

NEWS ROUND UP

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Longer wait for SC decision

Civil society members, activists, and politicians alike sought the intervention of the Supreme Court as their last refuge yesterday, filing 11 fundamental rights petitions claiming President Maithripala Sirisena's decision to dissolve Parliament was unconstitutional.

In an unprecedented move, one of the three members of the Election Commission, Dr. Ratnajeevan Hoole, was also among those who petitioned the three-member bench, claiming the move by Sirisena to dissolve Parliament was *ex facie* illegal, stating that he was duty bound to ensure the Constitution was honoured.

As the country's political crisis entered yet another new phase, with Sirisena's sudden move to dissolve Parliament days before his new Prime Minister was to show majority in the House, activists and politicians flocked to the Supreme Court as their last resort. The three-member bench, comprising of Chief Justice Nalin Perera and Justices Prasanna Jayawardane and Priyantha Jayawardane, listened to arguments listed out by petitioners in a courtroom packed to its capacity with lawyers, politicians, and journalists.

The sense of gravity was almost tangible when the Court decided to hear the cases filed just yesterday morning, taking into consideration the urgency of the matter, despite the Attorney General (AG) claiming that proper notice should be given to the Elections Commission. It was pointed out to the Court that one of the three members of the Elections Commission (EC), Dr. Hoole, was himself a petitioner in the matter, therefore the concern on notice was not valid.

AG Jayantha Jayasuriya's request for more time until at least Wednesday was denied by the Bench, which directed him to submit his argument today at 10 am.

EC Member Dr Hoole, in his petition, sought to clarify the legality of dissolving the Parliament by the President. Dr. Hoole's Attorney-at-Law Hijaz Hisbullah told Court that his client was "deeply conscious" of the need to maintain a degree of neutrality, due to the position he holds as a member of the Election Commission, but cited Justice Mark Fernando's 1999 Supreme Court ruling in the Karunatilake Vs. Dayananda Dissanayake case, filed against the indefinite postponement of elections for five provincial councils in August 1998, which held that the Elections Commission should have obtained a judicial order in order to implement election laws.

Presenting his argument, Hisbullah noted that the proclamation that dissolves Parliament is *ex facie* illegal, as "there is only one article in the entire Constitution that allows for dissolution of Parliament by proclamation, and that is Article 70 (1)." The counsel noted that the President had avoided complying with that article when he dissolved Parliament.

The lawyer for the EC member said they were arguing "elementary matters of constitutional law". "If Article 33 (2) can stand alone, when the President is being impeached, for violating the constitution or because he is mentally unfit - that he may still proceed to dissolve Parliament under 33 (2)?" Hisbullah asked. He also told the Court that honouring the election result was also as important as holding elections and allowing people to exercise their franchise. "At an election all people gather to express an opinion. If we allow the President to dissolve Parliament at any time, it says that the opinion of the President trumps all other opinions. There is one word for that, my lords – dictatorship."

The counsel for the EC member also noted the urgency of granting interim relief to stay the election, saying the poll would be held at a great cost to the State. "The machinery has already started moving, and preliminary work to hold elections has begun," he warned, saying the poll should be stayed until the Court concluded determining the matter.

The majority of the counsel presenting before the bench found fault with the President's use of Article 33 (2), which has been done independent of Article 70 (1), which sets limits on his powers listed in the earlier Article 33 (2).

The proclamation by the President refers to Article 33 (2) of the Constitution, which gives him general powers to 'summon, prorogue and dissolve Parliament', but does not refer to the special provisions set out in the Constitution which set limits on his powers to do so.

Lawyers arguing noted that the provision in Article 33 (2) should be read with the provisions in Article 70, which sets out the framework within which the President's powers to summon, prorogue and dissolve Parliament can be exercised.

"Article 33 says the President shall hold the Seal of the Republic – that doesn't mean he can go and place the Seal anywhere he likes. There are special provisions listed in the Constitution setting out the instances in which the Seal may be used. A similar law of interpretation applies to the President's power to dissolve Parliament," K. Kanag-Iswaran PC argued for his petitioner, Opposition Leader R. Sampanthan.

M.A. Sumanthiran PC, counsel for petitioner Champika Fernando, also noted that if 70(1) is ignored in this manner, after a new Parliament sits - on January 17, according to the Gazette notification – then, on the very next day, i.e., January 18, Parliament could be dissolved. "What if the President doesn't like the face of the next Prime Minister or something else? Can that be permitted?"

Attorney General Jayantha Jayasuriya, who was cited in the petitions as representing the President, whose actions were being challenged in all the cases filed yesterday, appealed for more time – at least until Wednesday – to make submissions, but was denied. .(Daily FT)

Determined Ranil to build pro-democracy coalition

Prime Minister Ranil Wickremesinghe yesterday pledged to build a broad coalition against what he described as a return to authoritarianism and to continue the battle to restore democracy, transparency and institutional independence in Sri Lanka.

