

A criminal in uniform?

Police reform can't wait

THE report that a police sergeant has been arrested on charge of robbing a businessman in the city has come as a rude awakener to the height of impropriety a public servant could have committed in any clime or country. Sometime ago another official had come in the news for a mind-boggling criminal offence. This is gate-keeper becoming a poacher in its most ugly manifestation.

People have reasons to worry when they hear news like this. They turn to lawmen for protection against criminals like muggers and robbers. But when cops themselves are found in that unlikely role, what recourse are they left with? It is really a matter of concern that some policemen even use their sources or informers, as reported in a Bangla daily, to squeeze money out of traders and businessmen. This is another blow being dealt to business environment.

Law enforcers have occasionally shown competence in grappling with crime, but their image is getting badly bruised from time to time due to the unlawful activities of a section of law enforcers who have become a liability for the police force; worse still, a potential threat to others who want to do their job well.

Now, the charge brought against the police sergeant is serious enough to stir the decision makers into adopting corrective measures where necessary. Sometimes there have been allegations that recruitment of policemen and officials and their postings were influenced not only by political considerations but also hefty amounts of money might have helped clinch the desired job or position. And the inevitable result is that such new recruits have tried to recover the money invested and more. Needless to say such cardinal sin could only fuel more in the administration.

We have time and again emphasised the need for police reform through these columns. The foot-dragging is costing us heavily. Obviously, the police must be well-motivated, trained and equipped and decently paid to be able to perform their duties single-mindedly. The recruitment process must be divested of political considerations with merit and suitability as the sole basis for selection. The antecedents and moral character of the candidates must be critically examined as a standard norm.

Criminalisation of police, even a segment of it, is a dangerous aberration which can greatly undermine the stability of society. The errant policemen must be brought to book, but more important clearly is the task of carrying out reforms that will help develop our police into a modern force.

Overrecruitment boomerangs

DMCH in woe

JUST imagine, all the 247 class four employees, employed some time ago by a government hospital, have not been paid their salary for the last seven months! All because a good number of them are beyond the sanctioned quota, nonetheless recruited, quite in violation of the rules, and therefore illegal.

The question that must occur to everyone is how is it that the DMCH authority appointed as many as 73 extra persons, and no one has been called to account for it so far. Why should the appointees suffer for the wrongdoing of others? The statement of the Director of the DMCH, trying to shrug off his responsibility in this very dubitable matter is quite illogical. The responsibility for the final approval is his and the appointment letters could not have been issued without his consent, that is, if he was in full control of his institution. Therefore, the contention that the additional appointments have been made without his knowledge is utterly absurd.

There are again, in this matter, all the indications of extraneous pressures on the management of the hospital, to which they succumbed without considering the consequences.

It could not have been an easy task to recruit only a handful out of several thousand applicants, as was in this case, given the pressures that authorities are subjected to in most cases of government recruitment. It's time that heads of government institutions realised the need to stick to established norms and rules of recruitment, in spite of political and union pressures. Failure to do so will result in what we see in the case of the DMCH today.

The government must inquire and take to task all those responsible for this state of affairs. After all, the DMCH cannot possibly suffer a work stoppage by the MLSS. That would seriously affect the DMCH's capability to provide medical succour to the common people. And those recruited must be paid their dues; not paying them would amount to penalising them for some one else's folly.

DR. BADIUL ALAM MAJUMDAR

THE High Court Division of the Bangladesh Supreme Court, in a recent judgment (*Abdul Matin Chowdhury and others vs Bangladesh, Writ Petition No. 2561 of 2005*), directed the Election Commission (EC) to collect, with the nomination paper of each parliamentary election candidate, the following information in the form of an affidavit: (a) academic qualifications with certificates; (b) any criminal accusations at the present time; (c) any records of past criminal cases and the results; (d) candidate's profession/occupation; (e) source or sources of the candidate's income; (f) description of the role he/she played in fulfilling commitment to the people, if the candidate was a parliament member before; (g) description of assets and liabilities of the candidate and his/her dependent; and (h) particulars and amounts of loans taken from Bank and Financial Institutions personally, jointly or by a dependent, or of loans taken by the Company from Bank where the candidate is Chairman/Managing Director/Director. The EC was further directed to disseminate the information submitted by candidates to the voting public through the mass media.

