

The Bribery Commissioner v. Ranasinghe, PRIVY COUNCIL APPEAL No. 20 OF 1963, S. C. 4162-Bribery Tribunal Case 35/l, 172/60, (5/SC), Decided on 06/05/1964

Constitutional Law-Bribery Tribunal-Persons composing the Tribunal-Invalidity of their appointment otherwise than by the Judicial Service Commission- " Judicial officer "-Amendment or repeal of alterable provisions in the Constitution of Ceylon-Jurisdiction of the Courts to look behind the amending Act to see, if it was validly passed-Requirement of Speaker's certificate-Voting and legislative power of Parliament-Bribery Act (Cap 26), as amended by Bribery (Amendment) Act No 40 of 1958, ss. 2 (1), 41, 42, 45-Courts Ordinance (Cap. 6), s. 3-'Ceylon (Constitution) Order in Council, 1946, ss. 3 (1), 18, 29 (1) (2) (3) (4), 52, 53 (1), 55 (1) (5), 56.

Lord Pearce with Viscount Radcliffe with Lord Evershed, Lord Morris of Borth-y-Gest, and Lord Hodson, agreeing.

The appellant is the Bribery Commissioner of Ceylon on whom lies the duty of bringing prosecutions before the Bribery Tribunal which was created by the Bribery Amendment Act 1958. The respondent was prosecuted for a bribery offence before that Tribunal. It convicted and sentenced him to a term of imprisonment and a fine. On appeal the Supreme Court declared the conviction and orders made against him null and inoperative on the ground that the persons composing the Bribery Tribunal which tried him were not lawfully appointed to the Tribunal. In the present case as in some earlier reported cases the Court took the view that the method of appointing persons to the Panel from which the Tribunal is drawn offends against an important safeguard in the Constitution of Ceylon.

Held,

That the orders made against the respondent are null and inoperative on the ground that the persons composing the Bribery Tribunal which tried him were not lawfully appointed to the Tribunal. The method prescribed by section 41 of the Bribery Act (as amended by section 24 of the Bribery Amendment Act No. 40 of 1958) for the appointment of members of the Panel of the Bribery Tribunal otherwise than by the Judicial Service Commission is in conflict with section 55 (1) of the Ceylon (Constitution) Order in Council, 1946, which provides that "the appointment, transfer, disciplinary control of judicial officers is hereby vested in the Judicial Service Commission ". And inasmuch as the Bribery Amendment Act of 1958, which introduced the mode of appointment of a Bribery Tribunal, did not comply with the procedural requirement imposed by the proviso to subsection (4) of section 29 of the Constitution Order in Council regarding such an amendment of the Constitution, section 41 of the Bribery Act (as amended) is invalid. Accordingly, orders made by a Bribery Tribunal convicting and sentencing a person are null and inoperative on the ground that the persons composing the Bribery Tribunal were not lawfully appointed to the Tribunal.

Appeal dismissed.