

Contempt rule on secretaries

Political intervention has to stop

THE contempt rule issued by the Supreme Court (SC) on four secretaries including the principal secretary to the prime minister for not complying with the 12-point directive on separation of the judiciary from the executive reinforces our faith in the authority of the SC at such difficult times in our nation's history. The court has also asked the secretaries to explain within three weeks why contempt proceedings should not be brought against them. It is a common understanding that things have come to such a pass because of deliberate prolongation, based more on excuses and pretext than any acceptable logic, of the process of the separation of judiciary from the executive by the present government. And in the whole charade, senior government servants appeared to have acted in an unexplainable manner that has ultimately earned them the contempt rule.

In fact, the entire nation watched and listened over the last four years what the law minister has been saying before asking for time-extensions to implement the directives of the SC. Initially, he talked positively on the issue of separation. But, towards the end he began to oscillate and then without a blink of an eye he let the nation know that it was not an easy undertaking and could not be completed during the tenure of the present government. So, the question is, where are we on this vital issue of separation of judiciary?

It is of paramount importance that the highest court of the country in discharge of its sacrosanct constitutional responsibilities ensure that its orders are executed. Those defying or ignoring the directives must be made to face the wrath of law. However, a pertinent question that arises from all these is, did the officials act of their own accord or they were dictated to by the political higher-ups.

It is our hope that the court will take due cognizance of the question of political diktat coming into play in this instance. We reiterate our support for the effort of the judiciary for its separation from the executive. We have criticised earlier the delaying tactics of the government and do so even now. The core question is what has the government done during the four years of time extension that it took. Has requisite progress been made? We seriously doubt. And that is where the real contempt lies.

The curse of fatwa

Violation of women's rights must be resisted

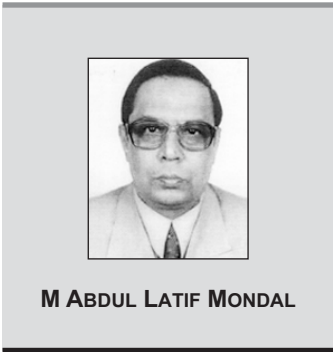
OF all the growing menaces in the society, we find fatwa an institutional dictate of self-proclaimed religious leaders. Exploited by a handful of self-styled religious clerics particularly in the rural areas of the country this has become a matter of grave concern. Their actions in turn often are supported by vested groups of socially influential people of concerned localities. In most cases a fatwa implies blatant violation of basic rights of women in particular.

Although there has been a noticeable lull in fatwa-related incidences in recent times, but of late we feel worried about an incident, which took place in a village at Fulachari Upazila. Apparently a 16-year old girl was allegedly raped by Madhu Mia and Fariduuddin Fakim on January 31, subsequently on March 24 the principal of the Fulchhari Madrasah Sirajul Islam and teacher Aminul Islam issued a fatwa sentencing both the accused and the victim to 57 lashes. While the young rape victim became unconscious after being subjected to 51 lashes the two accused managed to flee after taking 21 lashes.

It is, however, heartening to see that having been enraged thousands formed a human chain in Fulchhari protesting against all such forms of barbarism of the medieval age enacted in the name of fatwa. We wish to commend all local NGOs and women's rights bodies that organised the protest against the heinous act.

We have the Dowry Prevention Act of 1980, the Family Ordinance 1985 and the Women Repression Act of 1983 -- all apparently aimed at preventing repression against women. Despite all these acts and ordinances, it is sad to see that as yet both the society and the state have failed to enforce the rights of women. It is clear that mere existence of laws cannot ensure prevention against such serious violations unless the state is serious about enforcing the provisions of all such acts and ordinances. The civil society should also be proactively involved in creating social awareness against such criminal violations of women's rights. However, the lead has to come from the administration.

Flouting electoral law



M ABDUL LATIF MONDAL

ON March 26, The Daily Star ran a story under the headline: "Polls expenditure: No political party submits return." It showed that none of the 50 plus political parties that contested in the last parliamentary polls held in October, 2001 had yet submitted the return of their election expenditure to the Election Commission (EC) through the Returning Officers (ROs) concerned.