The purpose of this directive, particularly the call to dissemination, is to empower voters with information about candidates as the "people have a right to know and such right is included in the right to franchise." The Election Commission (EC) now has the solemn duty to judiciously and effectively implement both the letter and intent of the judgment in order to help citizens make an informed choice. This offers an acid test for the EC.

The Indian experience

The Indian Election Commission faced a similar test in 2002, and we can learn important lessons from their experiences. On May 2, 2002, the Supreme Court of India, in *Union of India vs Association of Democratic Reforms and Another* (Civil Appeal No. 17178 of 2001), directed the EC to get from each candidate seeking election to Parliament or state legislature, as a necessary

part of his/her nomination paper, the following information: (a) any convictions/acquit-tals/discharges for any past criminal offences, and details of any punishment with imprisonment or fine; (b) details of any pending case against the candidate for any offence, occurring prior to six months of filing the nomination, of which charge is framed or cognisance is taken by the court of law, and which is punishable with imprisonment for two years or more; (c) the assets (immovable, movable, bank balances etc.) of the candidate, of his/her spouse, and of that dependents; (d) liabilities, if any, particularly any existing past dues of any public financial institutions or government dues; and (e)

tive Council of a State having such a council, shall furnish full and complete information in regard to all the five matters, specified by the Hon'ble Supreme Court... in affidavit, the format whereof is annexed hereto... (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned. (3) Non-furnishing of the affidavit by any candidate shall be considered to be a violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nomination for such non-

consideration of the question whether the same is a defect of substantial character.

(5) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media. (6) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner

officer could easily verify. In addition, it created the provision for submitting counter-affidavits by opponents. The EC quoted the 2002 Supreme Court judgment as rationale behind this bold and assertive stand: "The limitation of the plenary character of power is when the Parliament or state legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, art. 324 (of the Indian Constitution) is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of

Constitution. Will our Election Commission now show similar courage and will?

To date our Election Commission has not demonstrated much assertiveness in the implementation of the High Court judgment. Rather, its action so far in this respect has been feeble at best. On June 18, 2005, it issued a very brief special circular to the DC, Sunamganj, who is the returning officer for the by-election in Sunamganj-3 constituency. The circular states: In view of the Writ Petition No. 2561/2005 submitted before it, the Honourable High Court Division of the Supreme Court, on May 24, 2005, issued certain directives requiring disclosures of various information by candidates in national assembly elections. The copy of the judgment of the Honourable Court is enclosed as Annexure-A. The affidavit containing various information to be submitted by candidates is enclosed as Annexure-B. Candidates will submit various information in affidavits to the returning officer, along with their nomination papers. Arrangements must be made for the dissemination of the above information through the media for informing the voters. You are requested to take action to implement the directives of the Honourable Court. (English rendering).

Unlike the order of the Indian Elections, the above circular is meek in tone and weak in content. I hope our EC will do better in the future and show its assertiveness and will to properly and effectively implement the High Court judgment. For, the judgment opens a window of opportunity to de-criminalise our politics and to create a real possibility for honest, competent and dedicated individuals -- individuals dedicated to public service -- to come to state power. Only such a change may pave the way for establishing a true democratic system, *people's rule*, in our country, and hence usher in a better future for us all.

Dr. Badiul Alam Majumdar is Global Vice President and Country Director, The Hunger Project Bangladesh

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the educational qualifications of the candidate.

In order to expeditiously implement the directives, the EC asked the Indian Ministry of Law, Justice and Company Affairs on May 14, 2002 to amend the nomination forms (Forms 2A to 2E), which are part of the Conduct of Election Rules 1961. On June 19, 2002, the Ministry wrote back to inform the EC that it had convened an all-party meeting on July 8, and asked the Commission to seek from the Supreme Court a two-month extension of the time limit on the implementation of the Court order. The EC replied on June 21, 2002, stating that the government should seek the extension, if it considered one necessary.

