

## SPREAD OF CORRUPTION Cultural Trait, Institutional Failure or Irreversible Trend?

**T**he Finance Minister Mr. SAMS Kibria, when asked recently in a TV interview about the notable areas of failures of this government, responded that widespread corruption was one such area. He, however, preferred to call it not a 'failure', but a lack of desirable improvement, particularly when put in a comparative historical perspective. While comparisons with previous governments cannot be an excuse for present inaction, the fact is that no governments since independence have taken serious corrective measures in this regard, and in some cases have in fact, covertly or overtly, encouraged the spread of corruption.

The political economy aspects of the failure of successive governments in combating corruption for even in showing any genuine desire to do so) is an important subject in itself, but this is not what I purpose to discuss here. Instead, I would like to draw up on some recent theories on corruption (and maybe improve to some extent) to show why, as corruption becomes more widespread, it may become increasingly difficult to reverse the process. And this is something to do with the incentives for engaging in corruption rather than any inherent lack of moral standards in a society. That is why the inaction of successive governments in this regard is all the more unfortunate.

The theory goes like this. For an individual official, the expected gain from corruption depends crucially on the number of other officials who are expected to be corrupt. Imagine a situation in which corruption is virtually absent, so that the pay-off for a prospective corrupt official will be

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by Wahiduddin Mahmud

high because he has few competitors. But this high incentive for corruption is likely to be more than offset by a high chance of being detected, and a high search cost of finding a briber. So the chances are that the individual official (and, therefore, the system as a whole) will remain non-corrupt.

Take the other extreme situation where everyone is corrupt so that the pay-off from corruption will be much lower as the size of bribe is bid down through competition. But it will be still lucrative to be corrupt since the chance of being detected and punished is very small from the point of view of any individual official. Moreover, there will be a cost for remaining non-corrupt, since the honest official may be victimised in many ways through a collusion of his fellow corrupt officials. There will be thus no incentive to remain honest.

Between these two extremes of 'high-corruption' equilibrium and 'honest' equilibrium, there must be therefore an intermediate position where the extent of corruption (that is the proportion of

corrupt official) is such that the incentives and disincentives for corruption just balance out. An individual official will be thus 'indifferent' about whether to be corrupt or to remain honest. But, unfortunately, it will be a situation of 'unstable equilibrium' (to use economists' jargon), which means that, once there is a deviation from this equilibrium position, the situation will progressively deteriorate or improve, depending on the direction in which the initial deviation takes place. Thus, if for some reason such as a particular action (or inaction) by the government, a few more officials choose to be corrupt, then the incentives will be created for others to join in, and the system will progressively tilt towards the 'high-corruption' end of the spectrum. On the other hand, if the initial move is in the other direction, then the system will gravitate to the 'honest' equilibrium at the other end.

Like most economic models, this is obviously a too simple explanation of how corruption spreads or gets eliminated. But there are some important lessons. The model can explain in an

elementary way how two otherwise similar countries (both in terms of socio-political cultures and moral values) can end up with very different levels of corruption, depending on whether and when some corrective actions were taken. A small step at the right time may ultimately have a large impact. But if corrective actions are delayed for a long time, the system becomes caught in its own internal dynamics of ever-increasing corruption. The point is not that it is difficult to fight widespread corruption (which is obviously true), but that, once corruption is allowed to spread beyond a critical limit, it may become more and more irreversible. Small corrective actions here and there will not then have any lasting or cumulative effect, since the prevailing incentive structure will pull the system back to the 'corruption' equilibrium. It will require a great jolt (and, therefore, politically costly efforts) to put the system back to a position, from where it can correct itself on its own. This is the real price of delaying action against corruption.

I have not outlined this economic model of corruption to convey pessimism about the prospect of combating corruption. On the contrary, the model shows that the prevalence of widespread corruption does not necessarily reflect the kind of ingrained social traits which are difficult to change. Moral norms and standards do matter, but these may be shaped to a large extent by the prevailing incentives and extent of corruption, and are therefore amenable to change. For example, corruption is often sought to be justified on the ground that everyone else is corrupt or that a decent standard of living is not possible without illegal income.

