

CHAPTER XVI

POLITICAL RIGHTS AND EXERCISE OF THE RIGHT OF ASSOCIATION

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CHAPTER XVI

POLITICAL RIGHTS AND EXERCISE OF THE RIGHT OF ASSOCIATION

1. Exercise of Political Rights

All persons employed in the Commission/ Higher Educational Institutions/ Institutes other than those from the Public Service or Local Government Service who are on secondment to the Commission or any Higher Educational Institution/ Institute, are entitled to exercise fully their political rights as citizens of Sri Lanka, subject to the provisions in sub-paragraphs 1.2.3 and 1.3 below.

1.2 Political rights which such persons may exercise include:

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| 1.2.1 | The right to membership in political parties or associations and to participate in the work of such parties or associations. | Membership in political parties |
| 1.2.2 | The right to express opinion on matters of a political nature (e.g. by writing letters to the press, issuing pamphlets, addressing meetings at which such subjects are discussed, giving broadcasts etc.) | Expression of political opinion |
| 1.2.3 | The right to stand for Presidential Elections, Parliamentary Elections, Provincial Council Elections or Local Government Elections is subject to Article 91(1)(d)(ix), 91(1)(d)(x) and 92(b) of the Constitution of the Democratic Socialist Republic of Sri Lanka, Section 3 (a) of the Provincial Councils Act No. 42 of 1987 and Section 9 (vi) (a) and (b) of Local Authorities Elections Ordinance. | Stand for elections: Article 91(1) (d) (ix), 91(1) (d)(x) and 92(b) of the Constitution, Section 3(a) of the Provincial Councils Act No. 42 of 1987 and Section 9(vi)(a) and (b) of Local Authorities Elections Ordinance |
| Note (i) | Article 91(1)(d)(ix) and 91(1)(d)(x) of the Constitution read as follows:

No person shall be qualified to be elected as the President or as a member of Parliament or to sit and vote in Parliament ; | |

Article 91(1)(d)(ix)

If he is an officer in any public corporation holding any office created prior to November 18,1970, the initial of the salary scale of which was on November 18,1970, not less than Rs.7,200/- per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial.

Article 91(1)(d)(x)

If he is an officer in any public corporation holding any office created after November 18, 1970, the initial of the salary scale of which is on the date of creation of that office, not less than the initial of the salary scale applicable on that date to an office referred to in 91(1)(d)(ix) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first mentioned initial.

Note (ii) Interpretation: Article 170 of the Constitution: "A Public Corporation" as interpreted in the said Article means "any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise".

Interpretation
Article 170 of
the Constitution

Note (iii) In terms of Section 3(a) of the Provincial Councils Act. No. 42 of 1987, no person shall be qualified to be elected as a member of a Provincial Council or to sit and vote as a member of such Council if such person is subject to any of the disqualifications specified in paragraphs (a), (c), (d), (e), (f) and (g) of Article 91(1) of the Constitution.

Note (iv) In terms of Section 9(1) (vi) of the Local Authorities Elections Ordinance, no person

shall at any time be qualified to be elected or to sit or to vote as a member of any Local Authority, if such person at that time, is an officer in any public corporation holding any office created prior to January 1, 2009 the initial of the salary scale of which was, on January 1, 2009 not less than Rs. 246,300/- per annum or such other amount per annum as would, under any subsequent revision of salary scales correspond to such initial.

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| 1.3 | The exercise of the rights stipulated in sub-paragraph 1.2 above is subject to the conditions in the following sub-paragraphs; | Subject to certain conditions |
| 1.3.1 | The right to participate in the work of a political party, address a political meeting etc. or express opinions on matters of a political nature will be permitted to a person only if they are exercised without prejudice to the work of the Commission or any Higher Educational Institution/ Institute which should at all times take precedence. Leave to participate in such an activity will be granted by the appropriate authority in his discretion subject to the exigencies of the service from his annual leave entitlement. | Without prejudice to work |
| 1.3.2 | (a) If a person who has the right to stand for any election as per sub-paragraph 1.2.3 above, intends to stand as a candidate for Presidential Elections, Parliamentary Elections or Provincial Council Elections subject to Article 91 (1)(d)(ix) and 91(1)(d)(x) of the Constitution shall give written notice to the Chairman of the Commission if he is employed in the Commission or to the Vice-Chancellor of the University if he is employed in a University or a Campus or an Institute attached/ affiliated to such University or to a Director of a University College/ Centre for Higher Learning, of such | Notice of intended candidature |

intention at least 10 days prior to the date of nominations being received in respect of that election. He shall be placed on leave without pay for a period commencing from one week prior to the date of nomination and up to the date of election.

- (b) If such a person intends to stand as a candidate for Local Government Elections, he shall give written notice to the Chairman of the Commission if he is employed in the Commission or to the Vice-Chancellor of the University if he is employed in a University or Campus attached to the University or an Institute affiliated to such University or to a Director of a University College/ Centre for Higher Learning of such intention at least one day prior to the date of nominations being received in respect of that election.

