

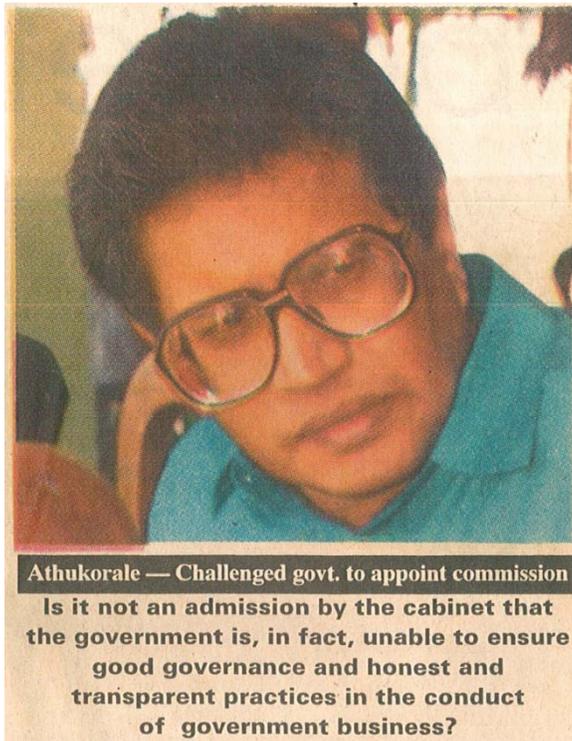
## **CLOSETS OF CORRUPTION, POCKETS OF VICE**

In addition to the privatisation of Sri Lanka Telecom, carried out by the Public Enterprises Reform Commission [PERC], the prevalent controversy, that has been widely splashed in the media is on the 10 diesel locomotive procurement tender for the Sri Lanka Government Railways. In the given background of such controversial media reports and questions raised in Parliament during the budget debate, relating to such procurement of 10 diesel locomotives, the government eventhough belatedly, upholding its committed policy on transparency and public accountability, issued a press communique, that was carried in the media, particularly, in the state owned and controlled *Daily News*.

### **ADMISSION OF INABILITY TO GOVERN ?**

The press communique specifically stated that - "The Cabinet of Ministers has taken note of various media reports and questions raised in Parliament during the budget debate regarding the decision taken by the government on the purchase of 10 nos. diesel locomotives for the Sri Lanka Railways". It would therefore, only stand to reason, that such press communique issued by the government had been tabled, considered and deliberated upon at a meeting of the Cabinet of Ministers, to have been so endorsed and released. However, it has not been disclosed, at which Meeting of the Cabinet of Ministers, such press communique had been so approved. Given the nuances of the criticism of the Secretary Ministry of Transport & Highways and the Secretary, Ministry of Finance, such press communique could not be expected to have been prepared for presentation to the Cabinet of Ministers either by the Secretary of Ministry of Transport & Highways or the Secretary, Ministry of Finance, as normally would have been done for approval and signature of the relevant Minister to be forwarded to the Cabinet.

Such press communique issued by the government, inter-alia, stated - "This Cabinet holds itself responsible for ensuring good governance and honest and transparent practices in the conduct of government business. This is an extremely difficult task in the context of practices firmly entrenched within the government and the administrative structures during the reign of the last government." It is therefore patently clear, that the Cabinet Ministers have expressed a view, that admittedly, ensuring good governance and honest and transparent practices and conduct of the government business, is an extremely difficult task, in the context of alleged practices firmly entrenched within the government and administrative structures during the reign of the last government. In the given circumstances one has to naturally accept, that this is the considered view of the entire Cabinet of Ministers, so castigating virtually the entirety of the public service of this country. Leaves it to the intelligent public of this country to rationally consider the implications and the acceptability of such pronouncement. Is it not on the other hand, an admission by the Cabinet of Ministers, that the government is, in fact, unable to ensure good governance and honest and transparent practices in the conduct of government business for whatever alleged reason ?



### **ACTION ON OTHER SCANDALOUS EXPOSURES ?**

The scandalous analytical exposures on the privatisations, particularly of the Plantation Companies, Orient Lanka Ltd., Steel Corporation Ltd., Puttalam Cement Ltd./Thawakkal are all transactions, that had been handled by PERC, a separately legislated unit set-up by this government, with handpicked personnel, some politically appointed loyalists from outside the administrative structure of government, that too, with the assistance of a part-time visiting accountant from London, functioning as a consultant. In such context, how could one ever honestly place the blame allegedly, on practices firmly entrenched within the government administrative structure during the reign of the last government for such questionable transactions handled by PERC, which transactions had caused colossal losses to the state ? Significantly, there have been no press communiques from the government on such scandalous exposures, nor nary a word from the Deputy Minister of Finance, G.L. Peiris. *Why ?*