This brings one to the important question of what determines, from the point of view of an individual official, the incentives or the cost-benefits of corruption. In the model described above, the incentive for corruption is dependent only on the extent of prevailing corruption. As discussed above, there is some good logic behind this argument, provided it is assumed that the legal-administrative system of deterrents to corruption remains very restrictive assumption. In fact, the discussions on combating corruption are mainly concerned with institutional reforms for strengthening this system of deterrents. And this is rightly so. My purpose here is only to attract attention to a rather neglected aspect of these discussions, namely, the cost of delaying taking corrective measures.

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## Lest We Forget

# A Homage to Justice Murshed

by Justice Latifur Rahman

**O**n the occasion of the 91<sup>st</sup> birth anniversary of the former Chief Justice Syed Mahbub Murshed, it is felt that the educated youths and lawyers of this generation be familiar with his ideals. His contribution to the cause of independence of judiciary and rule of law was indeed great and a hall-mark of his relentless pursuit as a Judge and a lawyer. Mr Murshed was an eminent jurist and one of the noted constitutional lawyers of this sub-continent.

Late Murshed was born in Calcutta in the early part of this century in a family, which was considered to be amongst the most distinguished in Muslim Bengal. His father, Syed Abdus Salek was a member of Bengal Civil Service. His mother Afzalunnessa Begum was the sister of Sher-e-Bangla AK Fazlul Huq.

Syed Mahbub Murshed studied at the Presidency College, Calcutta and graduated with Honours in Economics in 1930. He obtained his MA and LLB degrees in 1932 and 1933 respectively from the University of Calcutta. Having secured first class in Law, he enrolled himself as an advocate in the Calcutta High Court in 1934. Later in 1939, he was called to the Bar in England by the Honourable Society of Lincoln's Inn. He was the only student from British India who secured an Honours in the Bar Final Examinations that year. On his return from England in 1939, he built up a leading practice as senior advocate of the Federal Court of India. In 1951 he migrated to the then Pakistan and joined Dhaka High Court Bar. He was elevated to a Judge of Dhaka High Court Bench in 1955. Mr. Murshed also acted as an ad hoc Judge of the Supreme Court of Pakistan in 1962. Finally in May, 1964 he became the Chief Justice of the then East Pakistan High Court.

Some of the judgements delivered by Syed Mahbub Murshed, as a judge of the High Court of East Pakistan, in the early sixties, were justly considered to be landmarks in the history of constitutional law. These include Abdul Haque's Case, the Pan Case, the Basic Democracies Case and the Case of Lt. Colonel G.L. Bhattacharja. These judgements are still considered as historic precedents for his excellent exposition on constitutional law and on other fields of general law.

Some of his judgements referred to above truly reflect the fact that Justice Murshed was a man of independent thinking and spirit. He earned people's respect and high esteem for his uncompromising role as a Judge. At the same time he contributed significantly to the increase in society's confidence in the judicial system of the country.

In 1958, when Martial Law was imposed in Pakistan, the judiciary stood up to resist military rule. This resistance by the judiciary was spearheaded by two eminent judges, Justice Kayani of West Pakistan and Justice Murshed of the East.

As Chief Justice of East Pakistan during the Ayub and Monem regime (1964-67) he held aloft the banner of the rule of law and effectively protected the threatened liberties of the citizens. He was considered to be, in the words of an eminent lawyer, late Brendanath Sarker, the guardian of the rights and liberties of the minorities in Pakistan during

the latter part of sixties. He was a secular if there was one. Justice Murshed was a great scholar in Arabic, Persian and Urdu and, of course, in English and Bengali. It was a matter of great joy to listen to his speeches, his eloquence was extra ordinary. He was a keen student of literature, philosophy and history, particularly of the Mughal dynasty in India. His speeches were replete with literary allusions, which gave them a beauty and a depth not easily found in orations by others.

We are aware of his role during the mass upsurge of 1969. In 1971 he finally refused to collaborate with the occupation army, despite pressures brought to bear upon him. Justice Murshed resigned from high office of Chief Justice in late 1967 to organize the defence of Agartala Conspiracy case in which Bangabandhu

more apt to reflect unbiased justice and traditional impartiality than political expediency and arbitrary action. Justice has nothing to do with expediency or the dictates of political exigencies. It is rooted and grounded in the fundamental instincts of humanity in respect of equity and good conscience. This is why our Holy Prophet has said that one hour of justice is worth a hundred prayers.

