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By Col. R. Hariharan

President Mahinda Rajapaksa appears to have taken a pragmatic decision to go ahead with the Northern Provincial Council (NPC) election without tinkering with the 13th Amendment (13A).

The presidential proclamation made on the election last Friday, has been welcomed by India as it has removed a rider that could have hobbled India-Sri Lanka relations. The NPC will go to polls along with the Central and North Western Provincial councils which have been dissolved. According to media reports the PC elections are likely to be held on September 27.

Fortuitously or otherwise, Basil Rajapaksa, Minister for Economic Development, and the President's brother, was in New Delhi to convey the good news on holding the NPC election to Indian counterpart he was meeting. According to the Sri Lankan External Affairs Ministry's statement, Rajapaksa's visit to New Delhi was to deal with other areas of discussion, and was also "aimed at apprising the Indian leaders on Sri Lanka's changes to the 13th amendment — the move to strip police and land powers to provinces."

As it invariably happens when Indian and Sri Lankan counterparts meet, there are two versions on what the Sri Lanka minister discussed with Minister for External Affairs Salman Khurshid, National Security Advisor Shivshankara Menon and the Secretary MEA Rajan Mathai in New Delhi.

News despatches from New Delhi said India had emphasised to Rajapaksa the need "to fully implement the constitutional provision dealing with devolution of powers to provinces without dilution and go beyond it to ensure meaningful development." The Indian External Affairs Minister who welcomed the decision to hold the election asked Basil Rajapaksa "not to dilute the provisions of a promised political settlement

known as the 13th Amendment plus.”

13A plus was a term President Rajapaksa had coined during the Eelam War to keep India on his side. But he “forgot” about it when political priorities overtook after the war. By bringing 13A plus back in the discussion, India probably wanted to remind the President that India still remembered his unfulfilled promise. Of course, New Delhi’s reminder also had the advantage of convincing the increasingly restive Tamil constituency in India that New Delhi was sincere in pursuing the Tamil aspirations.

In a BBC interview the Indian Minister of State Prime Minister’s office V.Narayanaswamy on the same day, reminded Sri Lanka that if it wished to change anything related to the India-Sri Lanka Agreement (ISLA), which resulted in the 13A and in the setting up of Provincial Councils, it must renegotiate with India. “When it [international agreement] is signed between two sovereign governments, both governments are bound to implement the agreement,” he said. If one government wanted to change it, it should renegotiate with the other government. “One government cannot unilaterally cancel the agreement,” he added.

Though this was the first time a representative of the Indian government had publicly spoken about renegotiating the ISLA, at present Sri Lanka may not opt for it. Sri Lanka will have to come with a viable political option on the core issue of devolution of powers to the Tamil minority if it wants to negotiate a productive, win-win agreement.

Sri Lanka may be wary of undertaking this time consuming exercise for few other reasons. Politically Sri Lanka may not be able to get its home work right before broaching the subject with India

Given Sri Lanka’s critical economic situation, it would like to broaden India’s multifaceted economic involvement and trade and commerce with Sri Lanka rather than jeopardise it by reopening a touchy 25-year old issue. Moreover, Sri Lanka needs India’s support when it confronts the issue of accountability for its actions during the Eelam War at the UNHCR once again.

Lastly, the Indian coalition government is already under siege due to fluctuating political realignments, particularly in Tamil Nadu. And as the deadline for the Indian parliamentary election nears, New Delhi is likely to be hypersensitive to any escalation of tensions between India and Sri Lanka due to tinkering with the Indian dispensation of 1987 vintage on the Tamil issue.

In this context, Namini Wijedasa write up in the Sunday Times on the reaction of Basil Rajapaksa on his return from New Delhi is interesting. Replying a pointed question whether the Government had abandoned the bill on the removal of police and land powers from the provinces he replied: “When we bring a bill like that, we don’t let go of it so easily without informing the public. There are times when we have brought that type of thing and retracted but we won’t give it up.”

According to the news item he further said, “We hold the common position that it must be broadly discussed by the public,” he said. “The

Parliamentary Select Committee (PSC) is a good forum for this.” This would indicate that Basil Rajapaksa had appraised India of the proposed changes it would like to carry out in 13A based on the PSC recommendations.

On the Indian Government reaction to the establishment of the PSC, the minister is reported to have said, “They accepted it...Democracy is the best way and India is of the opinion that all parties that respect democracy must participate in it [PSC], including the Tamil National Alliance. They told us that they notified the TNA several times of this and that they will do so even in future.”

The minister explained, “It was an exchange of information between the two countries. They told us their opinions, we told them our opinions. This was a discussion between two friendly countries.” In other terms, both sides reiterated their positions on the issues of 13A and PSC.

India probably would like to accommodate Sri Lankan use of the PSC to give a veneer of acceptance to the proposed changes in 13A from all shades of political opinion. But the PSC has become a joke after the main opposition parties – the UNP, the JVP and the all important TNA have refused to participate in it. Even some of the partners of the UPFA coalition like the LSSP and the Sri Lanka Muslim Congress (SLMC) are averse to the exercise. Now it is largely a UPFA body of ‘yes men’ to approve the changes in 13A. While technically the PSC might carry the day, politically it would be a non starter.

India would like the TNA to participate in the PSC deliberations in a bid to find a workable solution to the impasse. But its argument may not carry conviction unless the other opposition parties and the SLMC change their mind on participating in the PSC. If we go by news reports, India had probably drawn Rajapaksa’s attention that the PSC set up must have “all shades of opinion on board.” As this is largely an internal political exercise of Sri Lanka, there is little India can do.

So the PSC recommendations are unlikely to improve the environment hostile to bring a meaningful resolution to the overall devolution issue.

While President’s decision closes one chapter of the Colombo’s political drama on the devolution contretemps and the future of 13th Amendment, it opens up another speculative chapter on the winners and losers of the NPC election with its footnote on the fair conduct of election. Jaffna has already seen some unpleasant acts of thuggery and mischief making targeted attack on the detractors of the regime, notably the TNA which is likely to win a majority in the NPC. Will acts of violence mar the much delayed exercise of NPC election? Will the TNA be allowed to rule the NPC in case they get most of the seats in a fair election? Only President Rajapaksa can probably answer these questions confidently.

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