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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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No. 2141/52 - THURSDAY SEPTEMBER 19, 2019

(Published by Authority)

PART I : SECTION (I) — GENERAL
Government Notifications

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 Statutory boards for the purpose of promotion or in prejudice of 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.

MAHINDA DESHAPRIYA
Chairman
Election Commission

N. J. ABYESEKERE
Member
Election Commission

S. RATNAJEEVAN H. HOOLE
Member
Election Commission

Election Commission,
Sarana Mawatha, Rajagiriya,
19th September 2019.



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-Article (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, 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 party or candidate inside or outside the office premises 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 after availing leave. Even the officers who are entitled with political rights may engage in political activities during office hours, only 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, photocopy machines, media equipment, circuit bungalows etc. for political activities and doing so is strictly prohibited.
- (iii) Officers should refrain from making any recruitment, appointments and promotions and transfers 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 by the Constitutional Council.
- (iv) The consent of the Election Commission may be granted for recruitments/ internal promotions initiated before the election is declared considered by the Secretary to a ministry or head of a department to implement without postponement under an all island programme and when the Commission is satisfied that recruitments / promotions common to whole public service or public sector are carried out without any political intervention. In any of these instances, a request should be made to the Commission.
- (v) When Public Service recruitments are made 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.
- (vi) General transfers of all public officers including teachers and principals of government schools who would be deployed for election duties in the areas where 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 to be engaged in election duties should not be carried out 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.

- (vii) It shall be an offence for any public officer who is not entitled to political rights to engage in making any propagation or statement using his/her private social media account or any other account to promote or to prejudice any political party or candidate. Public officers who are entitled to political rights even should not engaged in such propagation using the state resources and making or publishing hate speech shall be an offence.

03. Functions, Mobile Services and Trade Fairs

(i) *Functions:*

Functions such as laying foundations, 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 conduct of these function 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 cancelled or postponed, the Election Commission should be informed for instructions of the Commission to proceed ahead.

In the event of conducting such 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 for same. 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 taking place.

(ii) *Mobile Services and Trade Fairs.*

Since there is a tendency to use the mobile services and trade fairs conducted during the 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 the election. It should be brought to the notice of the Election Commission of 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 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 caused to any party/group or candidate is taken 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 of such events to be held during the period of 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 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 and 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 the citizens with common amenities and 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 is taking place through such special projects or continuous 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 aforesaid special projects or continuous programmes conducted during the period of election.
- (iii) During the period of election the launch of programmes to distribute State lands to conduct land kachcheris 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, kitchen and household items, equipment for self employment, bicycles, solar power lamps, building material for house constructions, 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 already initiated or for which approval has already been obtained should be proceeded with, 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. 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 vehicle pools and assigning such vehicles during the period of election so as to prevent such vehicles 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 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 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, Deputy Minister, member of their staff or other 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 belonging to should ensure that no vehicle belonging to State Department or State institution 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 propaganda 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 a 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 / Candidate. It is strictly prohibited to provide State owned circuit bungalows, rest houses, 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, 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 to any politician, officer or any other persons should not be reserved on a full time basis during the period of election. 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, bill boards etc. to not to allowed to be displayed on State owned buildings or within their premises.
- (ii) When play grounds 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 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 not available for the use by other parties.

07. 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 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, equipments, 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 equipments 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 / 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, mobile and fixed telephone service providers should, act in such manner during the period of the 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 should be the responsibility of the regulatory bodies of such institutions to ensure the strict compliance thereto by the institutions aforesaid.

- (iv) It shall be the responsibility of the Heads of State institutions and Provincial or Regional Heads of the Local Bodies under whose custody or control such street lamp posts and telephone poles, public roads and pavements etc. fall, to prevent such properties situated within their area of authority being used for display of banners, posters, flags, billboards and other decorations and for advertising by way of painting or otherwise with the intention of promotion or prejudice of 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 in prejudice of 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, Non Cabinet Ministers, State Ministers, Deputy Ministers and the staff of the Ministers lies with the Secretary to the respective Ministry 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) Non-compliance with these directions is a punishable offence under Article 104(GG) 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 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.

The *Gazette Extraordinary* No. 2048/12 dated 12.04.2017 issued in this regard is hereby rescinded.