In the same speech, he quoted from the Poet Ghalib, which in translation reads "Stop me if I take to a wrong road, forgive me if I make a mistake." As a Judge, Murshed was conscious of human follies, foibles and shortcomings.

He believed that no one is infallible, not even a Supreme Court Judge. And that is what he expressed in that full court reference in his concluding remarks: "Human as I am, I may make mistakes, but there will be no lack of honesty or sincerity of purpose even in the errors that I may commit."

Mr Murshed believed that no man is above the law and no man is below it. In his dinner speech of the Dhaka High Court Bar Association on the 26<sup>th</sup> June, 1964 at the then Hotel Sahbag, he mentioned the case of Ashby Vs. White, a case of the early 18<sup>th</sup> Century, in which Chief Justice Holt laid down the famous dictum: "Indeed, it is a vain thing to imagine a right without a remedy."

From the judgements of late Justice Murshed we find that he believed that from the Prime Minister down to a constable or a collector of taxes, everyone is under the same responsibility for acts done without any legal justification. He believed in the concept of due process of law wherein he enunciated that no person shall be deprived of life, liberty or property without due process of law. The contribution of Justice Murshed towards the establishment of rule of law is unique. In one of his judgements, he opined that a government which could make laws at its own pleasure and determine the extent of its own infringement of laws would not be a government under the rule of law. He believed that governments powers must be limited by law and the citizens have a core of rights that the government is bound to uphold and should actually be made to uphold.

Standing on the threshold of the 21<sup>st</sup> Century, the legal community must bear in mind the great contributions that have been made in the field of law of negligence. It has come to dominate the whole field of civil liability. There has been tremendous growth in the law of tort, negligence and damage all over the world. In particular, there has been remarkable extension of liability of professional men, government officials and public authorities for their unlawful misdeeds. The lawyers must approach the court of law to redress the grievances of innocent citizens of Bangladesh.

Let the members of the legal profession, Judges, media, public officials, political leaders and academicians act together to establish a stable Bangladesh where people can flourish in the manner late Justice Murshed dreamt and thought of.

The writer is Chief Justice of Bangladesh.

Sheikh Mujibur Rahman was the principal accused along with others.

From the early days of his professional career Justice Murshed was greatly influenced by law givers and professional men of learning. He was influenced by the profound learning of Aristotle, Plato, Imam Abu Hanifa, Justinian, Francis Bacon and modern giants like Holmes and Cardozo. From his speeches that I still remember, as many of my generation do, we get a deep sense of philosophic introspection and erudition. There was no mistaking the fact that he was a man of great learning.

Today in Bangladesh, we are in dire need of men like Justice Murshed. Justice Murshed never claimed that law turn society into a moral gymnasium. But he believed that if it is allowed to take its normal course, it certainly can prevent society from degenerating into a breeding ground of crime, lawlessness and disorder. He believed that the contribution of the judiciary to the building up of a welfare state lies largely in the maintenance of social security and solidarity, broad-based on justice and law and the guarantee of the fundamental rights, without which civilized existence is impossible. He believed that the final cause of law is the welfare of society.

On his assumption as the Chief Justice of the High Court of East Pakistan on the 15<sup>th</sup> of May, 1964, Justice Murshed deliberated at a full Court Reference about the role of judiciary in a free country. Let me quote from this speech. "The judiciary is in a high sense the guardian of the conscience of the people as well as the law of the land. It sits aloof and detached from the political arena or the seats of executive business, away from the storms and stresses which so often assail them. Its decisions are, therefore,

Health column 'HAVE A NICE DAY' and cartoon strips are held up for tomorrow.

## Immigrants: Record Number of Them in USA

Without a change in immigration policy, the US Census Bureau projects that 11 to 12 million immigrants will arrive in the United States in the next decade alone.

Eric Green writes from Washington

**A** record number of immigrants now live in the United States, says a new report by the Centre for Immigration Studies (CIS), a non-partisan research organisation based in Washington.

The report says 28.4 million immigrants are in the United States, which represents a 43 per cent increase in the immigrant growth rate since 1990. As a percentage of the population, immigrants now account for more than 1 in 10 residents (10.4 per cent), the highest percentage in 70 years, according to the report, entitled "Immigrants in the United States 2000: A Snapshot of America's Foreign-born."

