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இலங்கைச் சட்டத்தரணிகள் சங்கம்  
BAR ASSOCIATION OF SRI LANKA

20<sup>th</sup> December 2023

**RE: APPOINTMENT OF INSPECTOR GENERAL OF POLICE (IGP)**

The IGP is the Head of the Police Department and has security of tenure in terms of the Removal of Officers Act No. 5 of 2002. Hence it is of utmost important that the best possible appointment be made to that office.

The BASL has now become aware via media channels that the Public Security Minister purportedly alleges that certain lawyers who opposed the appointment of the Acting Inspector General of Police, are now appearing in court for drug traffickers. In the same speech the Minister made reference justifying encounter killings of suspects at the hands of the police.

The BASL would remind the relevant Minister that, the right to represent a client is a professional right which has been safeguarded by law, and any threat to the right, is an attack on the profession at large.

In the case of Wijesundara Mudiyansele Naveen Nayantha Bandara Wijesundara v Sirwardena and Others (SCFR 13/2019), the Supreme Court observed that:

*“Thus, there is no dispute that the legal profession is a sine qua non for the due administration of justice in this country and for that matter in any civilized society. The said profession is essential for the maintenance of the Rule of Law and maintenance of law and order and its due existence is of paramount importance to the organized functioning of the society which is primarily the basis for the smooth functioning of the country as a whole.”*

Further, our constitution specifically guarantees the right to legal representation in Article 13(3), which states that every person has the right to a fair trial, and the right to be represented by a lawyer of their choice.

During the last few decades there has been a serious erosion in the public confidence in the Police Force in Sri Lanka. The lack on independence, politicisation, police brutality, custodial deaths, lack of professionalism have all contributed to the erosion of public confidence in the Police Force. The Bar Association of Sri Lanka (BASL) has continually been of the view that public confidence in the Police is vital for the administration of justice and the rule of law.

In the case of Mohammed Rashid Fathima Sharmila v K.W.G. Nishantha and others SCFR 398/2008-S.C.M. 03.02.2023 the Supreme Court observed that the police has lost the credibility it ought to have, in the following manner:

*“It only highlights the utterly unprofessional approach to duty by the personnel who man it and as a consequence, people are increasingly losing trust in the police. It had lost the credibility it ought to enjoy as a law enforcement agency. The incident relevant to this application had taken place in 2008, however, this court observes that instances of death of suspects in police custody are continuing to happen, even today.”* (Aluwihare J)



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Therefore, it is essential that the Police adhere to the Rule of Law. Encounter killings and custodial deaths are anathema to the Rule of Law and to the Fundamental Rights enshrined in the Constitution. They have a negative impact on the reputation of the country and of its police force and security establishment. Such killings also expose individual police officers to criminal sanctions. The Supreme Court has time and again strongly condemned such killings at the hands of the police.

In the aforesaid circumstances it is of utmost importance that the next permanent appointment of Inspector General of Police should be an officer whose service in the police force is exemplary and free of any blemish and able to restore public confidence in the Sri Lanka Police.


In this context, the Sri Lanka Police has had a practice that the promotions of police officers who are suspected of criminal offences or are Respondents in Fundamental Rights applications such as those relating to illegal arrests and torture are withheld during the pendency of such applications. Similarly, promotions of officers who have a blemished record in the Sri Lanka Police are regularly withheld. Matter now within the public domain.

The judgment was delivered by Justice S. Thurairaja with Justices Kumudini Wickremasinghe and Priyantha Fernando in the Supreme Court (SC) on the 14th of December, ordered Acting IGP and three other police officers to pay compensation out of their personal funds to a petitioner for violating his fundamental rights, while being detained at the Mirihana Police Station, which was under the supervision of Acting IGP.

In the aforesaid the BASL urges that no officer who has violated Fundamental Rights or criminal cases against him or any allegations of involvement in unlawful activity be appointed to the office of the Inspector General of Police.

The BASL is also of the view that prior to the approval of the appointment of the Inspector General of Police that the procedures to be followed in regard to recommendations or approvals for appointments under Article 41B or 41C should be determined by the Constitutional Council as provided for in Article 41E (6) of the Constitution.

The BASL urges that the appointment of the Inspector General of Police (and all other appointments) be done in a transparent manner so as to establish public confidence in the appointment process.

  
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