

Speaker's Ruling Cannot be Challenged in Court of Law

by M Harunur Rashid

The parliament as the highest legislative body is not responsible to any external authority for following the procedure it lays down for itself and it may depart from that procedure at its own discretion.

THE Speaker as presiding officer of the House deals with points of order and gives rulings when called upon to do so. Rulings once given stand as precedents in the parliamentary case-law and may be given publicly from the chair or privately in response to members seeking advice...

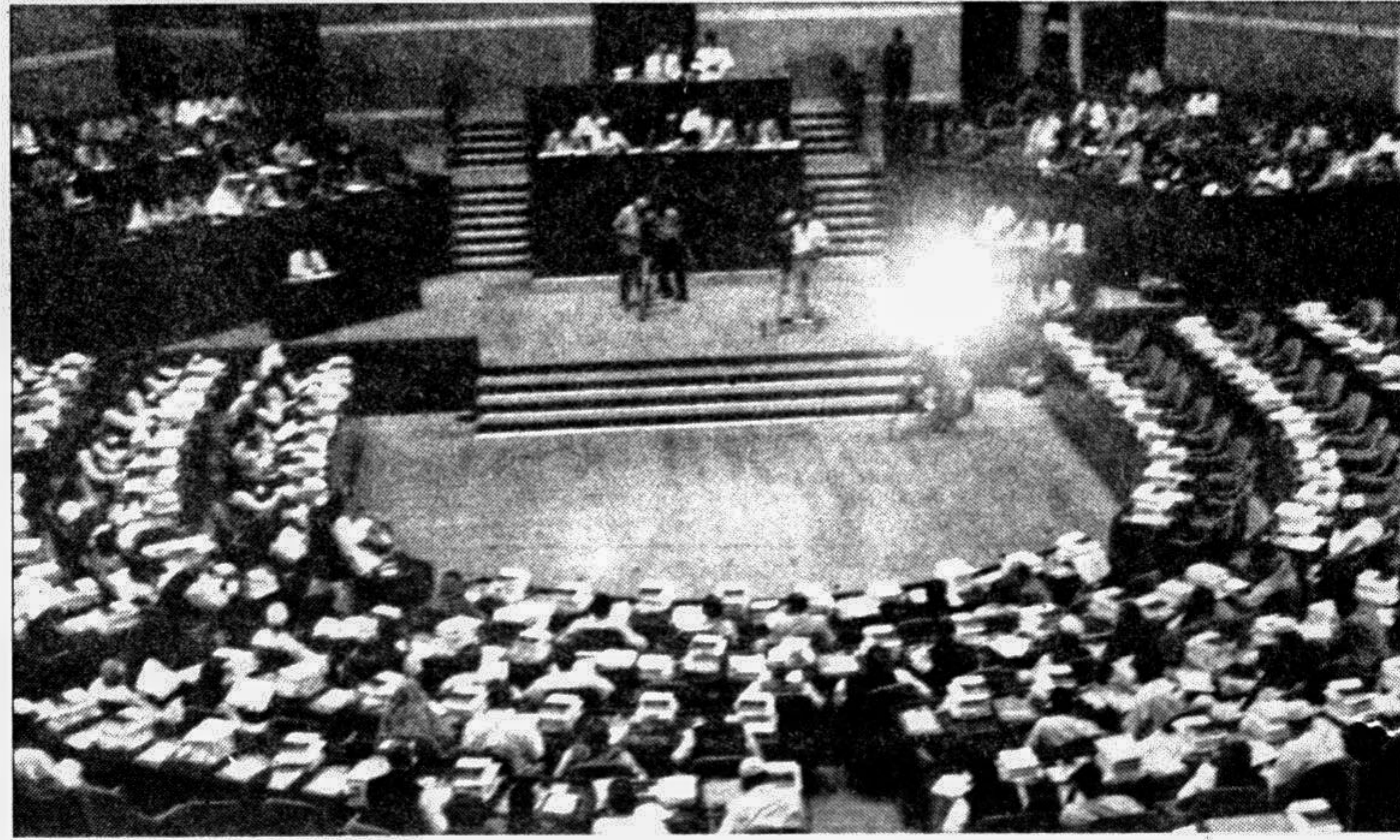
the ruling of the Speaker commits contempt of the House and the Speaker. The Speaker's decision is equally binding whether given in the House or in a departmental file. He is not bound to give reasons for his decisions. Members can not criticise directly or indirectly, inside or outside the House, any ruling given, opinion expressed or statement made by the Speaker...