The Representation of the People Order (RPO), 1972 did not contain any provision for submission of return of expenditure by the political parties fielding candidates in general elections. Representation of the People (Amendment) Ordinance, 2001, promulgated during the period of the caretaker government (CTG) further amending the 1972 RPO, made provision for submission of return of election expenditure by every political party nominating any candidate for general elections to the EC through the ROs concerned. The amendment, inserting Articles 44CC and 44CCC after Article 44C of the original Order aims at making election expenditures of political parties fielding candidates in general elections transparent. The CTG of 2001 thus deserves congratulations for the said amendment.

The salient points of the new Articles 44CC and 44CCC are mentioned below.

Article 44CC

-- Maintaining by a political party setting up any candidate for election a proper account of all its income and expenditure for the

Respect for law and equality before law are important pre-conditions for functioning of a just and democratic society. By showing indifference to the provisions of the RPO for submitting election expenditure returns to the EC through the ROs concerned, the major political parties, including the BNP, AL, JP (Ershad) and Jamaat-e-Islami, have not only proved their unwillingness to be transparent in their election expenses, but also shown their disrespect for the law of the land. In the instant case, the ruling BNP has to set the example to be followed by others.

period from the date of declaring the election schedule till the completion of elections in all the constituencies in which it has set up candidates and such account showing clearly the amount received by it as donation above Tk 1,000 from any candidate or any other person seeking nomination or from any other person or source.

-- Depositing moneys of every political party in its account maintained in any scheduled bank.

-- No expending by any political party during the election period for election purposes, including election expenses for the contesting candidates set up by it, an amount exceeding Tk 1.50 crore where the number of its candidates is more than two hundred; -- Tk 1.00 crore where the number of candidates is more than one hundred but not more than two hundred; Tk 0.75 crore where the number of candidates is not more than one hundred.

-- Restricting receipt by any political party any donation amounting to more than Tk 1,000 unless it is made by cheque.

Contravention of any of the above provisions is punishable with fine which may extend to Tk 10 lakh.

Article 44CCC

-- Submitting by a contesting political party to the ROs concerned, within sixty days of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorised by it in connection with the election of its candidates for the

period from the date declaring the election schedule till the completion of elections in all the constituencies in which it set up candidates.

-- Showing separately expenditure incurred on general propagation of the manifesto, policy aims and objects of the party and expenditure incurred or authorised in connection with the election of each of its contesting candidates.

-- Furnishing by every political party to the EC a separate statement certified as correct and complete by the secretary of the party showing the opening balance of the party funds on the date of declaring the election schedule, the closing balance of the funds on the date of completion of election in all constituencies and the total amount received by the party as donation or otherwise, during the period between the said two dates.

-- Forwarding by the ROs concerned the expenditure statements received by them to the EC together with the result of the scrutiny made by them in respect thereof.

It would appear from the above that a political party is punishable with a fine of maximum amount of Tk 10 lakh for contravention of any provision of Article 44CC. But Article 44CCC has not prescribed any punishment for contravening any of its provisions. This, however, cannot be an excuse for non-compliance of the provisions of law for submitting election expenditure statements and balance sheet of the party funds to the EC.

Now the questions arise as to why the political parties are flouting

the provisions of the RPO for submitting election expenditure statements and balance sheets of the parties' funds to the EC; and what actions the EC have taken so far against the defaulting political parties.

It may not be very difficult to find answers to these questions.

First, our political parties that have ruled the independent Bangladesh so far have one thing in common and that is their avoidance of transparency, whether in politics or in governance. The ruling party/parties do not like framing transparent laws, rules, etc that obstruct their working at their own sweet will.

For understandable reasons, the AL that ruled Bangladesh for three plus years immediately after its independence did not take any initiative to frame Rules of Business (ROB) or Secretariat Instructions, the former constituting procedures of transaction of business of the government and allocation of functions among different ministries/divisions and the latter providing procedures for the disposal of business in the Bangladesh Secretariat, commonly known as the seat of the government. After 15 years of dictatorial military and presidential rules since August 15, 1975 the country got back parliamentary democracy in 1991.

The BNP and the AL that ruled the country in succession between March 1991 and July 2001 (excepting the CTG period between April 3, 1996 and June 23, 1996) did not take initiative to amend the 1972 RPO to

make provisions for registration of political parties or for submission of election expenditure statements to the EC by the political parties that nominate candidates in the general elections. The simple reasons are: (i) they do not want transparency in the management and financing of the parties; and (ii) they want to avoid accountability.