Releasing a statement in response to the national address made by President Maithripala Sirisena on Sunday, Wickremesinghe insisted the United National Party (UNP) would stand by its efforts begun in 2015 to restore democracy to Sri Lanka, protect and uphold the Constitution and work for the development of the people. Conceding that these efforts did not progress as swiftly as was desired, he nonetheless insisted that progress was made and people were allowed to live in freedom.

"We will not allow the precious freedoms that we fought so hard to secure to be stolen from us. I promise you that we who value our democracy will work together to save our nation from this unprecedented crisis," he said.

Wickremesinghe also emphasised great self-restraint was exercised by him to keep the coalition Government moving forward. Given the deep ideological differences of the Sri Lanka Freedom Party (SLFP) and the UNP, Wickremesinghe noted that he was mindful at every instance not to react emotionally, and keep the equilibrium of power intact so Sri Lanka could benefit from having its typically divisive political parties working together.

"During the past months, I faced much heartache and many challenges. They insulted me, scolded me and lied about me but I faced these with much patience and decency. This is because I have always

respected the mandate of the people. To protect this mandate, I, my party and our coalition partners worked very carefully.

“Because of this care and patience, we were able to take the coalition Government forward. This was no easy task. Look at the chaos that has been wreaked over the last two weeks. It gives you some idea of how difficult our journey of the last three years has been. During my entire career as a politician, I have worked for democracy. Twice I gave up the chance to be Presidential candidate because I wanted to do what was best for the people. Even when I was a Presidential candidate, the LTTE wanted to make agreements with me but I refused. I never betrayed my country. At that time, I protected democracy. Even now, I protect democracy and I will work to build an alliance with others who protect democracy.”

Wickremesinghe criticised President Sirisena’s actions on 26 October as betraying the mandate given to him in 2015 and an effort to return to power former President Mahinda Rajapaksa who had been rejected by the people. He pointed out that, in that instance, all the UNP wanted was to convene Parliament so the Constitution could be upheld.

“Speaker Karu Jayasuriya was given a letter signed by 116 members of Parliament, and eight others contacted him by phone. Therefore seeking a vote on the day Parliament was to be reconvened was not a wrongful action by the Speaker. This has been done by other democracies around the world, including India multiple times. In April, when a No-Confidence Motion was moved in Parliament, I proved my majority. But days before Parliament was to be reconvened, it was unconstitutionally dissolved.”

As a result of the efforts to buy Parliamentarians, public respect of MPs had dropped to a record low, Wickremesinghe observed, adding that this was a regrettable situation that could have been avoided. He also rejected claims by President Sirisena that there were fears of violence if Parliament was reconvened, contending that if such concerns existed, then they could have been resolved through discussions with the Speaker and other party leaders.

“Instead the decision to dissolve Parliament unconstitutionally has plunged the country into political uncertainty and damaged Sri Lanka’s reputation internationally. It has alarmed people who respect democracy and Parliamentary traditions. Due to the political fallout in the last two weeks, many young people are very discouraged. Many are openly talking about leaving Sri Lanka, but where do the people who cannot do that go? What happens to their future?”

“We will work to remove Sri Lanka from these circumstances. We will strengthen the Constitution, and create unity among the people. We will create a Government that respects the rule of law, and the sovereignty of the people.” .(Daily FT)

Amidst gloomy politics JKH gives cheer with Rs. 11.1 b share buyback

Amidst gloomy politics in the country, the premier blue chip John Keells Holdings (JKH) yesterday brightened the investor community outlook with a Rs. 11.1 billion share buyback move.

It said the Board resolved to offer to repurchase one out of every 20 ordinary voting shares at a price of Rs. 160 per share, dates of which will be notified in due course.

The offer to repurchase shares amounting to a potential outlay of Rs. 11.10 billion reflects the view of the Board and management that the JKH share is currently not reflective of the value of the company and does not adequately represent the growth prospects of the company, and therefore presents an opportunity for the company to repurchase its shares.

Further, the strength of the JKH Balance Sheet, along with existing cash reserves, is more than adequate to fund the Company's planned investment pipeline while retaining its track record of dividend payout.

JKH said with funding for the ongoing Cinnamon Life project fully secured, and funding in place for all planned investments across its core verticals over the next few years, it will continue to retain healthy cash reserves and the balance sheet flexibility, post the repurchase, to pursue further investment opportunities as they arise.

The payout will be from tax-paid dividend reserves hence won't be subject to the Withholding Tax. It was also the first share buyback by JKH after 2008 when its stock price was trading below book value as it was in recent weeks.