landmark ruling which created an unprecedented uproar both in political and legal arena. The ruling was pronounced by the Speaker on the basis of two substantive points of order raised by two members of parliament...

Constitution has been violated by the members. Amidst all fury and speculations the Speaker delivered the ruling in the House rejecting the points of order. The Speaker mentioned in his ruling that the members of parliament named Md Hasibur Rahman Swapon and Dr Alauddin, after their election, have not become subject to any of the disqualifications mentioned in clause 2 of article 66 of the Constitution...

therefore, finds no reason to consider it as a dispute within the meaning of article 66 (4) of the Constitution and hence, the Speaker arrived at a decision that the matter was not liable to be referred to the Election Commission as per The Members of Parliament (Determination of Dispute) Act, 1980.

not dare to make any comment on a sub judice matter or get into the merits of the case which I believe, involves a lot of constitutional interpretations. But two major issues which are the common concern for the parliament and parliamentarians need to be resolved at least for academic importance and these are first, whether any court of law can issue writ or direction against the Speaker of sovereign parliament and secondly, whether the proceedings of parliament can be questioned in courts of law...



the House of Commons and Lok Sabha that the ruling of Speaker cannot be challenged in any court of law. The parliament is sovereign within the limits assigned to it by the Constitution. There is an inherent right in the House to conduct its affairs without any interference from an outside body. The Constitution specifically bars the jurisdiction of courts of law in respect of anything said or any vote given by a member in the House. In the matter of judging the validity of its proceedings, the House has exclusive jurisdiction. The House also has collective privilege to decide what it will discuss and in what order, without any interference from a court of law. In this context a decision of the Calcutta High Court in the Case of Hemchandra Sengupta versus Speaker, West Bengal Legislative Assembly, reported in AIR 1956 (Calcutta) 378 may be referred to. His lordship made the following observations: It is well that no writ, direction or order restraining the Speaker, from allowing a particular question to be discussed, or interfering with the legislative processes of either House of the Legislature or interfering with the freedom of discussion or expression of opinion in either House can be entertained...

held: This court is not, in any sense whatever, a court of appeal or revision against the legislature or against the ruling of the Speaker who, as the holder of an office of the highest distinction, has the sole responsibility cast upon him of maintaining the prestige and dignity of the House. This court has no jurisdiction to issue a writ, direction or order relating to a matter which affected the internal affairs of the House. It is, I think, clear from the decisions cited above that the court has no jurisdiction to interfere with the legislative business of parliament and no court can also issue Rule upon the Speaker of parliament in respect of ruling delivered by him. The Speaker pronounced his ruling in the parliament as regards the membership of Mr Md Hasibur Rahman Swapon and Dr Alauddin on the basis of two substantive points of order raised by two members of parliament. The ruling is no doubt very much a part of the parliamentary proceeding and we all know that article 78 of our Constitution ousted the jurisdiction of court in respect of proceedings of parliament. A writ of certiorari while speaking to me about the facts and circumstances of the writ petition filed by the major opposition BNP against the Speaker observed that this is an attempt to set one organ of the state against the other and he is of the opinion that this sort of test can somehow hamper growth of parliamentary democracy. He urged upon all irrespective of party affiliation to come forward to uphold the prestige and dignity of Speaker as an institution which plays a vital role in the working of parliamentary democracy. This kind of test in the court, I fear, may bring the parliament and judiciary at loggerheads which cannot be worthy of desire in a country like ours where parliamentary democracy has already taken a shape. This issue, I hope, can be resolved this time by the decision from the highest judicature of the country once for all. The author is a Judicial Officer now working as Law Officer to Parliament.

