


20th Amendment challenged in Supreme Court

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- **PAFFREL and MEP say Bill enables Parliament to postpone PC elections**

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Two petitions were filed yesterday in the Supreme Court for its Special Determination on the Bill titled 'Twentieth Amendment to the Constitution'.

The People's Action For Free and Fair Elections (PAFFREL) and the Mahajana Eksath Peramuna (MEP) have filed petitions challenging the provisions of the Bill as being inconsistent with the provisions of the Constitution.

They are seeking a Special Determination that the Bill is required to be passed by no less than a two-thirds parliamentary majority and approved by the people at a referendum.

PAFFREL alleges that in effect the proposed amendment to the Bill enables Parliament and the present regime to postpone Provincial Council elections of other provinces other than the Uva Provincial Council until 8.10.2019.

The MEP alleges that the amendment sought by the Bill directly affects the franchise of the people, which is a matter in which the sovereignty of the people shall be exercised through Article 3 of the Constitution (in the Republic of Sri Lanka sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise).

PAFFREL in its petition states that in the terms of the present Constitution, the term of office of a Provincial Council is five years from the date of its first meeting and the expiration of the period of five years from that point shall operate as the dissolution of the Provincial Council. The governor of the province has the power to dissolve the Provincial Council even prior to the expiration of a term.

It states as at present, no organ of the Government, neither the Governor of the Province nor Parliament, has the power to extend the term of office of a Provincial Council even though a Provincial Council can be dissolved prior to the completion of its five-year term of office.

It states two new Clauses are being inserted into the Constitution in the amendment as follows:

Clause 154DD reads: "The election of members to all Provincial Councils shall be held on the same date and the Parliament shall determine the date on which all the Provincial Councils shall stand dissolved provided that, such specified date shall not be later than the expiration of the term of the last constituted Provincial Council."

It states that the proviso of the article provides for a vague qualification for the power of Parliament to determine the "specified date" by stating that the specified date shall not be later than the expiration of the term of the last constituted Provincial Council.

It revealed that the most recent provincial council election was held for the Uva Provincial Council and the current term of office of the Uva Provincial Council commenced on 8.10.2014, the date on which its first meeting was held and its five-year term will end on 8.10.2019.

Therefore, the Parliament is empowered by the Proposed Clause to determine a date before 8.10.2019 as the date on which all the provincial Councils shall stand dissolved, it alleges.

Thus, in effect the proposed amendments enable Parliament and the present regime to postpone Provincial Council elections of other provinces other than the Uva Provincial Council until 8.10.2019, it asserts.

It states Clause 154E reads: "A Provincial Council shall, unless dissolved, continue to a period of five years from the date appointed for its

first meeting and the expiration of the said period of five years shall operate as a dissolution of the Council provided, however, upon the determination of the specified date under Article 154DD.”

Article 154DD reads: “(a) the term of office of any Provincial Council ending prior to the specified date shall be deemed to be extended up to the specified date and such Provincial Council shall stand dissolved on the specified date; or (b) the term of office of any Provincial Council which continues beyond the specified date shall end on the specified date and such Provincial Council shall stand dissolved on the specified date.”

It alleges the manifest intention of the Bill is to extend the term of office of provincial councils which end in the immediate future and therefore the Bill is designed to amend the Constitution for safeguarding the insidious political interests of the government in power.

It points out that Clause 154EE reads: “In the event of dissolution of any Provincial Council by reason of the operation of the provisions of Article 154B or by any other reason specified in any law, the powers of such Provincial Council shall be exercised by the Parliament until the specified date and the provisions of Articles 154L and 154M shall, mutatis mutandis (with the necessary changes having been made), apply in relation to the exercise of powers of the Provincial Council.”

It laments that the effect of the newly inserted article 154EE would be that even if a Provincial Council is dissolved prior to the specified date, the new election will not be held and the powers of the Provincial Council will be exercised by Parliament.

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