Immigrants from Latin America, the Caribbean and East Asia make up the majority of immigrants, with 69 per cent of the foreign-born population coming from these areas, said the report. Mexicans represent the largest number of foreign-born in the United States - 7.9 million - accounting for 27.7 per cent of all immigrants. Immigrants from East Asia - the Philippines, China (including Hong Kong), and Taiwan - rank second, making up 17.9 per cent of the US foreign-born population.

El Salvador ranks number 6 in immigration to the United States, the Dominican Republic 8, Cuba 9, Colombia 10, Canada 12, Jamaica 13, Haiti 14, Guatemala 16, Peru 17, and Ecuador 20.

Speaking at a January 4 news conference, CIS Executive Director Mark Krikorian said the report provides a "snapshot" of the US immigrant population in the year 2000. "The current wave of immigration, which started maybe 30 years ago, is often equated with the turn-of-the-century immigration. But for all its superficial similarities, I think a lot of the data in this report as well as other information indicates how profoundly different today's immigration wave is from the past," he said.

To illustrate, Krikorian said that current immigration is less diverse than it was in 1990. About half of all immigrants in the United States, he said, come from a single "ethno-linguistic group" in Spanish-speaking Latin America. This phenomenon, Krikorian explained, "has never happened before in our history." While Germans and Italians at various points in US history were the largest immigrant groups, he said, they never approached the Latin Americans' high percentage of the immigrant population overall.

Another difference between now and 100 years ago, Krikorian said, is that immigration in 2000 accounted for about one-third of the US population growth rate, opposed to one-fifth in 1900.

Asked about Mexican President Vicente Fox's recent statement that the United States might consider allowing open immigration with Mexico, Krikorian said he did not expect such an idea to become reality.

Fox made the proposal for "internal political consumption, rather than as a serious proposal for the United States to adopt," Krikorian added.

Steven Camarota, author of the CIS report, said that while immigration's impact continues to be the subject of intense national debate, there can be no doubt that the large number of immigrants now living in the United States represents an enormous challenge. "Camarota, who is the CIS' director of research, said more than half of post-1970 immigrants and their US-born children live in or near poverty and one-third have no health insurance, which means the situation for immigrant families is "clearly precarious."

Camarota said that "while the current economic expansion (in the United States) may tempt some to ignore these facts, when the next economic downturn occurs the costs of immigration will likely become glaringly apparent." He added that without a change in immigration policy, the US Census Bureau projects that 11 to 12 million immigrants will arrive in the United States in the next decade alone.

USA

**Bangladesh Atomic Energy Commission**  
Engineering Division  
4, Kazi Nazrul Islam Avenue, Ramna  
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Fax No: 880-2-8613051  
Ref No. Prokaushal-11(265)/97 Dated: 3-1-2001

### Re-Tender Notice

Sealed re-tenders are hereby invited for construction of Bangladesh Atomic Energy Commission (BAEC) Head Quarters Building at Agargon, Sher-e-Bangla Nagar, Dhaka from the pre-qualified contractors of BAEC Headquarter building.

Tender documents of the work may be had on cash payment of Taka 5,000/00 (Taka five thousand) only (non-refundable) from the Accounts Officer (Works) of the Bangladesh Atomic Energy Commission at 4, Kazi Nazrul Islam Avenue, Ramna, Dhaka on all working days during office hours upto 3:00 PM on 29-01-2001 on written request and prior permission from the undersigned showing original enlistment certificate, trade license, VAT registration certificate, latest income tax clearance certificate and bank solvency certificate etc.

Tenders accompanied by earnest money @ Taka 2.50% of quoted value in the form of Crossed Bank Draft/Pay Order from any scheduled bank favouring 'BANGLADESH ATOMIC ENERGY COMMISSION' shall be dropped in the tender box kept in this Division or Atomic Energy Research Establishment, CEF Building, Ganakbari, Savar, Dhaka upto 1:00 PM on 30-01-2001. All tenders received from the both places will be opened in the office of the undersigned on same date (30-01-2001) at 3:30 PM in presence of the tenderers, if any, who may wish to be present. No tender papers will be issued on the date fixed for opening of the tenders. In case owing to unavoidable situation actions can not be taken on the above dates, same actions will be taken on the next working day.

The BAEC authority reserves to themselves the right to accept any or to reject any or all tenders without assigning any reason.