The *Daily News* of December 23, 1997 dedicated its Editorial entirely to this alleged phenomenon of - "Practices firmly intended within the government and administrative structures during the regime of the last government" in the face of which, the Cabinet of Ministers have expressed the view that it is an extremely difficult task to ensure good governance and honest and transparent practices in the conduct of government business. Ironically on the contrary the *Daily News* had maintained a deafening silence on the aforesaid analytical exposures that had caused colossal losses to the state. *Why ?* Similarly, how could one attribute, what had transpired in the Specialist Centre and Pacific Shore transactions, to such similar mysterious alleged phenomenon, i.e. caused due to practices firmly entrenched within the government and administrative structure during the reign for the last government ? It is left to the intelligent public of this country to draw their own conclusions.

Nevertheless, the government press communique, no doubt, is a welcome change in upholding the PA government's own avowed policy on transparency and public accountability. Ought not similar explanations have been rendered to the public of this country, in the context of exposures on the privatisations of the Plantation Companies, Orient Lanka Ltd. and Steel Corporation Ltd. and

Specialist Center and Pacific Shore transactions, where such exposures had been supported with specific data and documentations ? In comparison, on such analytical exposures, there has only been a deafening silence from the government. Why ? *In Minister G.L. Peiris' own words, are these cases to place blame or praise ?* Ironically, the recent press communique issued by the government had, inter-alia, stated that - "The Cabinet of Ministers is the supreme body which takes the final decision. This government will continue to closely examine all such cases in order to ensure that honesty and justice prevails."

### **DOUBLE STANDARDS ?**

In given scenario, it is pertinent to go back to exposures carried on January 28, 1996, by the *Ravaya* newspaper, whose Editor, the experienced and forthright journalist, Victor Ivan, was known to have been very closely associated, in the furtherance of the cause of the PA election campaigns. In such circumstances, it is without any dispute, whatsoever, that Victor Ivan of all persons, would have been well versed and truly conversant with the policies enunciated on public transactions and transparency and public accountability, in the context of the social menace of corruption, which was one of the main issues and a major plank of the PA election campaign, castigating severely the previous UNP regime allegedly on this account.

The issue of corruption was highlighted more particularly, during the Presidential election campaign of November 1994, following upon the enactment by the PA government in October 1994 of special legislation on corruption, just after assuming office of government in August 1994. The people of this country endorsed such policies overwhelmingly and are accordingly, legitimately entitled to expect the PA government to act upholding such laudable policies so enunciated, without leaving room for any question, whatsoever, on such account, irrespective of any consideration of whether, it is a political foe, or friend, aptly referred to as cronies by the PA government itself.

The *Ravaya* of January 28, 1996 carried a lead story, highly critical of the privatisation of the plantations handled by PERC, whose Chairman then was Rajan Asirwatham, a handpicked confidante of President Chandrika Bandaranaike Kumaratunge, herself. Such lead article carried by the *Ravaya* on its front page, inter-alia, dealt, more particularly with the privatisation of Kotagala Plantations Ltd. and the conflicting interests in connection therewith. The same issue of *Ravaya* of January 28, 1996 also carried another lead story, disclosing various salient facts, on the privatisation of Orient Lanka Ltd., that had then just been concluded by PERC.

The Kotagala Plantation Ltd. privatisation, subsequently investigated by the Exchange Controller, is reported to have resulted in several parties being noticed in such connection for violation of Exchange Control laws. On the privatisation of Orient Lanka Ltd., ultimately revealed that the sale had been to a nominee company, Alpha Airports Holdings BV, recently incorporated and registered in the Netherlands, which company could not have got pre-qualified, according to the very pre-qualification stipulations that had been laid down by PERC. On the privatisation of Orient Lanka Ltd., a litany of questionable issues, nearly two dozen posed, which todate remain unanswered. *No such press communique nor a Daily News Editorial !*

One such question posed, was as to how PERC announced to the media on Monday January 22, 1996 of a government decision for the sale of 60% shareholding of Orient Lanka Ltd. to Alpha Airports Group PLC UK (not the company Alpha Airports Holdings BV Netherlands), when PERC's decision had been made hastily only on the preceding Friday, January 19, 1996 ? The

question that naturally arises, is as to how the Cabinet of Ministers had approved such transaction, unless a special Cabinet Meeting had been held during such weekend ? Nevertheless, the press communique issued by the government on the controversy of the 10 diesel locomotive tender has, inter-alia stated - "The Cabinet of Ministers is the supreme body which takes the final decision. This government will continue to closely examine all such cases in order to ensure that honesty and justice prevails." Had this been done in the case of the privatisation of Orient Lanka Ltd. ?

