

STRIKING DISPARITY IN SALE PRICES

The Sunday Leader in the recent weeks published more insight into the debacle of the privatisation of the plantation companies, particularly the first six plantation companies, that had been considered the most profitable by the Public Enterprise Reform Commission [PERC]. In the recent exposures, intriguing facets were revealed on the sale of the majority shareholdings of Kelani Valley Plantations Ltd., one of the first six profitable plantation companies that had been privatised by PERC, where the 51% majority shareholding had been sold for only Rs. 102 million in December '95.

This 51% majority shareholdings of Kelani Valley Plantations Ltd., had been acquired by DPL Plantations Ltd., a company in the Hayleys Group. The company, DPL Plantations Ltd., had been reported to have been working in association with Agricultural Development Services (Singapore) Pte. Ltd. At the very same time, the major shareholder and director of Agricultural Development Services (Singapore) Pte. Ltd., one Philip R. Melkye had been functioning as a consultant on the Asian Development Bank [ADB] funded technical assistance programme to advise and assist the government on the privatisation of the plantations.

The Sunday Leader exposures revealed that Melkye had been functioning in the capacity of a consultant on the ADB Plantations Project, since the time of the former government. Former members of PERC had confirmed to *The Sunday Leader* that Melkye, together with Dr. Anura Ekanayake, Director Planning, Ministry of Plantations, had attended Board Meetings of PERC and that Melkye had endeavoured to justify the "*strike price*" formula, when questions had been raised by certain members of PERC, whilst the then Chairman of PERC, R.N. Asirwatham disregarding such questions, had endorsed the "*strike price*" formula, for the sale of the majority shareholdings of the profitable plantation companies.

The "*strike price*" was to be the lowest price received on the fragmented sale to the public of 20% shareholdings of the respective plantation companies. On the contrary, would not the majority shareholdings of the plantation companies ought to have commanded a higher price, than even the highest price received on a fragmented sale to the public of 20% shareholdings of the respective plantation companies, since with the majority shareholdings follows the management, possession and control of the respective plantation companies? Surely, is this not the known norm in the business world?

Anyhow, it could have been easily known, that the lowest price that would be received on the fragmented sale to the public of 20% shareholdings of the plantation companies would be the nominal value of Rs.10/- per share only, below which no bids were to be entertained. Surely, in such circumstances there need not have been a bidding process to have determined the lowest price, when without any question it was doomed to be the nominal value of Rs. 10/- per share only.

Whilst 51% majority shareholding of Kelani Valley Plantations Ltd. had been sold for only Rs. 102 million, however, during the subsequent 2½ years to June '98, Kelani Valley Plantations Ltd.'s accounts have revealed that Kelani Valley Plantations Ltd. had made a total net profit, after tax, of Rs. 417.9 million for such 2 ½ year period, that too, after payment of substantial management fees to DPL Plantations Ltd., amounting to Rs. 52.6 million for the 2 years to December '97.

HOW COME AN AGREEMENT IN 1995 ?

CT Smith Stock Brokers in their report dated August 1, 1997 on Hayleys Ltd., under the caption – "*Making Hay(leys) While the Sun Shines*" had, inter-alia, reported – "*Talawakelle – the upside* :- Hayleys also manages Talawakelle Plantations Limited. By virtue of an agreement signed in 1995, Hayleys obtained the right to purchase 51% of the Company at a price of Rs. 10/- per share. However, the government has been reluctant to part with the Company at the given price. Meanwhile, Hayleys obtains a share of profits as management fees. The acquisitions will boost profits by at least an additional Rs. 40 m."

It is no doubt curious, as to how CT Smith Stock Brokers reported, that Hayleys had obtained the right to purchase 51% majority shareholdings of Talawakelle Plantations Ltd., at the price of Rs. 10/- per share only, and that however, the government had been reluctant to part with such plantation company at such price. In the case of Talawakelle Plantations Ltd., no bidding process had been gone through to sell to the public the fragmented 20% shareholding, to have determined the lowest price on the basis of the "*strike price*" formula. In such circumstances, how had it been so reported by CT Smith Stock Brokers, that Hayleys by virtue of an agreement signed in 1995 had obtained the right to purchase 51% majority shareholding of Talawakelle Plantations Ltd., at a price of Rs. 10/- per share only?