BAEC/SID No-1(2)/94-640 Project Director  
DFP-338-7/1 Construction of BAEC Head Quarters  
G-97 Dhaka

**Bangladesh Inland Water Transport Authority**  
141-143, Motijheel Commercial Area  
Dhaka-1000

### Tender Notice

Sealed tenders in prescribed form are invited from bonafide printing press for printing & supply for various kinds of forms, books etc.

1. Tender No : Croy-01/2001 dated 02-01-2001.
2. Earnest money : 2½% of the quoted total amount (refundable) through Pay Order/Call Deposit/Bank Draft from any scheduled bank in favour of BIWTA to be submitted along with the tender as earnest money.
3. Price of tender : Tk 400/= (four hundred) only (non-refundable).
4. Place where tender schedule will be sold : BIWTA, Accounts Deptt, 9th floor, 'BIWTA Bhaban' 141-143, Motijheel C/A, Dhaka.
5. Place, date and time of receiving tender : Purchase & Stores Deptt, Regional Office, 1st floor, 'BIWTA Bhaban' 141-143, Motijheel C/A, Dhaka and Room No 816 (8<sup>th</sup> floor), Bhaban No 6, Ministry of Shipping, Bangladesh Secretariat, Dhaka up to 1500 hours on 22-01-2001.
6. Opening date and time of tender : At 1515 hours on 22-01-2001 in presence of the tenderer (if any).

No tender schedule will be sold on the opening day and no tender will be received after schedule date and time. The authority reserves the right to reject any or all the tenders without assigning any reason whatsoever.

FR-05/2001  
DFP-352-7/1  
G-98  
Md Golam Moulah  
Director  
Purchase & Stores Deptt

**Directorate General Defence Purchase**  
Ministry of Defence  
New Airport Road, Tejgaon, Dhaka-1215

### Tender/Re-Tender Notice

1. Sealed tenders in local/foreign currency are invited from bonafide manufacturers/dealers/suppliers (for enlisted firm only) for supply of the following item for Bangladesh "Army".

Ser No	Nomenclature	Date of selling		Date of opening	Currency	Tender No.
		From	To			
1	Accessories for Radio Set Com-80-1/SP Qty-02 line OR Accessories for Radio Set VHF AN/46 Qty-05 line	18-1-2001	11-2-2001	12-2-2001	Local currency	214/1033/A/P-2
2	Accessories for Radio Set HF (15-20 W) PRC-1099 Qty-04 line OR Accessories for Radio Set HF (15-20W) AN/PRC-138 Qty-01 line	do	do	do	do	214/1034/A/P-2
3	Robin Brand Generator R-650 OR Honda Generator EM-650 Complete with accessories and connected tools Qty-20 Nos	do	do	do	Foreign currency	214/1031/P-2
4	Secondary Bty 12 V 100 AH, 23 Plate Qty-1000 Nos	18-1-2001	18-2-2001	19-2-2001	Local currency	214/893/P-2

2. Tendered schedule with detailed specifications/conditions will be available on payment as per IT selling rate (non-refundable) during office hours between 0800 hours to 1300 hours. The tender can be dropped latest by 1000 hrs and opened at 1005 hours on the specified date of opening in presence of all tenderers (if present).

ISPR/Misc/2001/16  
DFP-312-7/1  
G-99  
Major  
For Director General

**লালমোহন পৌরসভা কার্যালয়**  
লালমোহন, তোলা।  
**নিয়োগ বিজ্ঞপ্তি**

স্মারক নং-লাল/পৌর/প্রশা(নিয়োগ) ২০০১/০১ তারিখঃ ০৭-০১-২০০১  
স্থানীয় সরকার, পল্লী উন্নয়ন ও সমবায় মন্ত্রণালয়, স্থানীয় সরকার বিভাগ, পৌর-৩ শাখা এর স্মারক নং পৌর-৩/বির-লাল-পদ-১৫/৯৪ (অংশ-১)/১৫০২, তারিখঃ ১০/১২/২০০০ইং ছাড়পত্রের আলোকে লালমোহন পৌরসভার নিম্নলিখিত শূন্য পদ মন্ত্রণালয়ের অনুমোদন সাপেক্ষে অস্থায়ী ভিত্তিতে পূরণের নিমিত্তে উপযুক্ত যোগ্যতাসম্পন্ন বাংলাদেশের প্রকৃত নাগরিকদের নিকট হইতে দরখাস্ত আহ্বান করা যাইতেছে।

