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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

(Published by Authority)

DIRECTIONS TO PREVENT THE MISUSE OF MOVABLE OR IMMOVABLE PROPERTIES BELONGING TO THE STATE, STATE CORPORATIONS OR STATUTORY BOARDS 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 ELECTION

THE Election Commission does hereby issue the following directions under Article 104B (04) (a) of the Constitution for the purpose of preventing the use of any movable or immovable property belonging to the State, any State Corporation or Authority or Statutory Board or Public Company for the purpose of promoting or demoting the Election of any candidate of any Political Party or Independent group or using such properties in a manner that would obstruct the conduct of the Election.

Nimal G. Punchihewa,
Chairman,
Election Commission

S.B. Diwarathne,
Member,
Election Commission.

M.M. Mohamed,
Member,
Election Commission.

K.P.P Pathirana,
Member,
Election Commission.

P.S.M. Charles,
Member,
Election Commission.

On this 04th day of January 2023,
At Election Secretariat,
Sarana Mawatha,
Rajagiriya.



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In terms of Article 104B (04) (a) of the Constitution “The Election Commission shall have the power during the period of the Election to prohibit the use of any movable or immovable property belonging to the State, any State Corporation or Authority or Statutory Board or Public Company for the purpose of promoting or preventing the Election of any candidate of any Political Party or Independent group contesting the Election. Under subparagraph (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. All Public Officers including all Secretaries to Ministries, Chief Secretaries of Provinces should comply with these directions. Also the Heads of institutions should ensure that all officers coming under their control do comply with these directions. These directions are applicable to all public institutions such as Ministries, Commissions, Departments, Provincial Councils, Local Authorities, State Corporations, Statutory Boards, State Authorities, State Banks, State Universities, and Public Companies.

02. Officials

- (i) The skills and knowledge of all public officers and their time are considered the property of the State. Even a public officer with political rights shall not engage in political promotions inside the office premises or outside the office premises without formally availing of leave. Officers without political rights should not engage in political activities even after availing of leave.
- (ii) No officer or employee is entitled to use State properties viz. vehicles, communication equipment, printers, telephone facilities, photocopy machines, media equipment, circuit bungalows, and another public employee or anything else belonging to the State for political activities and doing so is an offense.
- (iii) Officers should refrain from making any recruitment, appointments, promotions, and transfers of whatever nature in public institutions including the recruitment, appointments, promotions, and transfers done in compliance with the prescribed procedure under the powers vested in the Commissions appointed by the Constitutional Council, during this period without the approval of the Election Commission. Recruitments and transfers which are formally executed under the powers vested in the Commissions appointed by the Constitutional Council are exempted from this. However, when the Secretary to the relevant Ministry or the Head of the relevant Department opines that there is a need to implement without postponing an island-wide program or an internal arrangement for the recruitment/promotion of officers that has been commenced before the Election is announced and when the relevant authorities can ascertain that any other island-wide recruitment/promotion in the public service or in the State institutions is made properly devoid of political interference, the concurrence of the Election Commission may be granted. In such cases, a request in that regard should be made to the Election Commission and the prior written approval of the Commission obtained.
- (iv) When recruitment is made in Public Service at divisional or provincial levels for the purpose of avoiding interruptions 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 recruitments in a transparent manner and free of political intervention.
- (v) General transfers of all public officers including teachers and principals of government schools who would be deployed for Election duties in the areas where the 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/ Statutory Boards 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 the exigency of service or under special circumstances, the such requirement should be brought to the notice of the Election Commission and approval obtained.
- (vi) It shall be an offense for any public officer without political rights to engage in making any propaganda or statement using his/her private social media account or any other account to promote or demote any political party, independent group, or candidate. Even public officers with political rights should not engage in such propagation using state resources and publication or causing the publication of hate speech, rumors and false information on their personal social media accounts shall be an offense.

- (vii) When the Election Commission determines that it is necessary to further investigate information or complaints received by the Commission citing that one or more orders issued by the Election Commission to prevent the misuse of State properties in connection with the election is/are violated, the officials under whose charge the necessary documents, both print and electronic, minutes, registers, and reports on recruitment or appointments lie should pursue action to produce them to the Election Commission or to any other official authorized for the purpose by the Election Commission when demanded by the Election Commission to do so. Public officers concerned shall be and are bound to make detailed statements when required to make an oral or written statement by the Election Commission or any other official authorized for the purpose by the Election Commission for the purpose of a further investigation carried out into any violation of orders or any one of them issued by the Election Commission.
- (viii) Every public officer shall be and is bound to pursue action to be present at the Election Commission in person to make every necessary explanation and produce all necessary documents when summoned by the Election Commission to inquire into any violation of orders or any one of them issued by the Election Commission regarding the misuse of State properties.
- (ix) When public officers mark their postal ballots, it shall be an offense for them to take / display/cause to display, issue to public media, or upload to social media photographs of the ballot paper or the marked ballot or the polling station.

