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பாராளுமன்றம்
PARLIAMENT

07.03.2023

Hon. Speaker

Parliament of Sri Lanka

I wish to bring to the Hon. Speaker's notice a breach of privileges and powers of Parliament arising from the interim orders made on Friday 3rd March 2023 in the Supreme Court Case SC (FR) Application No. 69/2023.

1. The Parliament has the power to act when there is a violation of its powers and privileges arises from Article 4 (c) of the Constitution.
2. Articles 148, 149 and 150 of the Constitution vests the Parliament with (i) the full control over Public Finance including the Consolidated Fund; (ii) monies from the Consolidated Fund can only be withdrawn under a warrant signed by the Minister of Finance and (iii) A warrant can be issued only if the money is voted by Parliament for a specific public purpose.
3. The Parliament by Appropriation Act No. 43 of 2022 has allocated monies for the activities of the Government for the financial year 2023 from the taxes, imposts, rates and duties and all other revenues received by the Consolidated Fund. Section 7 of the same Act empowers the Minister to limit expenditure previously authorised if the receipt of revenue is less than anticipated.
4. Furthermore, Section 3 of the Fiscal Management (Responsibility) Act 3 of 2003 requires the Government to adhere to the following objectives:
“(b) prudent management of the financial risks faced by the government having regard to the changing economic circumstances

- (c) adoption of policies relating to spending which does not increase Government debt to excessive levels.”

Under Sections 10, 11 and 12, the Minister in charge of the subject of Finance has to inform Parliament if there is a shortfall in estimated revenue or cash flow in the Mid-Year Fiscal Position Report.

5. Under Article 43(1) read with Article 148 of the Constitution, the Minister is responsible to Parliament which control public finance in giving effect to these laws and the financial regulations. The interim order issued by several judges of the Supreme Court attempts to prevent the implementation of these laws and make the control of public finance by Parliament a nullity. It is also an interference with the sacrosanct powers vested in Parliament in respect of the control of public finances. The interim order seeks to give effect to the Activity Budget Estimates for the year 2023. The Activity Budget Estimates is not a law nor a legal document. It is a summary of the Appropriation Bill for 2023 to assist Parliament during the debate. This interim order seeks to give legal validity to the Activity Budget Estimates overriding an Act of Parliament i.e. The Appropriation Act No.43 of 2022. This will also affect the prudent management of public finance thereby violating the provisions of the Fiscal Management (Responsibility) Act.
6. Under the Constitution the Election Commission is responsible to Parliament. The Chairman of the Election Commission has already communicated to you Hon. Speaker the issues faced by the Commission in respect of the Local Authorities Election. Furthermore, a Resolution has been introduced into the Order Paper to appoint a Select Committee to inquire into the holding of the said Election by the Election Commission. Therefore, these are matters which have already come within the purview of Parliament and now matters that constitute business of Parliament. This matter was brought to the notice of Court by the Attorney General's Department before the interim order was made and it appears that the Hon. Judges who issued the Order has overlooked same.
7. A number of applications were filed in the Supreme Court regarding the Local Authorities Election 2023. The proceedings in respect of these applications are

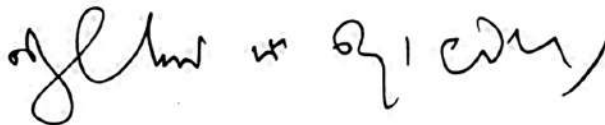
pending before another bench of the Supreme Court. In those proceedings one of the issues pending determination by the Supreme Court is the Secretary to the Treasury's affidavit on the non-availability of funds. The counsel for the Elections Commission has sought further time from Court to respond to the said Affidavit. A similar affidavit was filed in this application. The interim order has disregarded this affidavit, the contents of which is under consideration by the other bench. When one bench of the Supreme Court has proceeded to disregard this fact and issue a stay order, it would constitute a contravention of established practices and norms leading to judicial anarchy.

8. The Election Commission is not a party to this application - SC (FR) Application No. 69/2023. The interim order has been made without any reference to the Election Commission.

9. The interim order violates a principle of natural justice. One of the learned Judges who issued the interim order is related to a Petitioner in a similar case being heard before the other bench of the Supreme Court. The learned Judge has not disclosed the relationship nor has he rescued himself from the case.

I recall my memory of Late Hon. Anura Bandaranaike's decision over the Courts.

Therefore, I see this is as clear breach of privileges and powers of Parliament. Please refer this to the Committee on Parliamentary Privileges as an urgent matter.



Premnath C. Dolawatte

Member of Parliament

2/03/2022