ক্রমিক নং	পদের নাম	পদের সংখ্যা	বেতন স্কেল	শিক্ষাগত যোগ্যতা ও অভিজ্ঞতা
১	২	৩	৪	৫

পরিচ্ছন্ন শাখা  
১। কঞ্জারভেসী ইন্সপেক্টর ০১(এক) জন ১৯৭৫-০৯২০ স্বীকৃত শিক্ষা বোর্ড হইতে এইচএসসি পাস। কঞ্জারভেসী কাজে বাস্তব অভিজ্ঞতাসম্পন্ন প্রার্থীকে অস্থায়ীকর দেওয়া হইবে।

- ১। ইচ্ছুক প্রার্থীগণের স্বহস্তে লিখিত দরখাস্তের সাথে নিম্নলিখিত বিবরণাদি থাকিতে হইবেঃ  
(ক) নাম স্পষ্ট অক্ষরে (খ) পিতা/স্বামীর নাম (গ) মাতার নাম (ঘ) স্থায়ী ঠিকানা (ঙ) বর্তমান ঠিকানা (চ) জন্ম তারিখ (ছ) ২৫ জানুয়ারি/২০০১ইং তারিখে বয়স (জ) জাতীয়তা (ঝ) শিক্ষাগত যোগ্যতা (ঞ) অভিজ্ঞতা ইত্যাদি।
- ২। দরখাস্তের সহিত নিম্নলিখিত কাগজপত্রাদি সংযুক্ত করিতে হইবে।  
(ক) শিক্ষাগত যোগ্যতার সকল সনদপত্র-এর সত্যায়িত অনুলিপি।  
(খ) সম্প্রতি তোলা পাসপোর্ট সাইজের ০৩ কপি ছবি।  
(গ) ইউনিয়ন পরিষদ/পৌরসভা চেয়ারম্যান এর নিকট হইতে জাতীয়তা সনদপত্র।  
(ঘ) প্রথম শ্রেণীর গেজেটেড অফিসার কর্তৃক চারিত্রিক সনদপত্র।  
(ঙ) প্রার্থী মুক্তিযোদ্ধার সন্তান হইলে কেন্দ্রীয় মুক্তিযোদ্ধা সংসদের প্রধানের নিকট হইতে প্রত্যয়নপত্র।  
(চ) প্রত্যেক দরখাস্তে দরখাস্তকারী অবশ্যই চেয়ারম্যান, লালমোহন পৌরসভা এর অনুকূলে ১০০/ টাকার (অফেরতযোগ্য) সিডি/বিডি/পিও, এস আর দাখিল করিতে হইবে।  
৩। প্রার্থীর বয়স ২৫ জানুয়ারি/২০০১ইং তারিখ ১৮ হইতে ৩০ বছরের মধ্যে হইতে হইবে। বয়স-এর ক্ষেত্রে এফিডেভিট গ্রহণযোগ্য নয়।
- ৪। চাকরিত প্রার্থীকে যথাযথ কর্তৃপক্ষের মাধ্যমে দরখাস্ত দাখিল করিতে হইবে।
- ৫। আবেদনপত্র আগামী ২৫ জানুয়ারি/২০০১ইং তারিখের মধ্যে ডাকযোগে/সরাসরি অফিস চলাকালীন সময়ে মধ্য নিম্নলিখিতকারীর দস্তাবে অবশ্যই পৌছাইতে হইবে। উক্ত তারিখের পরে কোন দরখাস্ত গ্রহণ করা হইবে না।
- ৬। জটিল পূর্ণ বা অসম্পূর্ণ দরখাস্ত বিবেচনার যোগ্য হইবে না।
- ৭। বিধি মোতাবেক কোটা সংরক্ষণের বিষয়টি অনুময়ণ করা হইবে।
- ৮। যোগ্য বিবেচিত প্রার্থীকে মন্ত্রণালয়ের অনুমোদন প্রাপ্ত সাপেক্ষে অস্থায়ী ভিত্তিতে নিয়োগ করা হইবে।

এনায়েত কবীর  
চেয়ারম্যান  
লালমোহন পৌরসভা।  
সি-৪৮