Investors toasted the move as JKH share price peaked to an intra-day high of Rs. 152 following the announcement. The stock closed at Rs. 151, up by Rs. 6 or 4.14%, and figured as the sixth largest gainer percentage wise. The move also comes hot on the heels of an interim dividend of Rs. 2 per share announced on 29 October.

JKH also emerged as the top contributor to turnover with Rs.154 million on account of 1.027 million shares traded.

LOLC Securities said ASPI was up by 2 points and S&P SL20 was up by 12 point. During the day gainers surpassed losers 81 to 39. First Capital said ASPI witnessed a volatile downward trend during the first two hours of trading, reaching an intraday low of 5,936 and continued on an upward trend closing the day at 5,981 gaining mere two points.

"Large cap counters such as JKH, CTC and Browns lifted the main index up by 23.1 points," LOLC Securities added. Turnover was moderate at Rs. 425 million. Bank Finance and Insurance sector contributed mostly to the market turnover while the sector index was down by 0.36%.

Foreign investors were in a buying sentiment, while the net foreign inflows amounted to Rs. 82 million. Foreign investors showed a buying sentiment mainly seen in HNB and LOLC. (Daily FT)

Rupee hits record low of 175.90 on political uncertainty

The Sri Lankan rupee fell to a record low on Monday, as political uncertainty triggered by President Maithripala Sirisena's decision to sack Parliament weighed on sentiment, in line with bonds, market sources said.

The currency hit 175.90 versus the dollar, surpassing its previous all-time peak of 175.65 hit on 1 November.

Sirisena dissolved Parliament on Friday night and called a General Election for Jan. 5, drawing international criticism, in a move likely to deepen the country's political crisis.

The rupee closed at 175.10/30 per dollar on Friday.

The rupee has fallen 14.4% so far this year, Refinitiv Eikon data showed.

The island nation's dollar-denominated bonds tumbled on Monday with the 2020 issue falling as much as 2.7 cents to 94.98 cents, its lowest level since at least January 2017, with bid yields soaring to record levels of more than 9%, according to Refinitiv Eikon data.(Daily FT)

Sri Lanka's Colombo Port volumes up 14.9-pct by Sept

Container volumes at Sri Lanka's Colombo Port rose 14.9 percent to 5,223,292 twenty foot equivalent units (TEUs) growing at one of the fastest rates seen among major ports in the world.

Broadbased growth has been seen in all terminals in Colombo, Sri Lanka Ports Authority said with its own terminal growing at the fastest pace.

SLPA's Jaya container terminal (JCT), which cannot handle 'mega ships' grew its transshipment volumes by 23.3 percent to 1,445,425 TEUS.

South Asia Gateway Terminals had grown 16.5 percent and Colombo International Container Terminals grew 13.2 percent.

Total transshipment volumes grew 19.4 percent to 4,206,630 TEUs, up from 3,522,521 TEUs a year earlier.

In 2017 Colombo Port had handled 6.2 million containers. SLPA said it expects to handle 7 million containers in 2018.

SLPA said Ports and Minister Mahinda Samarasinghe and Chairman Parakrama Dissanayake had launched a three year program to boost performance of the port

Port of Colombo for the first time has recorded 6.2 million container operations in 2017.

Alphaliner, a shipping publication had already ranked Colombo as the fastest growing among the top 30 large container ports in the world after recording 15.6 percent growth in the first half of 2018. (Economy Next)

Suspension of Sri Lanka parliament challenged in court

Supporters of Sri Lanka's fired prime minister and a top election official on Monday challenged in court the president's sacking of parliament, upping the ante in a political crisis that has sparked international alarm.

President Maithripala Sirisena late Friday called snap elections and dissolved the legislature, two weeks after sacking the prime minister and installing the divisive Mahinda Rajapakse in his place.

The United States has led a chorus of international concern over events in the strategically important Indian Ocean island nation of 21 million people.

Three political parties holding an absolute majority in parliament and Ratnajeevan Hoole, an election commissioner and one of three officials tasked with conducting polls, on Monday asked the Supreme Court to declare the president's actions illegal.

The court, which heard preliminary submissions, has adjourned until Tuesday.

In the five-page petition, Hoole said Sirisena broke the law in calling the snap elections for January 5 after a string of unconstitutional moves since October 26 when he fired Ranil Wickremesinghe, the prime minister.

Wickremesinghe's United National Party (UNP), the main opposition Tamil National Alliance (TNA) and the leftist JVP, or People's Liberation Front challenged Sirisena's action in the court.

TNA spokesman M. A. Sumanthiran said the Supreme Court agreed to take up the petitions immediately considering the importance of the issue.

"We are also asking for an interim order" for an injunction against preparations for the election, which would be two years ahead of schedule, Sumanthiran said.

Several petitioners also asked that parliament be restored until the court has ruled on their plea.

Court officials said Chief Justice Nalin Perera and two other judges decided to fast-track the hearings.

