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December 19, 2018

Hon Speaker,

Parliament,

Sri Jayawardenapura-Kotte.

Hon Speaker,

**Post of Leader of the Opposition**

 I write with reference to the above matter and thank you for affording me the opportunity to make representations in writing.

1. There is no dispute that the Leader of the political party in Opposition with the most number of seats in parliament ought to be recognized as the Leader of the Opposition. However the question that now confronts us is whether the United Peoples Freedom Alliance (UPFA) is a party in Opposition.
2. According to established parliamentary tradition a party in Opposition, is one that does not participate in the government. The UPFA cannot be considered as a party in Opposition since the Leader of the UPFA is the Head of Government and the Head of the Cabinet of Ministers. In addition he also holds portfolios of Defence, Mahaweli Development and Environment. Presently HE Maithripala Sirisena holds the Ministries of Law and Order and Media also. In this context where the chairman of the UPFA is not only the Head of government but also a minister in the Cabinet with at least five ministries under him, the UPFA cannot be considered to be a party in the Opposition.
3. Three members of the UPFA crossed over to the government ranks yesterday. Previously another three members did the same. The Cabinet of Ministers, State Ministers and Deputy Ministers are yet to be appointed and I have information that at least two of the above six MPP have been named in the lists of Cabinet Ministers nominated by the Hon. Prime Minister. It is probable that more UPFA MPP will be accommodated as State Ministers and Deputy Ministers. There can also be more cross-overs of UPFA MPP to the government in the coming days.
4. In the totality of the circumstances stated above, it is submitted that UPFA can in no way be described as a party in Opposition and consequently no member of the UPFA, in such capacity, can be appointed as the Leader of the Opposition.
5. The precedents cited: PA government during President Vijayadhuga’s tenure, UNP government President Kumaradhunga’s tenure. In both instances the Presidents did not function as a minister in the Cabinet except President Kumaradhunga retained the functions of the minister of Defence after an opinion given by the Supreme Court headed by Chief Justice Sarath Silva.
6. In any event Hon. Mahinda Rajapaksa and several other MPP have ceases to be members of parliament by operation of Article 99 (13) (a) of the Constitution. It is public knowledge that they reigned from Sri Lanka Freedom Party (SLFP) and obtained membership of Sri Lanka Podhujana Party (SLPP). In terms of the Constitution of SLFP and UPFA a person would automatically cease to be a member of the UPFA when he or she ceases to be a member of the SLFP. The provision enabling a member to invoke the jurisdictions of the Supreme Court is only in the event of an expulsion, which is not the case here. Thus without the requirement of any further actions (such as, communication from the party General Secretary) by operation of law the said members of the UPFA have vacated their seats in parliament.
7. Since there may be the necessity of establishing certain factual positions in relation to the loss of membership of a political party a select committee of parliament can be appointed for the said purpose and a Motion for same has already been presented. The composition of parliament is a very serious and a fundamental matter. Therefore this question needs to be resolved early and until such time Hon. Mahinda Rajapaksa or any other MP who is found to have vacated his seat in parliament should not be recognized as the Leader of the Opposition.

For all of the above reasons I request you not to recognize Hon Mahinda Rajapaksa as Leader of the Opposition.

Yours faithfully,

Copies to

1. HE the president
2. The Prime minister
3. Inter Parliament Union (IPU)
4. The secretary general, United Nations
5. The secretary general, The Common Wealth
6. The European Union
7. Heads of Missions of Foreign Missions in Colombo