In its election pledges of 2001, the BNP committed to take legal measures for disclosure of assets and properties of all elected people's representatives, including the prime minister, ministers and others with the rank and status of minister. But during the last four years and a half, the BNP-led alliance government has not taken any legal step towards that end. The lust for amassing wealth illegally by the people's representatives stands in the way to translate the commitment into reality.

Second, the provisions introduced by the CTG in the RPO for submitting election expenditure statements of the parties fielding candidates in the general elections and their balance sheets of funds between the date of declaring election schedule and the date of completion of election in all constituencies have not been liked by the political parties, including the BNP and the AL.

The expenditure limits of political parties for election purposes are far from the ground realities. While the major political parties, in particular the BNP and the AL, spend hundreds of crores of taka for election purposes, the electoral law permits expenditure of only Tk 1.50 crore by a political party nominating more than two hundred candidates. Failing to make a match between their actual expenses and the limits set by the electoral law for election purposes, the political parties prefer not to submit returns on their election expenditure to the EC.

Third, Article 44CCC of the amended RPO is silent about the punishment to be meted out to a political party fielding candidates in general election for its failure to submit to the ROs concerned (or onward transmission to the EC) election expenditure statements within sixty days of the completion of election in all constituencies and

balance sheet of its funds between the date of declaring election schedule and the date of election in all constituencies to the EC. So, the political parties have not given any importance to the need for submission of aforesaid election expenditure statements and balance sheets of their funds to the EC. This speaks of the necessity for a further provision in the RPO for imposing a heavy fine on the defaulting political party/parties.

As for the second question regarding actions so far taken by the EC against the defaulting political parties, available information suggests that the actions taken by the EC so far are limited to issuing "a number of circulars asking the contesting political parties to submit the returns of their election expenditure." But none of the contesting political parties has responded. We have a divided EC for the last few years. The EC source suggests that the immediate past chief election commissioner (CEC) MA Syed did not convene any meeting of the commission to discuss the issue. The EC is in a mess under the incumbent CEC MA Aziz. So, ineffectiveness of the EC has provided a scope to the political parties nominating candidates in the general election of 2001 to flout the relevant provisions of the electoral law.

To conclude, respect for law and equality before law are important pre-conditions for functioning of a just and democratic society. By showing indifference to the provisions of the RPO for submitting election expenditure returns to the EC through the ROs concerned, the major political parties, including the BNP, AL, JP (Ershad) and Jamaat-e-Islami, have not only proved their unwillingness to be transparent in their election expenses, but also shown their disrespect for the law of the land. In the instant case, the ruling BNP has to set the example to be followed by others.

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Elections in Bangladesh and elsewhere

The omen is there that the next parliament election in Bangladesh will be a bloody one. Inter-party as well as intra-party conflicts will take place during the election months. Many of the prospective candidates will try to physically obliterate one another to make an easy sailing in bagging the party nomination as well as to win the election. By making politics and power as the means of minting money, the political leaders have made their lives unsafe.

FARUQUE HASAN

ON the eve of the British parliamentary election to be held in 1986, I was in London on a tour. There I was staying with my cousin's family. It was an early evening; and we sat to have dinner. At that time the doorbell buzzed. I went to answer the call, and opened the door to see a lone gentleman standing in front of it. Greetings were exchanged, he introduced himself to me as the Labour Party candidate in the general election for the post of the Member of Parliament from the constituency where my cousin was living.

I was looking behind him to see a procession of his supporters, but none was there. I was surprised to find that a candidate for the membership in the British Parliament was doing election campaign alone without a big procession following him, chanting thunderous slogans in his favour, waving their hands in the air. My election experience at home jolted me.

"Would you please vote for me," the gentleman asked me for my vote.

"I am not a voter, but my cousin and his wife are voters; I would rather ask them to talk to you, please wait." I went inside the house to tell my cousin about the gentleman.

My cousin came out to meet the candidate. He said to the gentleman: "You know, we from the Indian sub-continent usually vote Labour."

The gentleman looked happy at the words of my cousin. He offered my cousin a sticker containing the slogan: "I love Labour," requesting him to put it on the windownpane of his house. Of course, the sign of a heart in red replaced the word "love" on the sticker.