Life in Dhaka Living a Spongy Life

by A Husnain

The sponge (the synthetic one is the cheapest) has other well known virtues. It absorbs when used as a wiper — the dirt, or the dirty water on the wet floor (of life). In fact the sponge does not discriminate if used indiscriminately.

HERE is an extract from my Ghapla Diary. Ghapla means SNAJL or situation normal all fumbled up. Each nation stands on some foundation. We stand on sponge sandals. This is not a disparaging statement. We have developed a spongy philosophy of life. Our outlook is as spongy as our sandals. Sponge sandals do not ensure a firm stance. Doctors recommend kharams (wooden sandals) for firm feet and balance — a medical requirement; akin to walking barefoot on hard soil (recall the rise of acupuncture and reflexology in the west). The soft cushioning of the sponge soles restricts the mild rhythmic shock to the body which is essential for metabolism. The trousers must be tight at the waist to induce self-confidence. How to shoot at the bull's eye standing on sponge sandals? The sole has its effects on the soul. The sponge (the synthetic one is the cheapest) has other well known virtues. It absorbs when used as a wiper — the dirt, or the dirty water on the wet floor (of life). In fact the sponge does not discriminate if used indiscriminately.

millar. Our alluvial soil, rich and fertile (so are the magnanimous and the womb), is soft and muddy during the monsoon. Hence the spongy steps match the spongy soil; and the damp spirit rises to meet the dampening voice of the orators, flooding the choked and deafened ears gently swaying on air-conditioned foam at the foot level. Note the lean, keen, and hungry look. We are the human sponges, the great modern grabbers since the days of Chenghis Khan. Life is drip and drab, drab, drab; so the chant of life is grab, grab, grab — all along the path of maya to materialistic self-salvation or destruction. I am the new society — how dare you...? We need firmer footwear to uphold the jewel on the crown. Mud is grey, so is grey matter — at least there is no colour matching problem. But on the way up, there is a communication mix-up near the region of the heart. Long ago there was a philosophical coup there; and we are still being ruled by the heart. The brain comes to a conclusion, but the heart is allowed to take the final decision. Further up, the computer is working fine, but the input is contaminated with considerable garbage. Garbage in is garbage out; GIGO; QED.

Once, during an informal meeting many decades ago, I had a midnight confrontation with one of the top leaders of our society (and I was a small fry in the office). He was in an affable mood, and the protocol barriers were down. He introduced the topic of discipline. I impudently interrupted him to ask whether discipline should come from the top, or is expected from the bottom. In response, he asked me two irrelevant questions: the name of my 'district', and what my father did for a living. I politely responded that a cultivated mind should be able to hide one's district. He left abruptly, leaving behind several seeds of sweets he had brought to be chummy with the boys on the evening shift. Officially he was not wearing sponge sandals at that time. Foam sandals introduce a little bit of unsteadiness or disequilibrium to the body frame, diverting a little bit of energy, therefore concentration, from the higher seats of contemplation. Multiply this disturbance or distraction by the number of adults (say 60 million voters) in the country; and we get an idea of the staggering waste in the nation's constructive efforts towards concentrated output. These efforts are scattered in

wide areas of daily activities, physical, moral, and spiritual. The sharpness of the conscience is blunted; so is the drive towards stable principles in life. The tendency to compromise sets in — to meet immediate needs and fulfillments. A need is a temptation; and a pressing need might well result in a sell-out. Bitterness and envy sprout in the undergrowth. Without regular gardening, the weeds are an unwelcome sight. 'Jungle may mangal hai' is true when the jungle ecology is not disturbed, and one is in tune with the environment of nature (without man-made interference). Materialism is an antithesis, with the wish list getting longer and longer. Keep the feet warm, and the head cool, not the other way round. I had seen to it long ago that there were no sponge sandals in the house. Crazy fellow, my family members say. Spongy brains, I retort. PS: I have started using a pair myself during the rainy season. The cup of tea had arrived. I showed gimt the heading of this essay. She wants a new pair of sandals. Must be leather, I assert — meekly. I am not allowed to go shopping with her. That's how I got time to write this spongy piece.