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 an election since the politicians who attend these functions may express opinions and views on the election and conduct of these functions ceremonially may lead to the promotion or cause prejudice to any party, group or candidate. In the case of functions scheduled before the publication of the poll notice and which cannot be canceled or postponed, the Election Commission should be informed thereof for instructions of the Commission to proceed therewith. In the event of conducting such a function as involves spending government funds, and if the promotion of or prejudice to any party/group or candidate has taken place at such function, the officials who organized such a function should be held responsible for the same. The officers who organize functions/events should bring to the notice of the Returning Officers of the respective districts where such events are scheduled to be held during the period of an 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 an election, and the officers or authorities of State institutions who organize or fund such functions should prevent such promotions taking place.

(ii) Mobile Services and Trade Fairs.

Since there is a tendency to use mobile services and trade fairs conducted during an election period utilizing public funds and State property to facilitate the public for the promotion of or causing prejudice to parties/groups or candidates, organizing or conducting of such trade exhibitions or carnivals should be avoided during the period of an election. It should be brought to the notice of the Election Commission any such trade exhibitions or carnivals which have been scheduled prior to the publication of the Notice of Poll to be held during the period of election and impossible to be canceled or postponed. Such notice is required to seek the instructions of the Commission. In the event of conducting such trade exhibitions or carnivals using government funds with the promotion of or prejudice caused to any party/group or candidate taking place at such trade exhibitions or carnivals, the officials who organized such events should be held responsible for same. 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 where such events are to be held during the period of an election well in advance 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 an election and the official or State institutions that organize or fund such events should prevent such promotions or causing prejudice to any candidate or party or group.

04. Implementation of Programmes to Provide Common Amenities, Aids, and Special Projects

- (i) Long-term or medium-term special programmes may be implemented for the provision of facilities to the public or for the development of the country or continuous programmes to provide citizens with common amenities and cannot be suspended due to an election. However, action should be taken to ensure that no promotion of or causing of prejudice to any party/group or candidate is taking place through such special projects or continuous programmes after the issue of the Notice of Poll.
- (ii) During the period of an election the launch of programmes to distribute State lands, conduct land kachcheris, award title deeds for State lands, deeds to transfer ownership of houses and reliefs to residents, providing subsidies, fertilizer, agro equipment for the plantation industry, and providing sports goods, kitchen and household items, equipment for self-employment, bicycles, solar power lamps, building material for house constructions, the release of housing loans/ compensations, etc. should be suspended. However, if it is apparent that the suspension of the programmes will impede the meeting of the 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 to proceed, it should be the responsibility of the officers who are charged with such programmes to implement them with the participation of only the relevant officials without leaving any room for the promotion of parties/groups or candidates.

05. Responsibility of the Heads of State Corporations, Statutory Boards that possess State properties

- (i) An officer should be nominated for each State Corporation, Statutory Board, Authority, and Company of which more than 50% of shares are held by the government to take responsibility and supervise State properties thereof.
- (ii) Any property of any State Corporation, Authority, Statutory Board, or Public Company should not be allowed to be used in such a manner so as to promote or demote any political party, independent group, or candidate. It shall be the responsibility of the Head of the Institution to prevent the use of properties of the Institution for political purposes and the Head of the Institution shall pursue action to prevent the use of State properties to promote or demote any political party, independent group, or candidate. Heads of the Institutions who do not comply with these directives properly will be dealt with treating the breach of these directives as an election offense.

06. Vehicles

- (i) All officers in whose custody the pool of vehicles belonging to the State including motor cars, jeeps, cabs, and buses, should take extra care in maintaining the vehicle pools and assigning such vehicles during the period of an election so as to prevent such vehicles from being used for the promotion of election propaganda campaigns of any political party, independent group or candidate. It should be noted that assigned vehicles belonging to the State and vehicles hired 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 used for any political propaganda 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 fake 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 or any member of his/her staff or another person can use State vehicles or vehicles belonging to public institutions without the relevant registration number. Therefore, Secretaries of Ministries / Heads of Departments and officers in whose custody the pool of vehicles belong to the State should ensure that no vehicle belonging to State Department or State institution is operated with garage numbers or 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 propaganda activities.

