

Announcement

I wish to bring to the notice of the House the correct position in respect of the letter that was sent by the Secretary General of Parliament informing the Chairman of the Election Commission that a vacancy has occurred in the membership of the Ninth Parliament due to the fact that the Hon. Ranjan Ramanayake Member of Parliament for the Electoral District of Gampaha has ceased to be a Member of Parliament in terms of Article 66(d) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

The Hon. Ranjan Ramanayake was convicted by the Supreme Court on 12th January 2021 for the offence of contempt of court punishable under Article 105 (3) of the Constitution and was sentenced to a term of 4 years rigorous imprisonment. The conviction by the Supreme Court attracted the provisions of the Article 66 (d) of the Constitution which reads that “ The seat of a Member shall become vacant if he becomes subject to any disqualification specified in Article 89 or 91. The Article 89 (d) of the Constitution goes on to say that “ No person shall be qualified to be an elector at an election of the President, or of the Members of Parliament or to vote at any Referendum if he is subject to any of the following disqualifications, namely, if he is serving or has during the period of seven years immediately preceding completed serving of a sentence of imprisonment (

by what ever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years or is under sentence of death or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of such sentence ; Provided that if any person disqualified under this paragraph is granted a free pardon such disqualification shall cease from the date on which the pardon is granted.

Accordingly, by operation of law Hon. Ranjan Ramanayake would cease to be a Member of Parliament from the date the conviction was entered upon by the Supreme Court. However Hon. Ranjan Ramanayake through his lawyers, petitioned the Court of Appeal by way of a writ application that by virtue of the conviction he would not loose his seat and requesting the court to grant a prohibition or an restraining order preventing the Secretary General of Parliament from informing the Chairman of the Election Commission that a vacancy has arisen in the ninth Parliament consequent to the Hon. Ranjan Ramanayake vacating his seat. The Court of Appeal has not accepted this position and has dismissed the case without issuing any formal notice to the Respondents. With the dismissal of the writ application before the Court of Appeal the temporary restraining order issued by the Court of Appeal preventing the Secretary General of Parliament from informing

the Chairman of the Election Commission regarding the vacancy has also ceased to exist.

In the circumstances, once all the above requirements are fulfilled under Article 89 (d) of the Constitution to quote the very Order of the Court of Appeal in the writ matter in connection with this case it is stated as follows; “I do agree with the submission of the learned Senior Additional Solicitor General that the act of sending a communication to the Election Commission under Section 64 (1) of the Parliamentary Elections Act would tantamount to a physical act by the 1st Respondent short of an exercise of power. In other words, with a vacancy staring in his face the Secretary General has no option but he is required by law to inform the Election Commission of such vacancy. In doing so he is carrying out a purely ministerial act. I have already referred to the fact that the exercise of a purely ministerial act is not subject to be quashed by a writ of certiorari nor is such an exercise subject to any restriction by a writ of prohibition. If the Secretary General fails to act at that stage, a writ of mandamus would lie to compel him to perform his legal duty.”

The reason for me to make this announcement is that yesterday in the House, the Hon. Leader of the Opposition made a statement that the Secretary General of Parliament has taken steps to inform the Chairman of the Election Commission that the Hon. Ranjan Ramanayake has vacated his seat due to non-attendance of Parliament for a period of 3 months and the

non acceptance of his leave motion also contributed to this situation. As indicated above, I would like to inform the Leader of the Opposition that this position is not correct and the vacation of seat by a Member of Parliament for non attendance for 3 months is envisaged in the Constitution in Article 66 (f) whereas the letter sent by the Secretary General is under Article 66 (d) the content of which has been explained above.

I wish to bring this matter to the notice of the House to provide greater clarity on this issue.