An Apology to Women

by Shamsad Mortuza

This is an apology to my daughter, my wife, and my mother. They say, human being is the only animal capable of blushing. The purpose of this writing is to make me and some other members of my species blush.

NEVER before I have been so ashamed of myself, my race, and my gender. My belief that race and gender are but cultural construct has led me to further humiliation. For the last two months, I have been waking up to news of rapes and gang rapes, sexual harassment and forced stripping. The culprits in each case are invariably of my race and of my gender — male Homo Sapiens. Today, I denounce to be a "man" and I prefer to be so before I become a "human". This is not a moral recantation nor it is intended to be a public stunt. This is an apology to my daughter, my wife, and my mother. They say, human being is the only animal capable of blushing. The purpose of this writing is to make me and some other members of my species blush. We have become so habituated to news of rapes, that we just ignore them to spare our blushes. And it is about time to blush for our women. When I was coming back home for summer vacation, one of my professors at the University of Arizona told me to wear tattoos to give the impression that I have become an American. "Put the one that says: When God Speaks we listen to Her. Your friends and family back home will freak out." He was joking of course. But the joke was not in a vacuum. My professor knew that he knew about the state of women in our part of the world. Our discussion always reached a stalemate in my ultimate offensive move: "Find me a country with both the head of the state and opposi-

tion leaders as women." They must be taken figures," a weak response from my professor led the discussion to an end while I enjoyed a self congratulatory smile. My professor is well aware of the fact that even in a democratic country like the United States of America they cannot brave to have a female president. The feminist slogan kept me thinking. In Tucson, I attended a seminar, entitled, "The Quran and the Bible: Which One is God's Word." It was arranged jointly by the local mosque and a Baptist church. One caucasian woman from the audience asked the Christian spokesperson, "What is the gender of Christian God? There was an abrupt uncanny silence in the hall-room. The priest was evidently taken aback. He burst out, "There are certain things you need to believe. God is a He figure." He then went on explaining the Holy Trinity: God the Father, God the Son, and God the Holy Ghost. I secretly asked the same question to a fellow Muslim. (Excuse my sheer ignorance and utter curiosity). I was told that the gender of Allah is not specific since Allah is without any shape and without any kin. "But in English translation 'He' is the obvious choice. Because you cannot undermine Allah by referring to Him as It or She." I am sure there is a far better explanation than this! I put the same question before a Jewish friend of mine. She also complied with the Islamic view, and said, "The gender of God is not mentioned in the Old Testament. In Hebrew, the pronoun for God is gender

neutral. It is the English translation that prefers to refer to God as He. Especially because these translations are done by the patriarchy." The reference to the gender of creator is not a mere digression. The point that I am trying to make is that our culture, our religion, and our existence have always been subject to male dominated interpretations. Women are victims of a patriarch system that canonizes the cherubic qualities in them. This is a hackneyed statement that is felt by every (thinking) creature. I remember, one feminist cartoon, saying, "Put your Bra, Throw your Bra." The post-feminist version of the same cartoon says: "Put your Bra, Throw your Bra." Somehow, in a postmodern world the issue of women has always been a tug between their feminine and intellectual aspects. A lot of brain throwings are going on in the West to determine the state and fate of women. Quite the opposite is true in our country. We don't want to talk about women because women for us are but objects of sex. Since we are not supposed to talk about sex, we are not supposed to talk about woman. The only sex we can think of is the sex that seeps into our living rooms through cable TV or newspapers. Therefore, the only women we can think of are the ones who appear on silver screen or media. Simple. Sex has been such a taboo in our society that we repress a normal, integral, and vital part of our life. Such repression finds outlet into a degenerated, grotesque form of sex. Our sex