The profitability of the acquisition of the 51% shareholdings of the profitable plantation companies had not been unknown at the time of privatisation of these profitable plantation companies. CT Smith Stock Brokers report had clearly stated, that the acquisition by Hayleys of the 51% majority shareholdings of Talawakelle Plantations Ltd., would boost Hayley's profits by at least an additional Rs. 40 million. On such basis, the 51% majority shareholdings acquisition at Rs. 10/- per share only, costing Rs. 102 million, would have given a maximum pay back period of 2 ½ years only. Hence, the profitability of such acquisition had been quite very well known in the business circles. How could one explain, as to how the members of PERC could have been blind to such a scenario?

Consequent to the fiasco on the privatisation of the plantation companies exposed in the media, the government, obviously for good and sufficient reasons, abandoned the sale of the majority shareholdings of the plantation companies on the basis of such questionable "*strike price*" formula. As a result, 51% majority shareholdings of Talawakelle Plantations Ltd., had been subsequently sold by the government to Hayleys at Rs. 40/- per share for a total consideration of Rs. 408 million. i.e. four times the price of Rs. 102 million, at which CT Smith Stock Brokers had reported that Hayleys by virtue of an agreement signed in 1995, had obtained the right to purchase such 51% majority shareholding, but that the government however had been reluctant to sell at such price.

The Sunday Leader exposures further revealed that the Chairman of The Planters' Association of Ceylon, M.J.C. Amarasuriya, also Deputy Chairman, Hayleys, had in writing urged the government that the majority shareholdings of the plantation companies be given to the respective plantation management companies on the basis of exclusive options – without the share market being used to establish the transfer price for the sale of such majority shareholdings of the plantation companies from the government to the plantation management companies.

It was further revealed, that the Planters' Association had made representations to the government based on a confidential memorandum submitted to it by Chandra Jayaratne, Managing Director, CTC Eagle Insurance, and that subsequently, Chandra Jayaratne had functioned as a member of PERC at the time the first six profitable plantation companies had been privatised by PERC.

WHITHER GOVERNMENT POLICIES ?

The Sunday Leader leaves it to the intelligent public of this country to consider the foregoing in the light of the following:

- The announcement in the media in 1997, that the Cabinet of Ministers had decided to disqualify any bidder or firm that canvasses for a tender and 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.
- The recent Cabinet decision, that the business of acting as agents of foreign companies, participating in public sector projects and tenders of a value of Rs. 250 million, to be restricted to listed public companies with a market capitalisation of Rs. 200 million and to local liaison offices directly owned by the foreign companies, on the apparent premise, that local agents of foreign companies ought not to unduly influence public officials or resort to corrupt practices in concluding deals, which at times are unfavourable to the government.
- The definition of "corruption" in the new legislation enacted in October 1994, presented by the Minister of Justice & Constitutional Affairs, Prof. G.L. Peiris, given as causing wrongful and unlawful loss to the government or conferring wrongful or unlawful benefit, favour or advantage on oneself or any other person.



President Kumaratunga — They have only succeeded in enriching some powerful persons close to the leadership of the last regime — January '95

In the midst of media exposures on the privatisation of Kotagala Plantations Ltd., President Kumaratunga had been reported to have stated at a press conference – “No room will be left for this kind of dishonest and fraudulent actions”. *The Sunday Leader* exposures revealed, that it had been the Merchant Bank of Sri Lanka Ltd., of which the Chairman had been the then Chairman PERC, R.N. Asirwatham, that had “structured the deal” of the Kotagala privatisation transaction, whilst Secretaries & Registrars Ltd., of which the then Chairman PERC, Asirwatham was also the Chairman, that had applied and obtained BOI approval for the transaction, whilst the BOI Chairman, Thilan Wijesinghe had also functioned as a member of PERC – a paradox of conflicts ?

Previously, however, then Chairman, PERC, Asirwatham had referred to this Kotagala privatisation, transaction, as reported in *The Sunday Leader*, as "immoral" and had stated that the government could do nothing about it and that "if action was to be taken it would reflect very badly on our democracy". Shortly thereafter, referring to George Steuarts, on whose behalf both Merchant Bank of Sri Lanka Ltd. and Secretaries & Registrars Ltd., had acted, PERC Chairman, Asirwatham was further reported in *The Sunday Leader* to have stated – “I am frankly dismayed at what this company had done. They have let down the entire private sector by their actions”.