Sarath Amunugama, appointed foreign minister by Sirisena, told Colombo-based diplomats Monday that he expected a verdict within five days.

Legal experts say the dissolved parliament would have to be restored if the Supreme Court holds with the petitioners. If not, the January 5 election will have to go ahead.

Independent election monitors have also questioned the legality of the snap poll announced by Sirisena.
- Civil unrest fears -

Wickremesinghe remains holed up in the prime minister's official residence, and both he and Rajapakse are attempting to run parallel administrations.

On Sunday night, speaker Karu Jayasuriya urged civil servants to defy Sirisena's "illegal orders".

But later Sirisena defended his actions, saying violence among rival MPs could have led to "civil unrest" across Sri Lanka if the legislature had met as scheduled this week.

"Had I allowed the parliament to meet on November 14, there would have been violence in the House and it could have spread to our villages and towns," Sirisena said in a televised address.

"I acted to prevent civil unrest."

Wickremesinghe rejected this outright, saying Sirisena had "brushed aside the constitution" in sacking the legislature.

"He has pushed the country into an unprecedented mess, destroyed its image and damaged international confidence in the country," he said in a statement.

Sirisena's rivals maintain that he had no constitutional power to sack the assembly before it completed four-and-a-half years of its five-year term that ends in August 2020.

Only China has recognised the appointment of Rajapakse, who during his decade as president until 2015 relied heavily on Beijing for diplomatic and financial support as the West shunned him.

While in power Rajapakse ended Sri Lanka's four-decade civil war by crushing the separatist Tamil Tigers. But 40,000 ethnic Tamils were allegedly massacred in the process.

Seventeen journalists and media workers were killed during his time in power, and Rajapakse and his family have been accused of using his period in office to line their pockets through corruption.

Monday's meeting of diplomats called by Amunugama was boycotted by several Western diplomats while others sent low-level representatives, diplomatic sources said. (Economy Next)

Tokyo stocks drop more than 3-pct after Wall Street plunge

Tokyo stocks dived more than three percent shortly after the open on Tuesday, with investors discouraged by a plunge in US shares on fears over demand in the tech sector.

The Nikkei 225 index was down 3.47 percent, or 771.92 points, at 21,497.96 in early trade, while the broader Topix index was down 3.06 or 51.09 points at 1,620.86.

"The Tokyo market is being hit by the plunge in US shares, and news that Apple's iPhone sales are not going very well is also proving a blow," Hideyuki Suzuki, head of investment information department at SBI Securities, told AFP.

"The Tokyo market is hitting the second lowest level since October 26, when the Nikkei index dipped below 21,000," he noted, adding that share prices may bottom out.

The dollar fetched 113.63 yen in early Asian trade, down from 113.85 yen in New York late Monday.

In Tokyo, Apple's parts supplier Murata Mfg dropped 6.55 percent to 16,680 yen, while other electronic parts makers also plunged, with TDK dropping 7.10 percent to 8,890 yen and Alps Electric plummeting 8.37 percent to 2,441 yen.

US stocks crumbled on Monday, as a sell-off initially sparked by fears of weakening demand for Apple's iPhone spread to the rest of the market with the Dow ending down 2.3 percent at 25,387.18. (Economy Next)

Singer Sri Lanka in the red on forex losses, higher interest costs

Electronics and home appliances retailer Singer Sri Lanka Plc reported a loss of 144.1 million rupees in the September 2018 quarter, against a profit of 100.1 million rupees a year earlier, on foreign exchange losses and rising interest costs.

The company, a unit of listed Hayleys Plc, made a loss of 38 cents a share in the quarter, interim accounts filed with the Colombo Stock Exchange showed.

In the six months to end-September, earnings were 73 cents a share on a profit of 274.6 million rupees, down 43.4 percent from a year ago.

The stock closed 60 cents lower at 32 rupees on Monday.

In the September quarter, revenue had increased 13 percent from a year earlier to 13.5 billion rupees while cost of sales grew 14 percent to 9.4 billion rupees, resulting in gross profits growing 10 percent to 3.7 billion rupees.

Finance cost increased 20 percent to 697 million rupees. Long term borrowings grew 31 percent from a year earlier to 7.7 billion rupees at end September and short term loans grew 9 percent in the period to 16.9 billion rupees.

Singer Sri Lanka reported a foreign exchange loss of 187 million rupees in the quarter, compared to a gain of 7.2 million rupees a year earlier as the rupee came under pressure due to an indefensible soft peg against the US dollar.

Selling and administrative expenses grew 11 percent to 2.9 billion rupees.

Inventories were 12.7 billion rupees at end September 2018, up 24 percent from a year earlier.
Trade receivables grew 23.5 percent in the quarter to 21 billion rupees.

Trade payables grew 94 percent to 10.1 billion rupees. (Economy Next)