

Sri Lanka's Supreme Court refuses to hear SEP's legal action against May Day meeting ban

Our correspondent
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Sri Lanka's Supreme Court refused in early December to hear a fundamental rights case filed by the Socialist Equality Party (SEP) against the Colombo Municipal Council (CMC), for cancelling the party's hall booking for a May Day meeting this year. The court's bench, consisting of Chief Justice Nalin Perera and Justice Sisira de Abrew, gave no reason for its refusal.

The party had booked and paid for the rental of the council's New Town Hall in March. On April 23, one week before May Day, the SEP received an undated letter from the acting municipal commissioner stating that the booking had been cancelled.

In May, the SEP filed a petition in the Supreme Court accusing the council of violating the party's right to hold a May Day rally, on May 1, at the hall. The SEP petition stated that the revocation of the booking violated its constitutional rights and asked for a declaration to that effect.

The council used a decision by the government of President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe to postpone the long-standing May 1 public holiday on the spurious grounds that the international workers' day fell within the Wesak Week of Buddhist religious celebrations.

The government's intention was to sabotage planned May Day demonstrations and rallies, a tradition that the island's workers established before the end of British colonial rule in 1948. The SEP immediately condemned, and vigorously campaigned against, the government's anti-democratic move.

While notices of the SEP fundamental rights case were duly served on the respondents, the official response was contemptuous. The CMC did not appear

at the first mention of the SEP's petition on July 4. A state counsel appearing for the attorney-general informed the court that she had received no instructions to participate in the hearing.

The Supreme Court's attitude was no better. Although it was not a mandatory requirement under the court's rules for the court to hear the respondents before granting leave to proceed, the judges directed the SEP to issue fresh notices. The SEP did so promptly.

The matter was listed again for September 13. A lawyer appearing for the CMC and its mayor, Rosy Senanayake, said they had limited objections over the SEP's case. Dates were fixed to file the objections and the party's counter-objections.

The matter was last taken up in the Supreme Court on November 30. During oral submissions, the CMC's counsel raised several objections, to which the SEP's counsel Saliya Pieris forcefully replied.

The CMC first claimed that the SEP had failed to file the petition within the prescribed one-month period. The SEP, however, established that it had complied with the time limit as its fundamental rights had been breached by CMC on May 1, not at the time of the booking cancellation.

The SEP's counsel also pointed out that the CMC had permitted the Sri Lanka Nidahas Sevaka Sangamaya (SLNSS), a trade union, to hold its meeting on the same day at the council's Colombo Public Library Auditorium.

In another technical objection, the CMC claimed that SEP had not made the SLNSS and the cabinet, which issued the gazette notification to change the May Day holiday, parties to the petition.

The SEP's counsel pointed out that, in line with judicial precedents, it is not necessary for a petitioner to make another respondent, such as the SLNSS, who has been differently treated than the petitioner, a party to the case.

The CMC also claimed there was no breach of fundamental rights, just a contractual dispute. This was countered by citing judicial precedents that state institutions have constitutional obligations to safeguard fundamental human rights, over and above any contractual obligations.

In another petty objection, the CMC's counsel argued there was no case because the SEP held its May Day rally outside the New Town Hall on May 1. SEP counsel pointed out that the party had obtained approval to hold the May Day rally inside the theatre, but was not permitted to do so.

The CMC claimed that the SLNSS was permitted to hold its event because it was only a meeting of "branch union heads" to discuss a joint May Day Rally of the Sri Lanka Freedom Party (SLFP) and affiliated trade unions on July 7. No evidence, however, was presented to substantiate this claim.

SEP counsel lodged evidence demonstrating that the SLNSS held its May Day rally on May 1 at the Colombo Public Library Auditorium. Despite the refutations of all the CMC's claims, the Supreme Court refused to proceed.

This ruling by Sri Lanka's highest court is another exposure of the ruling elite's continuing violation of basic civil and political rights nominally guaranteed by country's constitution.

For weeks, the entire bourgeois establishment has been embroiled in an acute crisis over which political faction—Sirisena and former President Mahinda Rajapakse or Wickremesinghe, the former prime minister and his allies—will form government. Wickremesinghe was only finally reinstated as prime minister on Sunday.

The ruling elites, including the courts, could not allow any judicial recognition of the SEP's fundamental rights. Any full hearing of the case would have further exposed the anti-democratic character and political purpose of the government and the CMC in sabotaging May Day events.

The summary dismissal of the SEP's legal action confirms the party's warnings that basic democratic

rights can be defended only through the independent political intervention of the working class, as part of the struggle for a workers' and peasants' government committed to socialist policies.



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