driving populace fancies itself with the pelvic gyrations and contortions of stars from [Holly-Bolly] Woods. Our local film industries are no different. They add colours (no pun intended) to our ghoulish desire and portrays women as nothing but sex toys. Within us, we have become sex monsters. We wait for the perfect moment to have our pounds of flesh. So when we find them in jail custody or in a lonely corner of the street, we leap to have our share of it. No. Don't think that I am a policeman or an NGO chief. I am a male member of an unfortunate system. Like women, I too, am a victim of this system. Few days back, in an editorial comment on Dhaka university student suggested that all rapists should be castrated, to set exemplary punishment. I wish I could say yes to this brilliant suggestion of chopping heads to cure headaches. But I dare say, such punishment will increase the number of sex pervers in the society. We don't want a society filled with Dr Hannibal Lectors of Silence of the Lamb. My wife was just asking me, "Do you think you would ever be able to rape a woman?" We exchanged a mutually approved silence. We know that sex is a sacred combination of body and soul. Any attempt to dismember the combination will break perversion that we are experiencing all around us. Sex is not a set of cards that we keep close to our chests. We need to be open about it. We need to demystify it to give it its normal niche in life. Only then, my daughter will be safe from these grisly tales appearing in the newspapers.

Carry On, Doctor

by Arnab Ray Ghatak

PEOPLE in India have by and large been ignorant of pollution and have remained unconcerned about environmental issues. But the problems of pollution forced residents of Delhi to look up and ask whether pollution in the city has been affecting their health? The answer they received recently was strange, to say the least. To a lay person it would appear that pollution does affect health. Surprisingly some doctors do not agree. Neither does the doctor-turned politician, Harsh Vardhan, who is today Delhi's health minister. If recent reports in the press are to be believed, a study conducted by the Centre for Occupational and Environment Medicine at the Maulana Azad Medical College states that pollution does not cause diseases like asthma, heart ailments or allergy, as most mortals believe. What is surprising is that Harsh Vardhan seems to agree with the study. Are the doctors and the minister then wishing away the health-damaging effects of pollution? Is all this an exercise in re-sorting to an age-old solution? If you can't solve a problem, convince the people that it isn't a problem. In recent statement, Harsh Vardhan has almost gone on to assure residents of

Delhi that they need not worry about the increasing levels of pollution in the city because there is no evidence to link it to the incidence of disease. Unfortunately Delhi already has the embarrassing status of being the fourth-most polluted city in the world and is already competing with Mexico City for the top spot. This is a good reason not to believe in the words of the Maulana Azad doctors. Therefore, if you are a septic you might still want to keep your gas-mask handy for, in another five years, it will be the only way to ensure that the air you breathe is safe. The newspaper report has quoted Harsh Vardhan as saying, "There is no evidence to relate pollution heart, lung and skin diseases." Perhaps, the minister would like to take some time off from his busy schedule to explain why 10,000 deaths occur in Delhi annually due to diseases that have been medically diagnosed as "pollution-related". The health minister went on record to state, "All pollution does is show symptoms of, say, asthma, but it does not cause fresh cases of the disease." The Maulana Azad study and this statement are clearly an attempt to oversimplify the issue. The study also tries to brush aside the glaring evidence sup-

plied by reports from across the globe that show — quite convincingly — that pollution causes heart, lung, eye and skin diseases. A study conducted by the American Lung Association in 1992 proved that pollution decreases lung capacity in children. And a project sponsored by the European Commission's Science and Research Directorate in 1996, where 11 research groups analysed data in 15 cities in Europe, showed clearly that increases in suspended particulate matter, sulphur dioxide or ozone can significantly increase respiratory deaths and hospital treatment for respiratory illnesses. These health effects were seen at pollution levels much lower than those present in most Indian cities today. The Maulana Azad researchers have also chosen to underplay evidence from earlier investigations that were conducted in Delhi itself. A World Bank study, conducted between 1991-92, showed that over 7,500 people died premature deaths every year due to pollution. The Centre for Science and Environment, carried out its own study that showed that by 1995 this figure had gone up to a shocking 10,000. S K Chabra, head of the cardio-respiratory department of Patel Chest Institute, who carried out a study in 1994 in Delhi has revealed that the incidence of asthma in school children was 11-12 per cent. Chabra concluded that if cases of children who showed asthma symptoms at some time in the past were included, then this figure would go up to 16-17 per cent. This means that one quarter of a million children in Delhi suffer from the disease — the incidence of it being almost 12 times more than the national average. Therefore Chabra finds it hard to agree with the study. According to him, "It is an oversimplification of facts to say that pollution only causes symptoms." The study solicitously advises us that the best form of protection against pollution is to be neither underweight nor overweight, because toxins tend to lodge themselves in body fat. If pollution was not hazardous to health there would be no reason to seek protection against it. It also goes to say that those who come from rural areas are very vulnerable to pollution. In other words, those who come from a clean environment tend to fall ill when they come to Delhi. Therefore, we would suggest to all the good doctors involved in the study to carry on as if they had never conducted such a study. CSE/Down To Earth Features