The issue in focus is, as to what the response was to such exposures by the *Ravaya* on the privatisations of Kotagala Plantation Ltd. and Orient Lanka Ltd. published on January 28, 1996 ? Did not the then Chairman PERC, Rajan Asirwatham throw out a challenge to the *Ravaya* Editor, Victor Ivan to prove his case ? Not only that, did not Chairman, PERC, Rajan Asirwatham, also exhort the President to appoint a Commission to investigate headed by *Ravaya* Editor, Victor Ivan, with the former advisor Ministry of Finance, Nihal Amarasekera also as a Member ? Notwithstanding such public exhortations, was not a complaint lodged with the Criminal Investigation Department [CID] against the Editor *Ravaya*, Victor Ivan on such exposures published ? Did Rajan Asirwatham, Chairman PERC, so act, with full endorsement of the Cabinet of Ministers ? Was not, as a consequence, Editor *Ravaya*, Victor Ivan required to give a statement to the CID on the said reports published ? Did not Victor Ivan in his statement to the CID stand by his said news reports ? What was the outcome thereof ?

Do not the prompt intervention by the government and the reversal of the recommendation of the Cabinet Appointed Tender Board on the 10 diesel locomotive procurement tender for the Sri Lanka Government Railways and the response, as aforesaid, to the *Ravaya* exposures on January 28, 1996 on the privatisations of Kotagala Plantations Ltd. and Orient Lanka Ltd., stand apart quite patently on contrasting positions ? *Would it not be a question of double standards ? Why ?*

Ironically, the recent press communique issued by the government, inter-alia stated - "This government in keeping with very clear and firm guidelines enunciated by the President has tried to do all that is necessary in order to transform the highly corrupt system of government prevailing in this country. Whenever, any irregularity in government business is brought to the President's notice, action has been taken to correct such occurrences." The government press communique issued on the 10 diesel locomotives tender, in no uncertain terms has passed severe strictures on the Technical Evaluation Committee for irregularities. In comparison, in the case of the privatisation of Orient Lanka Ltd., the government appointed Evaluation Committee had not even met the bidder, Weitnauer, as had been so arranged for, but discussions had been had only by visiting consultant from London, Rajan Brito. If so, was this not irregular ?

### **JUSTICE & FAIRPLAY ?**

It is the bounded duty of all those involved to the policy that public transactions ought to be on a transparent, fair and open competitive basis on a level playing field, devoid of political influences and pressures from whatever quarter, and carried out only in the best economic interests of this country, regardless of biblical technicalities and that too, espoused by persons not technically expertised nor competent to deal with the same.

Reason for rejecting the recommendation of the Cabinet Appointed Tender Board headed by the experienced and respected Secretary to the Treasury, a former civil servant, B.C. Perera, is that the General Motors, Canada and Samsung, South Korea offers did not comply with the stipulated

Bogey Wheel Base of 10' 6". The press communique issued by the government, inter-alia gives the following extracts of the Technical Evaluation Committee report dated 3rd October 1997 - "In the Technical specifications, the wheel-base was specified at 10' 6" since it is established that according to the experience with the locomotives of the SLR, this is the largest wheel-base that can freely negotiate the curves with 100m radius without any adverse effects. The wheel-base of 11' 2" next in size operating in the SLR, cannot freely negotiate the curves. Therefore, it was felt prudent to adhere to 10' 6" when the specifications were drafted."



It is abundantly clear, that Sri Lanka Government Railways has in the past procured and had been and is operating locomotives with Bogey Wheel Bases as large as 11' 2", though it is commented subsequently, that they cannot freely negotiate curves with 100m radius and that it was "felt prudent" to adhere to 10' 6", when the specifications were drafted. It is quite patently clear, that this is mere subjective dicta, whereas what ought to have been defined, with expert scientific and technical opinion, not mere "feeling", was as to what the range of the requisite stipulations of the Bogey Wheel Base ought to have been, to negotiate the given track curvatures and also at the given train speeds. Would not such specification stipulation have been over a range and not finitely defined as 10' 6" only, that too on a mere "*feeling of prudence*", as confessed by the Technical Evaluation Committee.