In the absence of any extension from the Court, the EC issued on June 28, 2002 a 5-page order, the directive portion of which reads as: "(1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legisla-

tive Council of a State having such a council, shall furnish full and complete information in regard to all the five matters, specified by the Hon'ble Supreme Court... in affidavit, the format whereof is annexed hereto... (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned. (3) Non-furnishing of the affidavit by any candidate shall be considered to be a violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nomination for such non-

turning of the affidavit. (4) Furnishing of any wrong or incomplete information or suppression of any material information by any candidate in or from the said affidavit may also result in the rejection of his nomination paper where such wrong or incomplete information or suppression of material information is considered by the returning officer to be a defect of substantial character, apart from inviting penal consequences under the Indian Penal Code for furnishing wrong information to a public servant or suppression of material facts before him: Provided that only such information shall be considered to be wrong or incomplete or amounting to suppression of material information as is capable of easy verification by the returning officer by reference to documentary proof adduced before him in the summary inquiry conducted by him at the time of scrutiny of nominations under section 36(2) of the Representation of the People Act 1951, and only the information so verified shall be taken into account by him for further

directed above." This order was later modified following the final Supreme Court judgment given in March 2003.

The EC posted the affidavits submitted by candidates on its website. More importantly, it has strictly enforced its own order. For example, during the last Rajya Sabha election in Uttar Pradesh, the nomination papers of two upper-house Congress candidates were rejected for non-submission of affidavits, and the position BJP candidates were declared elected unopposed.

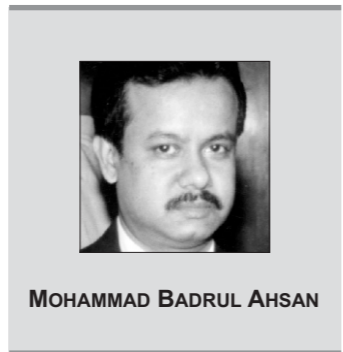
The challenge for our Election Commission

Though the Indian Supreme Court judgment did not clearly outline any punishment for non-compliance, the Indian Election Commission specified on its own the punishment in the form of rejection of the nomination paper for non-submission of the affidavit. Similar punishment was also specified for furnishing wrong or incomplete information, or for the suppression of any material information by any candidate in the affidavit, which the returning

situations that may emerge for time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions Commission can fill the vacuum till there is legislation on the subject."

We have a similar constitutional provision relating to the power and functions of the Election Commission. Article 119 of our Constitution is similar to that of Article 324 of the Indian Constitution, and it gives the Commission the plenary power of superintendence, direction and control for holding free, fair and transparent elections. Our Supreme Court, in *Ataf Hussain vs Abul Kashem* (45DLR(AD)(1993)), contended that "the Election Commission's inherent power under the provision of 'superintendence, control and direction' should be construed to mean the power to supplement the statutory rules with the sole purpose of ensuring free and fair elections." The recent judgment of our High Court is also similar to the judgment pronounced on May 2002 by the Indian Supreme Court, and the judgment has the force of law under Article 111 of our

The other train



MOHAMMAD BADRUL AHSAN

WHEN the train finally began to move, her husband said that clocks in many western cities used to be set at the whistle of trains. Punctuality, he reminded, was a pride of civilization, and he would know his country was making progress only if trains were running according to schedule. His wife, shifting her middle-aged weight between two restless sons and a talkative husband, wished the train had not left the station yet. Time is of essence in life, she said under her breath. But it is not always about the pleasure of doing it on time. It is also about the pleasure of having the time to do it.

She did not have the pleasure of doing it many years ago, and today, while sitting inside a crowded train in the sweltering heat of a July afternoon, paying attention to feisty children and listening to a fastidious man who liked to complain about things he could not fix, she resented that her life was one big mistake. She never took the time to think what was good for her own sake, and postponed everything for the future like a greedy person who starved every day to save for tomorrow.

The train started to crawl and then slowly picked up speed as the houses and fields on both sides of the track looked stretched and hazy. She wished the train had not left the station so that she could take another look at the man she saw on the platform. When she was a child, her grandmother used to hide a coin in a pail of rice and tell her she could keep the coin if she found it. The face she saw on the platform looked familiar to her, one which was lost in the con-

She found it difficult to gather her thoughts, while her body was rocking in the bone-shaking speed of the train, blowing its whistle from time to time like a wailing soul screaming in grief. But the face kept flashing in her mind like sparks in a faulty power line. It looked so familiar, reminding her of the face she was looking for countless years, the face which haunted her like a ghost of the past, sitting heavy inside the heart like the epitaph of fallen dreams, buried in the shifting soil of her

again, and she wished she could turn the train and go back to the station to find out if it was the same face which she has been searching for all these years. The face looked shrivelled and anguished, lines and creases crisscrossing it like a scarred terrain. Those were the heady days of conceited youth when every girl believes that she is such a precious thing that any man who wants her must suffer for it.

