



CENTRE FOR MONITORING ELECTION VIOLENCE

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Date: January 11, 2023, Colombo.

Press Statement on the Unconstitutional move of the Secretary of the Ministry of Public Administration, Home Affairs, Provincial Council and Local Governments

CMEV express its deep concern about the letter issued by Neil Bandara Hapuhinna, the Secretary of the Ministry of Public Administration, Home Affairs, Provincial Council and Local Governments instructing District Secretaries to refrain from accepting deposits from candidates expecting to contest in upcoming Local Government Elections on January 10, 2023, as mentioned in the letter, according to a cabinet decision taken on January 09, 2023. According to the Sri Lankan Electoral Legal framework, District Secretaries are appointed as Returning Officers and as the signatory authority for all administrative affairs in respect of upcoming Local Government Elections, by a gazette notification, after the Election Commission issues the notice of elections. The Election Commission appointed District Returning Officers and Assistant Returning Officers by the extraordinary gazette bearing No.2311/26 and dated December 21, 2022. CMEV maintains that undue influence made by the cabinet against District Returning Officers who now serve as heads of the District Election Operations, is a clear threat to the democratic electoral process.

CMEV appreciates the prompt move of the Commissioner General of Election to elaborate on the responsibility of the District Returning Officers following the appointments according to Section 4(1) of the Local Government Elections Ordinance and the gazette the extraordinary gazette bearing No.2311/26. CMEV is also cites Article 104F of the Sri Lankan constitution to emphasize their constitutional duty.

104 F (1)) ***“The Commission shall from time to time by notice published in the Gazette appoint by name or by office a person to be a Returning Officer to each electoral district, and may appoint by name or by office one or more persons to assist the Returning Officer in the performance of his duties.”***

104 F (2) ***“Every Officer appointed under paragraph (1) shall in the performance and discharge of such duties and functions as are assigned to him, be subject to such directions as may be issued by the Commission and shall be responsible and answerable to the Commission therefor.”***

According to the above provisions in the constitution, the directives issued by the Secretary of the Ministry of Public Administration, Home Affairs, Provincial Council and Local Governments are unconstitutional and obeying such directives constitutes a violation of the constitution.¹

CMEV notes the decision of the Secretary of the Ministry of Public Administration to revoke the letter immediately, following objections from all concerned parties. We urge the government and all the actors responsible for ensuring the democratic governance of the country to refrain from making any efforts that violate the fundamental right of the people to exercise their franchise.

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¹ Article 104 GG (1) , 1978 Constitution of Sri Lanka.