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சட்டத்தரணிகள் ஒன்றிணைவு

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21.12.2023

President Ranil Wickremesinghe
President Democratic Socialist Republic of Sri Lanka

Mr. President,

We write to you as citizens who are members of the legal profession and legal academics of Sri Lanka for urgent action following the decision of our apex court in *Sumangala v Bandara and Others* (SCFR 107/2011) delivered on 14th December 2023. A three-judge bench of the Supreme Court unanimously held that Respondents, including the current Acting IGP Deshabandu Tennakoon, violated the fundamental rights of the petitioner to freedom from torture, unlawful arrest, and arbitrary administrative action that denied equal protection of the law. The Court observed that these violations undermined the core values of respect for the Rule of Law and Democracy, and the State obligation of the government under international law applicable in Sri Lanka. The right to freedom from torture is one of the gravest violations in constitutional law and the Sri Lankan State's obligations under ratified international treaties and cannot be limited in any way or on any ground. Their Lordships imposed heavy compensation on these persons, including Deshabandu Tennakoon, (currently Acting IGP) and called for disciplinary action by the State against them.

Deshabandu Tennakoon was the SP Nugegoda at the time of the incidents complained of in the above case. He was proven to have both participated in the acts of torture and illegal arrest and not fulfilled his responsibilities to prevent gross acts of torture by his subordinate police officers. These acts included using chili powder to suffocate, stripping naked and suspending from the ceiling for long hours, and beating the petitioner in front of his wife and very young children. One of them fainted on witnessing this abuse of their father. The petitioner has been recognized as consequently suffering from a serious mental health condition for years.

We draw your attention to the fact that these officers including the said Deshabandu Tennakoon, have been found liable of acts which in our law amount to a criminal offence under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994. As such, all police officers found responsible must be formally charged with the serious crime of torture with immediate effect and they must be suspended from service. It is particularly grave that no immediate action has yet been taken against the said Deshabandu Tennakoon, given that he holds a position of power with influence over evidence and witnesses in an anticipated criminal prosecution against him. The office of IGP, and thereby the powers of Acting IGP, can only be directly held accountable by your office as President. Your duty to the people of Sri Lanka is clear, and the only responsible course of action is to terminate the appointment of the said Deshabandu Tennakoon to Acting IGP, refer the judgment to the Attorney General for

urgent consideration of serving charges on all found liable, and refer the judgment to the National Police Commission for disciplinary action.

We remind that Deshabandu Tennakoon was appointed by you, Mr. President, with endorsement by the Constitutional Council, amidst public controversy over his suitability, for this high post. It is a complete failure of public trust by all involved. We note that no attention appears to have been given to the fact that there are many pending cases against this individual, and that this particular case was before the Supreme Court.

As President of our country, who has taken an oath of office to uphold the Constitution, and as a member of the legal profession, we call upon you to recognize the gravity of these violations of constitutionally guaranteed fundamental rights, and international law, and take immediate action following this judgment of the Supreme Court. Failure to do so will legitimize the idea that a person can hold high public office despite the fact that he/ she has been found responsible for one of the most heinous crimes and abuses of power under Sri Lanka's laws and violation of fundamental rights guaranteed as a core aspect of the People's Sovereignty in a democracy. Decades of jurisprudence of the Supreme Court has emphasized that officials including the President and Ministers must discharge the legal obligations of their public office, and uphold the Public Trust placed upon them. Indeed, in *Sumangala v Bandara and Others* the Supreme Court said that "*the stars that adorn a uniform are not ornaments of power but reminds us of the immense responsibilities that come with authority.*"

There is public expectation that in your role as head of the Cabinet your Cabinet is reminded of their role and responsibilities in office. It is shocking that within days of the judgment that found Deshabandu Tennakoon liable for torture, Minister of Public Security Tiran Alles publicly endorsed Tennakoon's leadership of the police and even insinuated support for police killings in enforcing Sri Lanka's laws on illegal drugs. The legitimate law enforcement aim of eradicating illicit drugs cannot be cover for extra judicial violence. He has also made damaging statements on the legal profession, accusing lawyers who have demanded action in terms of the judgment as "defending" drug offenders. This seriously undermines the right to legal representation in court proceedings. All such statements seriously undermine this government's commitment to the rule of law and our Constitution.

As President, you must appreciate that the confidence of the public in the administration of justice must be reinforced and not undermined. It is shocking, by any standard, that the leadership of the police or indeed in any public office, is held by a person who has been found to have violated the Constitution and that too by an act which is itself a criminal offence in this country.

Mr. President, we have repeatedly warned that the several legislative and administrative measures of this government have been authoritarian in nature and has had a damaging chilling effect on citizen engagement with issues of public concern. The remarkable silence in the media and by civil society over the Supreme Court judgment indicates a self-censorship not previously evident in Sri Lanka.

This is an open letter to you. We will be sharing this letter with our fellow citizens in the hope and expectation that you will take immediate action. In summary, immediately terminate the appointment of Deshabandu Tennakoon as Acting IGP in view of the

Supreme Court judgment in Sumangala v Bandara and Others, refer the judgment to the Attorney General to consider without delay charging these police officers with the serious criminal offence of torture, particularly in view of the preservation of evidence in imminent prosecutions and also refer the judgment to the National Police Commission for action. A failure to act amounts to a daily reminder to the public that you will not implement a judgment of the highest court of the country which has exercised the judicial power of the People under our Constitution. Urgent action is a matter of national importance.

On behalf of the Lawyers' Collective,

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