Given the foregoing exposures, one wonders what the former Chairman, PERC, Asirwatham would have to say in relation to the privatisation of Kelani Valley Plantations Ltd., and what action President Kumaratunga would take in the light of the policies enunciated by the People’s Alliance government? Would not a vibrant democracy demand, that action be taken upholding such policies enunciated?



Foreign Minister Kadirgamar — I am deeply troubled... cannot rest content — March '95 /January '96

After all, was it not in conformity with such policies, that Foreign Minister Lakshman Kadirgamar decried the Puttlam Cement/Thawakkal transaction thus – “What has occurred in the Puttalam Cement affair is a gross and calculated fraud on the government and the people of this country.” “I would strongly press on my colleagues with respect, the fundamental desirability of making clear to the private sector, both local and foreign, that this government means what it says – that it will not tolerate malpractice in the market and that it will not condone and perpetuate malpractice where it has occurred” ... "I repeat that I am deeply troubled. Those of us who wish to see that at least the basic tenets of honest government are observed by our government cannot rest content until this matter is fully investigated ”.

PERC NOT PRAGMATIC

Daily News of October 8, 1998 in its Business & Finance section, under the caption –"Govt's plantation privatisation program nets in Rs. 7.1 billion" gave an overview of the privatisation of the plantation companies by PERC. The privatisation details that had been sourced by PERC are quite revealing, showing how a sale price as much as Rs. 61/- per share had been realised for 10.2 million shares – the 51% majority shareholding of Malwatte Valley Plantations Ltd., – affording the government a total sale price of Rs. 622.2 million on the sale of the 51% majority shareholding of this one plantation company alone – the sale ofcourse having been made on the trading floor of the Colombo Stock Exchange.

In clear contrast to that, the data sourced by PERC reveals, that the sale of 51% majority shareholdings of the six most profitable plantation companies had been at a sale price of Rs. 10/- per share only, affording the government a total sale price of only Rs. 612 million for all these six most profitable plantation companies, in comparison with the Rs. 622.2 million realised in respect of the 51% majority shareholding of only one plantation company, Malwatte Valley Plantations Ltd., sold on the trading floor of the Colombo Stock Exchange, devoid of the questionable "*strike price*" formula.

Whilst the *Daily News* caption highlights the realisation of Rs. 7.1 billion on the sale of shareholdings of the plantation companies, including the shareholdings other than the 51% majority shareholdings, the data discloses that the 51% majority shareholdings of the 20 plantation companies had realised Rs. 5.4 billion of which only Rs. 0.612 billion (i.e. 11.3%) had been realised on the 51% majority shareholdings of the six most profitable plantation companies. Ought not the Rs. 7.1 billion have been honestly reckoned with today's rupee value of the compensation paid on the nationalisation of the estates by the former SLFP led coalition government and the consequent losses and uneconomies in these plantations that had been funded by governments over the several years?

Would it not stand to logical reason, that had the 51% majority shareholdings of these six most profitable plantation companies been sold on the trading floor of the Colombo Stock Exchange, devoid of the questionable "*strike price*" formula, then such 51% majority shareholdings ought to have realised prices even higher than those realised in respect of the other plantation companies that had been sold on the trading floor of the Colombo Stock Exchange?

COUNTRY IN DIRE STRAITS

Even at the highest price realised in respect of the 51% majority shareholdings of such plantation companies of Rs. 61/- per share for the 10.2 million shares of Malwatte Valley Plantations Ltd., would not the 51% majority shareholdings of the six most profitable plantation companies ought to have realised to the benefit of the government a total sale price of Rs. 3.7 billion in comparison with the total sale price of Rs. 0.612 billion only (i.e. 16.5%) that had been realised on the basis of the questionable "strike price" formula, disclosing a reckonable loss to the government of around Rs. 3.1 billion in comparison with the total sale price of Rs. 5.4 billion realised by the government in respect of the 51% shareholding of all the 20 plantation companies that had been privatised by PERC ?

The total of the sale prices realised by the government to-date on the sale of the shareholdings of the 20 plantation companies as disclosed by the data sourced by PERC has amounted to Rs. 7.1 billion, which amounts to just over 10% compared to the reckoned Rs. 57 billion (Rs. 156 million per day!) cost expended by the government on the North-East war during this year alone. Had the valuable plantations been hastily disposed of to supplement government coffers, in the circumstances of the colossal cost of the North-East war? Let alone "selling the family silver", have we now sold the plantations for a song, that too, even to foreign interests, whilst unemployed graduates of this country are on a "death fast" with nearly 30,000 of them unemployed?

