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NATIONAL ASSEMBLY OF BHUTAN
THIMPHU: BHUTAN



Opposition Leader

NAB-OL/2/2019/2075

July 17, 2019

The Hon'ble Speaker
National Assembly of Bhutan
Gyalong Tshogkhang, Thimphu

Subject: Tourism Flagship Programme under Annual Budget 2019-20

Your Excellency,

Please recall my telephone call to you last week regarding the issue of Zhemgang being replaced by Sarpang under the Tourism Flagship Programme. The Budget Appropriation Bill for the financial year 2019-2020 was tabled, debated and adopted by the National Assembly on 14 June 2019 after incorporating the recommendations of the National Council. You may kindly recollect that I have taken the floor to express my concern on the issue after learning that the Cabinet is likely to make this change. I have also clearly highlighted the possible implications such a move will have on the planning and budgeting procedures besides violation of relevant laws. In spite of that, the Government went ahead with issuing an order to the Secretary of the Gross National Happiness Commission to replace Zhemgang with Sarpang as the prioritised Dzongkhag for the Tourism Flagship Programme (Ref Cabinet Secretary's letter No. S-20/110 'wrongly' dated as 24 July 2019 addressed to the Secretary, Gross National Happiness Commission).

Your Excellency, the Opposition Party is deeply concerned by this unlawful decision of the Government in violation of the Budget Appropriation Bill which was passed by the Parliament. Once the Bill is passed by both the Houses and granted Royal Assent by His Majesty the King, the Government has no legitimacy to make any amendment to it and has to be implemented as approved. To put into proper perspective, please refer Section 4.5.4.1 (tourism) of the National Budget for Financial Year 2019-2020, whereby Nu. 11 million each is allocated to four focus Dzongkhags (Zhemgang, Lhuentse, Dagana and Gasa) for specific interventions to develop tourism. As the budget is allocated to specific Dzongkhag and approved as part of the Budget Appropriation Bill, the Government has no authority to amend it. We recognize that the Government has full authority to make changes to the plans and programmes as well as set priorities before the bill is being submitted to the Parliament for approval.



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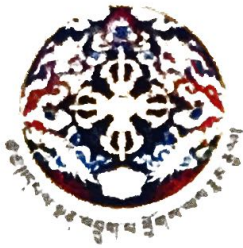
Therefore, the Opposition Party would like to firstly draw Your Excellency's kind attention to the following provisions of the Constitution and would like to question the constitutionality of the Government's action in changing the activity approved for Zhemgang Dzongkhag by the Budget Appropriation Bill:

- i) Article 14, Section 2 of the Constitution states that, "there shall be a Consolidated Fund into which shall be deposited all public monies not allocated to specific purposes by law and from which expenditure of the State shall be met."
- ii) Article 14, Section 3 of the Constitution also states that, "public money shall not be drawn from the Consolidated Fund except through appropriation in accordance with the law."
- iii) Article 20, Section 8 of the Constitution states that, "the Executive shall not issue any executive order, circular, rule or notification which is inconsistent with or shall have the effect of modifying, varying or superseding any provision of a law made by Parliament or a law in force."

The above provisions clearly specify that public money shall be allocated to specific purposes only by law and that it shall be drawn from the consolidated fund only in accordance with the law. Therefore, the budget provision of Nu. 11 million allocated for Zhemgang Dzongkhag can neither be changed nor reappropriated to Sarpang as decided by the government.

Secondly, the Opposition Party would also like to question the legitimacy of the government's action in relation to the following provisions of the Public Finance Act:

- i) Section 62, of the Public Finance Act states that, "No budgetary body shall carry out activities for which there is no provision in the budget and appropriation act or other lawful authority." This provision also clearly mandates that the government cannot propose activities which are not there in the budget and appropriation bill and hence it is unlawful.



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- ii) Section 57 - Revisions of the budget and appropriations shall be considered only when circumstances have changed significantly such as:
 - (a) shortfalls in revenues and other resources threatening macrofiscal sustainability, or
 - (b) significant changes in costs of approved programmes.
- iii) Section 58 - Budgetary bodies shall not seek supplementary appropriations except when circumstances significantly change, and the Lhengye Zhungtshog has endorsed the change.
- iv) Section 59 - Except for the provisions under Section 66, no budgetary body shall make commitments or shall incur expenditure against supplementary budget proposals in anticipation of the approval of the proposal until the revised Budget and Appropriations Bill has been passed by the Parliament.
- v) Section 60 - The Minister of Finance may authorize a supplementary appropriation without recourse to the Parliament and on the authority of this Section alone for expenditures that are financed by donors or co-financed jointly with the government for a development project that has all the required Government approvals. Such finance shall be based on agreement between the donors and the government. Such appropriations shall be recorded in the revised Budget and Appropriation Bill.
- vi) Section 61 - Budgetary bodies shall expend public money only in accordance with an appropriation under the Budget and Appropriation Act.

It is abundantly clear to us that the government has neither respected the supremacy of the Parliament nor the provisions of the Constitution and the Public Finance Act and has deliberately gone ahead with their decision to alter an approved provision of the Budget Appropriation Bill 2019-20. Such a practice would set a very unhealthy precedence whereby the very foundation of our parliamentary procedures and processes and values, principles and spirit of democracy would be shaken.




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In view of the above legal provisions and justifications, the Opposition Party strongly objects the unlawful and discriminatory decision of the Government and request Your Excellency to revoke the Government's decision and maintain the tourism flagship programme for Zhemgang Dzongkhag as approved in the Budget and Appropriation Act 2019-2020.

Yours Sincerely, ,


(Pema Gyamtsho)

Copy to:

1. Dasho Zimpon, Office of the Gyampo Zimpon for Dasho's kind information.
2. Hon'ble Thrizin, National Council of Bhutan, for kind information.