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21st June, 2007.

His Excellency
The President of the Republic
Of Trinidad and Tobago
Professor George Maxwell Richards
Office of the President
Circular Road
ST. ANNS.

Your Excellency,

I act for opposition MP, Mr. Chandresh Sharma. I am instructed that you purported to suspend the Honourable Chief Justice of Trinidad and Tobago, Mr. Satnarine Sharma in accordance with section 137 (4) of the constitution which provides as follows:

Where the question of removing a Judge from office has been referred to a tribunal under subsection (3), the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge other than the Chief Justice, may suspend the Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge other than the Chief Justice, and shall in any case cease to have effect—

- (a) where the tribunal recommends to the President that he should not refer the question of removal of the Judge from office to the Judicial Committee; or
- (b) where the Judicial Committee advises the President that the Judge ought not to be removed from office.

I have been advised by Senior Counsel that the advice of the Prime Minister to suspend the Chief Justice in accordance with section 134 only arises “where the question of removing a judge from office has been referred to a tribunal” appointed in accordance with section 137 (3).

The public was informed via media reports that a tribunal comprising Lord Mustill, Sir Vincent Floissac and Mr. Dennis Morrison QC was appointed however to date no secretariat has been appointed and no date for the commencement of this crucial hearing has been set. It is therefore unclear whether a tribunal has in fact been appointed in accordance with section 137 (3).

If such a tribunal was in fact appointed as a prelude to the suspension of the Chief Justice, it is imperative that the tribunal commence its inquiry under section 137 (3) (b) forthwith. Although no deadline or time frame is stipulated in the constitution for the commencement of hearings by the tribunal, it is expected that this would be done without delay. This is a necessary implication from the constitution in light of the doctrine of separation of powers, the independence of the judiciary as an organ of the State, the entrenched security for judges and the limited grounds for their removal from office.

The announcement of the appointment of a tribunal cannot and should not be used as a device to justify the suspension of the Chief Justice in circumstances where the tribunal is not functional or ready and able to commence sitting. I am of the view that the constitutional discretion vested in you to suspend the Honourable Chief Justice was meant to be exercised in circumstances where the tribunal is functional or ready and able to sit. To do otherwise, would be to misuse and/or abuse your power of suspension and render such suspension unconstitutional and illegal. In the circumstances I hereby seek clarification and request answers to the following questions which concern the functioning of this tribunal and the timely hearing of this enquiry :-

- i. What is the exact date of the appointment of the individual members of this tribunal?
- ii. When was the Honourable Prime Minister informed about these appointments?
- iii. When is a secretariat and/or administrative staff going to be appointed to service this tribunal?
- iv. When is this tribunal scheduled to commence sitting to hear the complaint against the Honourable Chief Justice?

- v. Would this hearing be conducted in private or will it sit in open court so that members of the media and public can have access to a hearing?
- vi. What is the location or venue that has been identified for this enquiry or hearing?
- vii. When is the Honourable Chief Justice going to be provided with the necessary funds to enable him to retain Attorneys to conduct his defence?

Having regard to the urgency and sensitivity of this matter I ask that you respond within 36 hours failing which I have been instructed to file a claim in the High Court to challenge the premature and pre-emptive suspension of Justice and seek an order of mandamus against the Prime Minister to compel him to advise your office to revoke the suspension of the Chief Justice in accordance with section 134 of the constitution.

This letter is being sent by fax to ensure expeditious transmission and I suggest that you fax your reply to my office at your earliest convenience.

Please note that this is an official pre-action letter that is issued pursuant to the “Pre-Action Protocols” Practice Direction issued by the Honourable Chief Justice (gazetted on Wednesday 23rd November, 2005) under the Civil Proceedings Rules of Court and that you are required to respond in a timely manner. Time is of the essence and I look forward to your prompt response as the answers to these questions must surely be within your knowledge.

Please be guided accordingly.

Yours faithfully,

CINDY BHAGWANDEEN

cc. Solicitor General