Local
Government
Election

In such an instance, he is permitted to utilize his normal leave if leave is available to his credit during the year in which such leave is sought. Otherwise he shall be placed on leave without pay from the date of nomination to the date of election.

- 1.3.3 If he is elected to the Office of the President of the Democratic Socialist Republic of Sri Lanka or as a member of Parliament, he will be required to resign from his position in the Commission/ Higher Educational Institution/ Institute from the date of such election.

Resignation if
elected to the
Office of the
President or
Parliament

- 1.3.4 Leave to attend meetings on election to a Local Government Authority:

Local
Government
Authority

- (a) If he is elected and appointed to the post of Mayor/ Chairman of a Local Government Institution he shall be granted eight (8) days of leave with pay

Eight (8) days
leave

per month to attend meetings and to perform whilst serving in the substantive post; or

In case where an officer, who does not exercise the option to obtain above mentioned leave, is appointed to the post of Mayor/Chairman of a Local Government Institution or appointed to act in such post, his option to obtain leave without pay, shall be informed by the Secretary of the Local Authority with immediate effect specifying the date of commencement and closing of such period to the Head of the Institution concerned. On receipt of such notice, Head of the institution shall place the officer on leave without pay during the relevant period.

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| <p>(b) If he is elected as a member of a Local Government body and/or appointed as a Deputy Mayor/Vice Chairman of a Municipal Council/ Urban Council/ Pradeshiya Sabha subject to the exigencies of service he shall be granted six (6) days leave of absence with pay to attend meetings of such Local Government body.</p> | <p>Six (6) days
leave</p> |
| <p>1.3.5 If a person is elected as a member of a Provincial Council, he will be allowed to avail himself of either of the following options;</p> <p>(a) He should be released on full time basis enabling him to serve as a member of the Provincial Council on leave without pay so long as he continues as a member of the Provincial Council; or</p> <p>(b) He should be deemed to have left the service on his being elected.</p> | <p>Provincial
Council</p> |

1.3.6 Nomination through National List:

National List

If a name of a person is included in the National List, he should inform in writing to the Chairman of the Commission/ Principal Executive Officer of the Higher Educational Institution/ Institute within a day after accepting the list by the Commissioner of Elections. If he is nominated as a member of the Parliament he will be required to resign from his position in the Commission/ Higher Educational Institution/ Institute from the date of such nomination.

2. Persons not qualified to seek election to office of the President, Parliament, Provincial Councils or Local Authorities

- 2.1 If a person employed in the Commission or any Higher Educational Institution/ Institute, not qualified to seek election to the office of President, Parliament, Provincial Councils or Local Authorities (refer sub-paragraph 1.2.3 and notes thereto in this Chapter), intends to stand for such election and desires to make preparations for furthering his own candidature or for testing his chances at such election or intends to hand in his nomination papers for such election he should first resign from his post in the Commission or the Higher Educational Institution/ Institute in accordance with paragraph 4 of Chapter V before he takes or sanctions any such action to be taken on his behalf.

Resignation
prior to
candidature

Such a person shall settle all the dues for the institution to which he is attached prior to his resignation and if he is in an obligatory period of bonded agreement, actions should be taken to pay the bonded value and get him released from the bond.

- 2.2 Such a person may later seek re-employment in the Commission or in the Higher Educational Institution/ Institute if he so desires, and the Commission or Higher Educational Institution/ Institute may re-employ him outside the scheme of recruitment if the vacancy created by his resignation still remains unfilled and the

Re-employment

Chairman of the Commission in the case of persons from the Commission or the Vice-Chancellor of the University in the case of persons from a University or a Campus or an Institute affiliated or attached thereto, or the Director in the case of a University College/ Centre for Higher Learning agrees to such re-employment.

2.3 Where it is agreed to re-employ the person seeking re-employment under sub-paragraph 2.2 above, prior sanction of the Commission in the case of persons from the Commission or the sanction of the respective Governing Authority of the Higher Educational Institution/ Institute in the case of persons from those institutions should be obtained.

Sanction for re-employment

2.4 Disciplinary action will be taken against any person who contravenes the provisions of sub-paragraph 2.1 above.

Disciplinary Action

3. Political Meetings and Canvassing etc.

3.1 No political meetings should be held in any grounds or any buildings or other workplaces of the Commission or any Higher Educational Institution/ Institute. (This rule does not preclude the holding of any Trade Union meetings, vide paragraph 4 of Chapter XV).

In the grounds or buildings of Higher Educational Institutions

3.2 No political posters or other symbols of a political nature should be exhibited in any grounds or any buildings or other work places of the Commission or any Higher Educational Institution/ Institute.

Posters etc.

3.3 No canvassing should be done for any political party or for any candidate standing for a Presidential/ Parliamentary/ Provincial Council or Local Government Election and no election literature should be distributed in any grounds or any buildings or other work places of the Commission or any Higher Educational Institution/ Institute during the usual working hours or when academic work is in progress.