07. State offices, buildings, schools, and other buildings belonging to the State and Circuit bungalows

- (i) Government office 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, or candidate, from being so reserved during the period of an election on payment of relevant fees without causing any discrimination towards any Party/ Group / Candidate. It is strictly prohibited to provide State-owned circuit bungalows, rest houses, and holiday resorts free of charge to persons engaged in election propaganda activities. It is strictly prohibited to reserve any State-owned circuit bungalows, rest houses, or 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 respective areas should not be reserved on a full-time basis during the period of election to any politician, officer, or any other person. Also, no person who avails accommodation at the said circuit bungalows should be allowed to engage in promoting any party, group, or candidate. Any election propaganda posters, banners, cutouts, billboards, etc., are not to allow to be displayed on State-owned buildings or within their premises or store therein.
- (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 propaganda rallies to promote a Political Party/ Independent group or candidate, such reservation should be done in such a transparent manner that no special favor, 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 party / group/ candidate or for any other purpose for a prolonged period of time so that such venues are made not available for the use by other parties.

08. General

- (i) State property, State institutions, vehicles, equipment, buildings, lands, and public officers in particular, should not be allowed to be used for the promotion or demotion of parties, groups or candidates in relation to the election. No officer should allow any misdeeds such as attaching public officers of State institutions and vehicles belonging to the State or State institutions or rented vehicles stationed outside the electoral area 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 to prejudice) parties, groups or candidates to take place. Officers, vehicles, and 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 an election should be done in a transparent manner offering equal opportunities for all parties/ groups to hire such items.
- (ii) Promotion of or causing prejudice to any party/group or candidate should not be done by way of broadcasting /telecasting / 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) All private cable television channels, private electronic and print media institutions, websites, and mobile and fixed telephone service providers should act in such a manner during the period of an election so as to not cause any breach of election laws and in compliance with the media guidelines, directions and instruction circulars issued by the Election Commission and it shall be the responsibility of the Secretary to the Ministry of Mass Media and the Chairman/Director General of the Telecommunication Regulatory Commission who are responsible for regulating of such institutions to ensure strict compliance thereto by the institutions aforesaid.
- (iv) It shall be the responsibility of the Heads of State institutions/ provincial or Local Authorities and Mayors/ Chairmen/Urban Commissioners/Secretaries and heads of each division under whose custody or control street lamp posts and telephone poles, public roads and pavements, etc. fall, to prevent such properties situated within their respective areas of authority from being used for display of banners, posters, flags, billboards,

and other decorations and for advertising by way of painting or digital panels, with the intention of promoting or demoting parties / groups / candidates.

- (v) The Heads of Ministries, Departments, or State Institutions should take action to remove photographs, advertising boards, flags, billboards, and decorations which have been erected before the commencement of the election period and are being displayed at public places for the promotion or demotion of parties / groups / candidates. The Heads of Local Bodies and the Commissioners and Secretaries of such Bodies should take action to remove advertising boards, flags, billboards, and decorations erected at public places within their area of authority.
- (vi) The directions preventing the use of State properties for the promotion or demotion of the election of any candidate at this election 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 respective 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.
- (vii) 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”.
- (viii) Please note that the responsibility of bringing the contents of these directions to the notice of respective Ministers, State Ministers, Deputy Ministers, and the staff of the Ministers lies with the Secretary to the respective Ministries while the responsibility of bringing such matters to the notice of Governors, Chief Ministers and other Ministers of the Provinces lies with the Chief Secretary and the Secretaries of the respective Provincial Ministries.
- (ix) The Secretaries to Commissions should pursue action to bring these directions to the notice of the Chairpersons and Members of such Commissions, as applicable.
- (x) 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.
- (xi) Negligence and/or omission of the duties entrusted statutorily or otherwise to Local Authorities and other State Corporations, or Statutory Boards and Public Companies shall be treated as a breach of these directions.
- (xii) Non-compliance with these directions is a punishable offense under Article 104GG 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, Commissions, State banks, State universities, Nationalized Companies, and institutions of which more than 50% of shares are 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 any manner whatsoever in the institutions aforesaid and receive a salary or allowance.

The directions published in the Gazette Extraordinary No. 2165/70, dated 06.03.2020, No. 2172/2 dated 06.03.2020, and No. 2178/29, dated 06.06.2020 are hereby rescinded.