Applying of writs against decisions of Union level organizations contrary to constitution

NAY PYI TAW, 31 Aug - Pyithu Hluttaw session continued for 37th day at Pyithu Hluttaw Hall in Hluttaw Complex here today, attended by Pyithu Hluttaw Speaker Thura U Shwe Mann and 403 MPs.

Two questions were answered, one new proposal put forward, one proposal discussed and one urgent proposal submitted at today’s session.

Regarding the question of U Oo Rel of Pruhso Constituency about if there is any plan to open matriculation examination centre at Pruhso beginning 2012-2013 academic year, Deputy Minister for Education U Aye Kyu replied that measures would be taken to launch exam centre beginning 2012-2013 academic year.

Regarding the question of Dr Khin Maung Swe of Kyaukdaga Constituency about the State’s measures for health care service delivery to rural people who live in remote areas out of the reach of health care service, Deputy Minister for Health Dr Win Myint replied that mobile health care teams comprising assistant health officers, female health staff, midwives, public health care supervisor grade-2 and others make field trips to villages in 20 townships in far-flung areas to provide medical treatment to local people from three times to 12 times a year since 2011-2012. It was projected to extend the service to 180 townships within four years.

Dr Khin Maung Swe of Kyaukdaga Constituency submitted a proposal calling for the measures to narrow the health care service gap between urban and rural regions to the lowest possible level, seconded by U Min Swe of DaikU Constituency.

The Hluttaw approved to discuss the proposal as no MP raised objection.

The Pyithu Hluttaw Speaker said according to verbal report of the Shadaw Constituency MP, though a doctor has been assigned to Shadaw Township Hospital, but the appointee has not arrived yet, posing barrier in medical attention to local people. He urged the focal ministry to check whether the report is correct or not and to handle the matter as quickly as possible with shortage of doctors and nurses and other requirements of Kayah State Shadaw Hospital.

U Kyaw Naing Htay of Indaw Constituency, U Thein Nyunt of Thingangyun Constituency, Daw Khin San Hlaing of Pale Constituency, U Tun Aung Kyaw of Ponnagyun Constituency and U Khin Maung Win of Lanmadaw Constituency discussed the proposal of Thura U Aung Ko of Kanpetlet Constituency submitted on 13 August to amend and cancel some restrictions in writ application.

Judge of Supreme Court of the Union U Soe Nyunt replied that the authority to issue writ dominates ordinary legal provisions. Though it is prescribed that the verdict of court concerned is the final decree under the ordinary law, the decree of the court can be changed with the writ. However, the writ cannot influence the provisions in the constitution. The constitution is the supreme law of the nation. The decree of the Union-level organizations described in Section 295 (c), 324 and 402 in the constitution is
the final one under the constitution and thus writ cannot be applied against such decrees. It would be against the constitution if it is allowed to apply writ over the decrees of such organizations. The Supreme Court of the Union in paragraph 44 (a) of writ application procedure prohibits application of writ over the decrees and actions of Union-level organizations which are vested with power to issue final decision by the constitution. It is not sensible to revoke the provision as it is in conformity with the constitution.

The Supreme Court of the Union has thus restricted reappplication of writ against the decision made by it as there is no reason to allow application of writ for several times. So, it is not sensible to revoke provisions in paragraph 44 (b) of writ application procedure.

The writ issued by the Supreme Court of the Union is the order to manage courts at lower levels. It is not allowed to file writ against verdicts and decisions made by the Supreme Court of the Union. Under those circumstances, it would not be required to cancel paragraph 44 (a), (b) and (c) of writ application procedures.

As there is no provision against hearing of writ cases alone in the constitution and paragraph 47 of the writ application procedures meets the international provisions, it would not be required to amend the paragraph.

The time for claims for personal interests is fixed in line with limitation act and there are other laws, rules and procedures issued to handle the claims that are not relevant to limitation act. As such, the words in paragraph 61 should not be cancelled. Proposer Thura U Aung Ko discussed his explanation. The Hluttaw Speaker informed the Hluttaw that the proposal calls for coordination of Legal Affairs and Special Cases Assessment Committee, Bill Committee, Legal Affairs and Judicial Affairs Committee, related organizations and personalities to reach agreement.

The Hluttaw approved to take actions for the proposal as it agreed. U Thein Tun Oo of Amarapura Constituency submitted proposal urging the Pyithu Hluttaw committees to make record the laws related to their functions, and bylaws, rules and regulations, orders, instructions and procedures and Union level agencies which manage relevant laws to cooperate and assist the committees.

The Hluttaw Speaker informed the Hluttaw that it did not need to discuss specifically the proposal as it is the responsibilities of the Hluttaw committees.

The session came to an end at 1.20 pm and the 38th session continues at 10 am on 3 September.-MNA

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