Canvassing

4. Concessions regarding transfers of persons holding office in the Central Committee of a recognized Political Party

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| 4.1 | A person employed in the Commission or any Higher Educational Institution/ Institute who holds the office of President/ Vice-President/ Secretary/ Assistant Secretary/Treasurer in the Central Committee of a recognised political party should be allowed the concession of serving in the Commission or in a Higher Educational Institution/ Institute close to the Head Quarters of the Central Committee, provided that his services can be utilized in the Commission or such Higher Educational Institution/ Institute and subject to the needs and disciplinary requirements of the Commission or the Higher Educational Institution/ Institute concerned. | To certain office bearers |
| 4.2 | Such person will not be subject to the normal rules of transfer as long as he holds such office in the Central Committee and will become liable to transfer under the usual transfer rules on ceasing to hold such office in the Central Committee or on being promoted to a higher post, class or grade, or on his securing another appointment in the Commission or any Higher Educational Institution/Institute carrying a salary scale the initial of which is over Rs. 7,200/- per annum as at November 18, 1970 or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial. | As long as he holds office |
| 4.3 | A person who desires to avail of this concession should apply to the Chairman of the Commission or to the Principal Executive Officer of the Higher Educational Institution in which he is employed. A person employed in the Campus attached to a University or an Institute affiliated to a University should make his application to the Vice-Chancellor of such University through the Rector of the Campus or the Director of the Institute concerned. | Application to avail of concession |
| 4.3.1 | The application should furnish the designation of the office he is holding in the Central Committee, the name and address of the | |

Headquarters of the political party, certified by the Secretary of the party and his option to be posted; either to the Commission or to any one of the Higher Educational Institutions/ Institutes.

- 4.4 A “recognised political party” means unless otherwise provided, a political party recognised as such by the Commission of Elections.

Recognised
Political Party

5. Membership in Political Associations

- 5.1 Persons employed in the Commission or any Higher Educational Institution/ Institute other than those from the Public Service or Local Government Service on secondment may become members of any political association or any rate payers or tax payers association or similar association, hold office in any such association and participate in the legitimate activities of such associations.

Political
Associations

- 5.1.1 They are however, prohibited from utilizing any grounds or any buildings or any work places of the Commission or any Higher Educational Institution/ Institute for holding meetings or discussions or for engaging themselves in any other activities in connection with such associations.

Institutional
premises not to
be used

6. Membership in Trade Unions

- 6.1 Persons employed in the university system may form themselves into Trade Unions or join Trade Unions formed already, in accordance with the Trade Unions Ordinance and such Unions should be registered by the Registrar of Trade Unions, to be eligible to make representations to the Commission or a Higher Educational Institution/ Institute on behalf of their members.

Trade Union

Provided that no person who is not an employee of the Commission / Higher Educational Institution/ Institute may be a member of such Trade Union or be appointed Patron of or hold any office in such Trade Union, except as provided for under the Trade Union Ordinance and amendments thereto.

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| <p>6.2 In order to avoid delays etc. in the consideration of representations made by Trade Unions, the procedure laid down in this sub-paragraph should be followed when such representations are made to the Officers of the Commission or any Higher Educational Institution/ Institute.</p> | <p>Trade Union representations</p> |
| <p>(a) Representations should be in writing and should be signed by the President/ Secretary of the Union. Representations signed by a Vice President or an Assistant Secretary will be accepted only when both the President and the Secretary are not available and the subject of the representation requires very urgent attention.</p> | <p>Written representations</p> |
| <p>(b) Where the representation relates to a problem which has arisen in the Secretariat of the Commission or a Higher Educational Institution/ Institute, it should be made to the Secretary of the Commission or to the Vice-Chancellor of the University/ Rector of the Campus/ Director of the University College/ Institute / Centre for Higher Learning as the case may be. The problem should be clearly stated, the back-ground to the problem should be briefly given and the suggested solution should be indicated.</p> | <p>Problems arising in the Commission or in a Higher Educational Institution/ Institute</p> |
| <p>(c) In the case of a Campus or an Institute, if the problem cannot be satisfactorily resolved after a discussion with the Trade Union, the Rector of the Campus/ Director of the Institute should forward his full report and suggestions to the Vice-Chancellor of the University to which such Campus / Institute is attached/affiliated with the least possible delay. The Vice-Chancellor will not take action on the representation until the report and suggestions are received from the respective Rector / Director.</p> | <p>Full Report to the Vice-Chancellor by Rector / Director</p> |
| <p>(d) Where the Vice-Chancellor is unable to satisfactorily resolve the problem, he will refer the matter with his full report thereon to the Council of the University.</p> | <p>Final Authority</p> |

- (e) Where the Secretary of the Commission in consultation with the Chairman is unable to satisfactorily resolve the problem, in the case of Secretariat of the Commission, it will be referred to the Commission.

To be referred
to the
Commission