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Snowball Earth

Deepest Ice Age Pushed Along Evolution

Paul Reicer writes from Washington

GLARING white ice 300 feet (100 meters) deep covered all the oceans. Temperatures dropped to minus -20 degrees. The land was barren, dry, frigid, lifeless. That was the Earth 750 million years ago in what may have been the planet's coldest and longest ice age. But it may also have been a vital period in the evolution of plants, animals and eventually even people, a researcher says. Without these ice events, it is possible there wouldn't be any animals or higher plants, said Paul F Hoffman, a Harvard University researcher and co-author of a study published in the Journal Science. The research supports a six-year-old theory that the Earth was a 'snowball planet' during a Precambrian era more than 570 million years ago. That era ended with the sudden appearance of complex new life forms. This bloom of new species is considered by many to have been a key event in the long sweep of evolution that helped create a temperate planet and, millions of years later, to

the appearance of humans. Chemical and isotopic analysis of rocks laid down along the coast of an island that later became part of Africa shows that, between 570 and 570 million years ago, the Earth went through at least four deep ice ages, each lasting millions of years, Hoffman said. During those periods of ice — perhaps the coldest the Earth has ever experienced — the oceans froze, creating a planet-wide surface of white. This icy glare reflected the sun's heat back in to space, causing the planet to get even colder. Continents, said Hoffman, probably were in a dry, cold state. "Once the seas froze over, there was no more evaporation," he said. "There was no more snow or rain. Glaciers on land disappeared. Continents became like dry and lifeless rocks in frozen seas. The ancient ice ages ended when carbon dioxide, belched when volcanoes, became concentrated enough in the atmo-

sphere — about 350 times the present concentration to create a super greenhouse effect. The carbon dioxide trapped enough solar heat to melt the frozen oceans and to break the ice age. The Earth went through this cycle repeatedly as the continents drifted apart, Hoffman said. But such severe ice ages are unlikely to happen again for two reasons: the sun is about 7 per cent hotter, and higher life forms continuously cycle carbon back in to the atmosphere, maintaining a gas blanket that warms the planet. "Our friends the worms and snails keep this kind of ice event from happening now," Hoffman said. "They scavenge the organic matter on the sea floor and recycle it. There was no way to have this high a rate of organic burial once higher animals evolved." Douglas H Erwin, a paleontologist at the Smithsonian Institution, said Hoffman and colleagues' interpretation is interesting, but will need more

proof before it is widely accepted. There is growing evidence of an intense Precambrian ice age that froze the oceans, Erwin said. It's also clear that after that deep freeze, "there was the start of the biggest explosion of animal diversity in the history of life." If there were Precambrian ice ages as Hoffman suggests, "that may have led to an increase in the rate of evolution," Erwin said. But Hoffman's suggestion that those ice ages were essential for the development of higher life "may be hyperbole," Erwin said. Hoffman noted that very simple life forms thrived on the Earth for billions of years and new forms appeared only after the era of the "snowball Earth." Throughout the Earth's history, new species have appeared after previous populations were wiped out by severe environmental changes. "An example is how mammals became the dominant species on Earth after the dinosaurs were wiped out. — AP