads of Departments should ensure that public funds are not utilized for the use of airplanes or helicopters or other vehicles for political promotional activities.

06. State offices, buildings, schools, other buildings belonging to the State and circuit bungalows

- (i) Government offices, buildings, schools, other buildings and circuit bungalows belonging to the State too are State property. Therefore, such buildings should not be used to conduct political meetings, discussions, etc. It should not be construed that these directions prevent the buildings and halls which can usually be reserved on payment of specified fees by any political party/group, candidate, from being so reserved during the period of election on payment of relevant fees without causing any discrimination towards any Party/Group. It is strictly prohibited to provide circuit bungalows, rest houses or holiday resorts owned by the state free of charge to persons engaged in election promotional activities. It is strictly prohibited to reserve any circuit bungalows, rest houses, holiday resorts free of charge to persons engaged in political propaganda activities, circuit bungalows, rest houses, and holiday resorts belonging to the State or State institutions and situated in the electoral areas of any politician, officer or any other person on a full time basis during the period of election. Also, no person who avails of accommodation at the said circuit bungalows should be allowed to engage in promoting any party, group or candidate. Any election promotional material such as posters, banners, cutouts, bill boards ect, should not be allowed to be displayed on buildings owned by the state or public institution or within their premises.
- (ii) When playgrounds or bare lands and halls or such other buildings belonging to the State, Provincial Councils and Local Authorities are reserved for the purpose of holding election rallies to promote a Political Party/ Independent Group or candidate, such reservation should be done in a transparent manner ensuring that no special favour, priority or discrimination is meted out to any party, independent group or candidate. Also such venues should not be reserved for the use of any one party/group/candidate or for any other purpose for a prolonged period of time so as to deprive the use of such venues to others.

07. General

- (i) State property, Public institutions, vehicles, equipment and public officers in particular, should not be allowed to be used for the promotion of parties, groups or candidates in relation to the election. No officer should allow public officers of State institutions and vehicles belonging to the State or State institutions or rented vehicles stationed outside the electoral area to be attached to offices or institutions situated within the electoral area on the pretext that such attachments are done to carry out urgent duties or special development project work in electoral areas but used to promote (or cause to prejudice) parties, groups or candidates. Officers, vehicles, equipment, belonging to Media Units of any State institution including Provincial Councils, Local Authorities, State Corporations, Boards, State Banks, other Statutory institutions, and State Universities should not be used for the promotion of any party, group or candidate. If entertainment equipment such as podiums, stages, decorations and vehicles, airplanes and helicopters belonging to State institutions are usually hired under normal circumstances, such hiring during the period of election should be done in a transparent manner offering equal opportunities for all parties/groups to hire such equipments.

- (ii) Promotion of or causing prejudice to any party/group or candidate should not be done by way of broadcasting/televasting/publishing through television, radio and press advertisement or by displaying billboards at public places spending public funds to give publicity to development programmes of the government or to anniversaries/commemorations.
- (iii) The directions preventing the use of State properties for the promotion or prevention of election of members should be strictly adhered to without any favour. The Secretaries to Ministries should pursue action to give instructions in this regard to the Heads of Departments, State Corporations and other institutions coming under the purview of the the Ministry. Also, the Secretaries of Ministries and Heads of institutions should ensure that all officers of their respective institutions comply with these directions and instructions.
- (iv) Public officers should essentially draw their attention to Article 104B(02) of the Constitution which reads as “It shall be the duty of the Commission to secure the enforcement of all laws relating to the holding of the election and it shall be the duty of all authorities of the State charged with the enforcement of such laws, to cooperate with the Commission to secure such enforcement”.
- (v) Please note that the responsibility of bringing the contents of these directions to the notice of Ministers, State Ministers, Deputy Ministers and the staff of the Ministers lies with the Secretary to the relevant Ministry while the responsibility of bringing such matters to the notcie of Chief Ministers and other Ministers of the Provinces lies with the Chief Secretary and the Secretaries of the relevant Provincial Ministries.
- (vi) The Secretaries to Commissions should pursue action to bring these directions to the notice of the Chairpersons and Members of such Commissions, as applicable.
- (vii) In addition to the provisions of the Constitution, it is the duty of the Chief Accounting Officer or Accounting Officer of Ministries/Departments/Institutions to prevent or to take action to prevent the misuse of State properties.

Non-compliance with these directions is a punishable offence under Article 104(22) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

The term “State” wherever it appears in these directions means all State institutions including State Ministries, Departments, Provincial Councils, Local Authorities, State Corporations, Statutory Boards, State Banks, State Universities, Companies taken over by the state and institutions of which more than 50% of shares is held by the State or State owned companies.

The term “public officers and employees” wherever it appears in these directions means all persons who engage and are employed in the institutions aforesaid and receive a salary or allowance.

Interpretation

In these provisions “Period of an Election” shall mean the period commencing on the making of the proclamation for the conduct of Parliamentary Election and ending on the date on which the result of such election in terms of the interpretation of the Article 104J of the Constitution.