He spoke to her, she said nothing. He called her, she hung up on

despaired in her heart that her life should have come to this. She insulted a man because he loved her and now that insult was being returned to her every day as she was compelled to live with a man she hated.

Her grandmother used to tell her that life could be treacherous, since she had seen so many people in her life to end up wanting what they avoided earlier. That is how destiny takes its revenge by taking pride to its fall. That face she saw today, the

suffer that loneliness, that simmering fire which burns everything without giving out smoke.

It occurred to her that the train must have stopped at a number of stations on the way and she did not notice because she was engrossed in her thoughts. It was amusing that thoughts were racing inside her head, while she was travelling inside the train, which was running inside the globe that was spinning around the sun. Everything about life was relative, yesterday, today and tomorrow, everything depending on time and motion, everything having its rightful place in the stream of events from birth to death.

Once the fire of youth burned inside her body and beauty was nothing but dancing flames glowing on the skin. That fire is now all but spent, and beauty has abandoned her in a corpulent body, which is growing weaker in the midst of rioting wrinkles, falling hairs, dimming eyesight, anxieties, diseases and a gripping sense of futility. But she would like to see that face again, before it is all over for a life that has come to nothing. She must be able to touch that face, which once had to bear the brunt of her audacity, and ask for his forgiveness.

The train stopped with a screeching sound, like a raging beast brought to a halt on a tight leash. She woke up her husband and children and organised the basket in preparation to get off the train. It was a journey within a journey that had come to an end. But she has a long way to go to find that face. Until then she cannot get off the other train.

Mohammad Badrul Ahsan is a banker.

CROSS TALK

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course of faces in the world never to be found again.

The locomotive was now racing at top speed, circling around the edge of the city like the tortuous body of a slithering serpent. Her husband closed his eyes to mutter the verses from the holy book, his way of asking God to make his journey safe and smooth. She looked at his face and wondered how she was living with a man who would not even make love to her without muttering his verses first, a man who lived his life in contradiction, complaining about the inadequacies of this world but surrendering completely in praise of its Maker.

subconscious mind.

The elder son wanted to drink water, and she pulled out a fat flask from a tightly packed basket, pushing back her dosing husband whose head was bouncing like a ball on the spring. She poured water with the balance of a juggler as the jolting motion of the train was unsettling her hands holding the flask and the glass. She scornfully looked at her husband and felt the urge to pour the water on his head. This man conveniently says his prayer and goes to sleep, while she is always left to stay up and stew in her own juice.

The face flashed in her mind

him. He wrote to her, she warned him. He waited for her, she ignored him. He sent flowers, she abused him. Then one day he held her hand and she slapped him in the face. It looked like that same face she saw in the station, the face which quivered on that day in shame and anger of being humiliated, tears rolling down its cheeks, glowing red like fires burning in full fury.

He left the university after that day, and then he also left the country, while she realised what she had done, dislocating a life with one dastardly sweep of her delicate hand. Sitting inside the belly of a racing beast that pierced through the vanishing landscape, she felt

face, which stood in the crowded platform, must not have noticed that she was sitting inside the train. Yet as the train sped away further from the station, she felt heading closer to that face at an accelerated pace.

Her husband opened his eyes to ask how many more stations were left to go, then instantly went back to sleep. She thought of her misfortune, how she was going to cross as many stations sitting all by herself. The clank and clatter of the train resounded inside her head like blacksmith's hammer hitting on an anvil. One of life's many contradictions is that people could feel lonely inside a crowd and she knew it better than others how it feels to

OPINION

Bangladesh-India relations and FTA

BRIG. GEN. (GEN) AHM ABDUL MOMEN.

RECENTLY relations between Bangladesh and India are going through stress and strains. The main reasons for this may be attributed to long outstanding issues and sudden intensification of BSF killing of Bangladeshis, erection of barbed wire fencing within 150 yards of no man's land in contravention of Mujib-Indira Accord and pushback of so-called Bangladeshis residing in India and so on.

However, there have been some positive signals to arrest this situation and tackle the outstanding issues through the announcement of meeting of the Foreign Secretaries of the two countries. Besides, the announcement by the Indian Prime Minister of stopping the erection of the barbed wire fencing along the 150 yards of no man's land.