Inasmuch as the offers of General Motors, Canada and Samsung, South Korea have been rejected by the Cabinet Sub-Committee for a deviation of 3½", a deviation of 2.7% in the Bogey Wheel Base specification, which also had not been listed as a no deviation permitted specification, on the other hand, as per a letter, as recently as December 9, 1997, from the Sales Director, GEC Alstom, C.B. Foulkes, writing to a 3rd party for and on behalf of GEC Alstom on the Ruston 12RK215 engine, which had been the engine offered in the GEC Alstom offer to the Sri Lanka Government Railways. Sales Director of GEC Alstom is quoted to have stated - "We are achieving worldwide rail traction recognition with the 12RK215 and prior to its selection by the Sri

Lanka Railways, the engine has been ordered by Syrian Railways for 30 locomotives and an MOU for 100 locomotives has been signed with Iran Railways. As a result of our extensive rail traction experience, we are currently competing in a significant number of railway projects worldwide,". Such statement of admission by GEC Alstom comes into focus and issue in the context of Stipulation 4.1.1. of the 10 diesel locomotives tender specifications which states - "The design of the locomotives and the component parts used shall be of well tried out designs used in railway services in tropical conditions for reliability and maintenance."

Previously, on August 7, 1997 the Chairman, Technical Evaluation Committee Chief Mechanical Engineer of the Sri Lanka Government Railways, S.D.M. Mahindaratne had specifically written to GEC Alstom as follows - "Please provide documentary evidence to prove that the diesel engine and other major components used in the building of the locomotive have been used successfully in rail traction and are performing at present in railway organisation." What could have been the answer to such query, given the context of GEC Alstom Sales Director C.B. Foulkes' aforesaid admission of December 7, 1997 ?

Consequently, the important question that arises, particularly in the context of the government's press communique, that the government will continue to closely examine all such cases, in order to ensure that honesty and justice prevails, then if GEC Alstom locomotives and the component parts, obviously which includes the most vital component, the engine, has not been even tried out and used in railway services in tropical conditions for its reliability and maintenance, as had not only been stipulated as a requirement in the tender conditions, but also brought into specific question by none other than that the Chief Mechanical Engineer of the Railways/Chairman, Technical Evaluation Committee, then would not the GEC Alstom offer, similarly be not in conformity with such vital tender stipulation, that had mandated a proven track record in railway services in tropical conditions to demonstrate reliability and maintenance ?

General Motors, Canada offer is reported to be rejected on the grounds of 1800 BHP locomotives been required, as opposed to 1200 BHP locomotives, since the Technical Evaluation Committee subsequent to having called for offers, had considered that 1800 BHP locomotives would be needed, since trains on the upcountry, as well as, the lowcountry lines, have to be longer, both for passengers and cargo. If that was the case, why did the Sri Lanka Government Railways ever call for offers for railway locomotives of 1200 BHP, when inviting bids ? Are we not wasting the valuable time and cost of multinationals in doing so and thereby impacting on the credibility of our country, as a serious business partner ?

Amidst the haze of controversial media exposures, the above issues surface crystal clear. Would not then the right and correct thing that ought to have been done and that yet ought to and could be done, was/is to cancel the entire transaction in toto and call for fresh offers, on the basis of scientifically and technically correct criteria, if honesty and justice is to prevail as so claimed ?

### **CANVASING A DISQUALIFICATION ?**

Another cogent issue that comes into focus is the recent cabinet decision that was published in the *Daily News* on November 21, 1997 that - "The Cabinet had decided to disqualify any bidder or firm that canvasses for a tender and that it was also decided to blacklist any bidder, contractor or commission agent found canvassing a minister, deputy minister or any official in support of any bid made by his or her firm or institution. President Kumaratunga is reported to have said that - "all

forms of canvassing should be halted immediately and the tender procedure adhered to in the interests of fairness and transparency". In such context, "how could such rigid practice of prohibition be enforced ? On the contrary, how could one ensure and believe, in all certainty, that all those ministers, deputy ministers and officials would rigidly, prayerfully and faithfully conduct themselves accordingly ? Or is it, that such lobbying and/or canvassing will be discreetly permissible, privately to a selected few, appropriately termed "political cronies", who invariably surround every government ?".

Does it not transparently clearly surface from the recent diesel locomotive tender controversy, that the intervention in the administrative process, rightfully or wrongfully, in the deliberations and recommendations of the Technical Evaluation Committee/Cabinet Appointed Tender Board, could only have arisen, as a consequence of canvassing and/or lobbying ? If not, how ? In the very teeth of the aforesaid Cabinet decision, would not such party then, stand to have been disqualified and/or blacklisted in terms of such very Cabinet Decision alone ? If not, why ?

In response to the recent press communique issued by the government, the opposition UNP has exhorted the government to appoint a Presidential Commission to probe. Such probe should cover transparently the scandalous exposures in the public interest.

- *Published in The Sunday Leader on 28.12.1997 by Nihal Sri Ameresekere under the pseudonym 'Bismark'*