Privatisation details											
Name of plantation	51% stake bidder	51% stake method	51% stake No. of shares (m)	51% stake price/ share (SLR)	51% stake Revenue (SLRm)	20% IPO status	Revenue from 20% (SLRm)	IPO price (SLR)	19% sale	19% sale price/ share (SLR)	Revenue from 19% (SLRm)
Phase 1											
Kotagala	George Stuerts MSL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Not complete		
Bogawantalawa	Metropolitan MSL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Completed	37.5	140.8
Kegalle	RPK MSL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Completed	31.5	118.2
Agalawatte	Mackwoods PL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Completed	35.5	133.3
Horana	Ceyexxe PL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Completed	32.0	120.1
Kelani Valley	DPL PL	Sold to Manager	10.2	10.00	102.0	Listed	40	10	Completed	32.7	122.9
Phase 2											
Watawala	Estate Mgt Services Ltd	Sold on CSE	10.2	30.00	306.0	Listed	60	15	Completed	61.0	231.8
Maskeliya	RPK MSL	Sold on CSE	10.2	21.50	219.3	Listed	60	15	Completed	45.0	171.0
Madulsima	Stassen	Sold on CSE	10.2	10.00	102.0	Listed	60	15	Not complete		
Agarapatana	Lankem PI Hold.	Sold on CSE	7.59	35.25	267.5	To be listed			Not complete		
Hapugastenna	PIMC*	Sold on CSE	10.2	23.75	242.3	Listed	40	10	Not complete		
Balangoda	Distilleries Co.	Sold on CSE	10.2	41.25	420.8	Listed	80	20	Complete	40.5	153.9
Uda Pussellawa	PIMC*	Sold on CSE	4.84	65.25	315.8	Listed	19.2	10	Not complete		
Phase 3											
Mathurata	Employees Trust Fund	Sold on CSE	10.2	45.75	466.7	To be listed			Not complete		
Elpitiya	Aitken Spence PI Mgt	Sold on CSE	10.2	30.25	308.6	To be listed			Not complete		
Namunukula	Keells PL Mgt Services	Sold on CSE	10.2	40.00	408.0	To be listed			Not complete		
Kahawatte	Forbes Plantation Ltd	Sold on CSE	10.2	30.25	308.6	To be listed			Not complete		
Malwatte Valley	Wayamba Plantation	Sold on CSE	10.2	61.00	622.2	To be listed			Not complete		
Talawakelle+	Hayleys Ltd	Offered to Manager	10.2	40.00	408.0	To be listed			Not complete		
Pussellawa+	Free Lanka Mgt	Offered to Manager	10.2	39.00	397.8	To be listed			Not complete		
Sub total of funds raised (SLRm)					5,405.4		59.2				1,192.0
Total funds raised (SLRm)											7,156.6
Note: MSL - Management Services Ltd, PL = Plantation.											
*PIMC - Plantation Investment & Management Co previously government owned now 100% held by James Finly & Co.											
+The terms of these two plantations, which should have been sold under phase 1, had to be renegotiated before the sale was concluded under new conditions.											
Elkaduwa, Chilaw and Wayamba plantations which make up the 23 regional plantations are not finalised for sale.											
Source: Public Enterprises Reform Commission.											

Midweek Mirror of October 14, 1998 has a lead story on business tycoons in Colombo making what has been referred to as an unprecedented appeal to the government to solve the problems of –"Unemployment, lack of housing, poverty, lack of infrastructure development among a host of other problems, foremost of which is the ethnic problem, that remains unresolved to the detriment of the country", inter-alia, stating that Sri Lanka has not achieved the desired level of sustained economic progress. Would this not be contrary to what the Deputy Minister of Finance, G.L. Peiris has been steadfastly articulating?

Ironically, would not the business leaders and professionals, who have for reasons best known to them, been subserviently and/or comprisingly patronizing and/or fraternizing with political leaders once in power of whatever political hue, be equally responsible for the present chaotic and calamitous plight of the country, that is now complained of, whereas have not some of them enthusiastically participated in political investment promotion missions and political economic forums, as pseudo partners, thereby being an integral part of the very process that has led to the present situation complained of ?

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