In the backdrop of this situation I would like to express an opinion on FTA between India and Bangladesh. In fact unequal economic development between the two wings of the then Pakistan and deprivation of East Pakistanis gave birth to independent Bangladesh. The role of India in the independence struggle of Bangladesh was greatly appreciated and even now remembered. It was expected that following the independence of Bangladesh India would take some positive steps in the economic development of Bangladesh. But what we noticed that India instead of assisting independent Bangladesh in its industrialisation turned it into a hinterland of Indian products. Of course, in this process a group of our people also played a very vital role to make quick money. In reality, Bangladesh turned into a market of Indian products instead of the then Pakistani products. This was certainly not the expectation of

Bangladeshis. But of late, there are also very positive move from India such as the investment proposal of TATA Group. I would not go into reasons for this but would simply state that both China and India are investing all over the world where there is good prospect of sources of energy.

The urge to express this opinion emanates from the article that appeared in The Daily Star on June 5 where the writer suggested that Bangladesh would benefit through the FTA with India as India is going to be generous towards Bangladesh and many other benefits would accrue through this FTA. Just to mention that Bangladesh need not expect generosity from India rather should expect a just and mutually beneficial agreement as is expected between two sovereign and independent states.

Let me put before the readers some facts to ponder and express their opinion on FTA between Ban-

gladesh and India. We had read economic dictum that says "nurse the baby, protect the child and free the adult". In case of Bangladesh before it could develop its industries it is faced with globalisation vis-a-vis industrialised countries who have developed their industries in the last two centuries. The case of Bangladesh is just like a child who has to run even before it could walk properly. However, this is a reality.

India is one of the top ten industrialised country in the world and is competing with other industrialised countries both in quality and price. But unfortunately the Indian products that enter Bangladesh are not the same in quality as this writer has very personal experience of the same. But what is expected of an exporting country like India is to ensure quality control.

Besides India puts up one obstacles or the other to the entry of Bangladeshi products in India. Just take the case of export of

Bangladeshi batteries which were even of a very small quantity compared to the huge Indian market. The same was the case of Bangladeshi Jamdani. And of late, even the most sought after Hilsa of Padma was subjected to entry ban in West Bengal.

I do not know as to how does one expect India to be generous when India even after 30 years of Mujib-Indira Accord has not ratified the same. But look at the plight of Bangladeshis in the enclaves of Dahagram and Augarpotha. Of late, because of power problem Bangladesh wanted to take power lines to the enclave to ensure round the clock electricity to the casualty retention centre of the hospital in the enclave but the same has been denied. Even the requests of Nepal and Bangladesh for the free movement of goods both ways remains to be attended to yet.

The writer of the article points out about the advantage of linking up of

our communication and transport system of East and South East Asia through Tamabil and not waiting for the completion of the Chittagong-Yangoon direct route. But here one has to weigh the pros and cons of its feasibility in its totality before taking the vital decision. The writer in support of his contention cites the examples of integration of Europe as well as of the growth of economies in both Europe and South America which has been due to integration of their transport and communication networks.

In this respect I would simply like to cite the example of establishment of SAARC and its rudimentary development even after a lapse of about two decades. To refresh the memories of the readers about the birth of SAARC in which doubts were cast by both India and Pakistan of ganging up of small states against the big ones. Again looking at the pace of development of SAARC countries

in any matter does not give confidence to oneself that FTA between India and Bangladesh will bring enormous benefits to Bangladesh.

It is true if India does want the region to prosper surely it can take the initiative by forgetting the disparities in size, economy, population and the stage of industrial development in these countries. I do agree with the writer of the article about the advantageous geographical location of Bangladesh as it is a bridge between South and South East Asia. The development of Chittagong port is absolutely essential in modern days of goods movement at the fastest speed. Besides, Chittagong port has the potential to serve as a regional port for not only Bangladesh but also Nepal, Bhutan and landlocked North-East India. To take benefit of this would depend on India about the passage of unin-

dered goods movement in this area.

Keeping all these in mind both the countries should engage themselves at various levels of government and private sector for confidence building and minimising the existing irritants and removing mistrust, if any. We get surprised when we read that even the agreed meetings on various issues and at various levels are not taking place in most cases due to Indian reluctance. I am in full agreement with the writer that both sides should refrain from accusing each other and avoid any provocative statements by the politicians as these do not help either side. Let us examine the FTA in its totality with India and take appropriate decision for the benefits of both the countries.