"You see, I am a black, so it's better for me not to put that sticker on my window." My cousin said. (People from the sub-continent are also black, not brown, in the eyes of the white British.)

"It's OK. Thank you very much. Good night." The candidate shook hand with us, and went to the door of

the next house.

Later I came to know that the lone campaigner won the election.

The next general election to be held in Bangladesh is only a few months away from now. Will it be as usual as the elections took place before in this country?

We may remain assured that in the coming election the candidates will be spending lots of money to bring out procession on the street one after another for months. They will spend a lot of money to print posters containing their photos, to run their election camps built at every nook and corner of their constituencies, to erect colorful gates on the roads, making the narrow roads narrower; and what more, each of them will make a fat contribution in their party fund. God knows, where to this fund ultimately goes.

Every procession costs money. These days in Bangladesh nobody takes part in a political procession without being paid a "fee"; nobody writes a word of a political slogan on a

wall without receiving money. Gone those days when dedicated party workers used to take part in the procession, write slogans on the wall free of cost. Politics in Bangladesh is now a business, a money-minting machine, where from the political parties will get dedicated workers for them?

Why does a candidate spend so much money from his pocket to get elected as a member of parliament? Do they love this country and the people so much that to serve them they are ready to sacrifice any amount of their "hard-earned" money?

According to the constitution of the country, the post of member of parliament is not a lucrative one. The allowance paid to a member of the parliament is a trifle sum. Each of the parliaments of Bangladesh passes a bill, allowing the members of the parliament to import a duty-free car. A duty-free car is not very much an alluring bite to entice someone to spend enormous amounts of money in his/her election campaign; then why the candidates "invest" so much money in their electioneering?

When a British parliament passes a bill, which benefits its members, it is customary in that country that the members of the parliament which has passed the bill will not enjoy that benefit, and only from the next parliament on, the members will enjoy that benefit. In Bangladesh, this rule is not followed.

Degenerating politics

A R SHAMSUL ISLAM

BACK to 15 July 2005, some nine months ago from now, Sheikh Hasina, the leader of the opposition, on behalf of the 14-party opposition alliance, first released in the public the proposals of reforms in the caretaker government (CTG) and the election commission (EC). As characteristic with the tenor and temperament of our country's ruling parties, the proposals were ridiculed away by the top leaders of the BNP and its allies.

Meanwhile, the genocidal activities of the religious militants in our country heightened alarmingly. Our development partners and western dignitaries began to pinpoint the need for holding acceptable elections with participation of major political parties for the sake of fledgling democracy in Bangladesh. They also asserted that Parliament should restore its position as the focal point of discussions on national and other issues. They urged upon resolving reform issues through meaningful dialogues between the ruling and opposition parties.

The alliance government leaders asked the opposition AL to come to the House to ventilate their demands, if they had any.

At last the AL returned to the Parliament after long absence that risked their membership to fall vacant under the constitutional bar.

On 12 March 2006 on the floor of the House the leader of the opposition Sheikh Hasina gave a detailed speech on the proposed reforms in the CTG, EC spelling out their merit to ensure fair and credible polls.

The leader of the House Begum Khaleda Zia attended the Parliament in the winding up session and told that a committee might be formed with the ruling and opposition members to examine the proposed reforms.

After the 14-party opposition held demonstrations like street agitations, hartal etc to drum up support routinely encountering police actions like lathi-charge, teargas shelling, water cannons etc, sometimes not event sparing the lady demonstrators, and BNP leaders declaring the reform proposals as useless, unnecessary, conspiratorial to subvert government's wave of development activities punctuated with the declaration of the Prime Minister in a mammoth public meeting that the defence of the government during the tenure of the CTG would remain with the President that the reform proposals demanded to be placed with the chief of the CTG

to maintain the continuity of the heritage of the Parliamentary democracy -- came on 20 March 2006 a letter from the BNP to the general secretary of the AL asking him to send names of their representatives to sit on that committee.

Within one and a half hours of receipt of the letter, the AL leaders sat and discussed the matter. Next day they conferred with the leaders of the other members of the alliance. On 22 March 2006 they gave a reply to the BNP secretary-general Abdul Mannan Bhuiya requesting him to inform on the number of representatives they (AL) would nominate, the kind of the committee, its tenure, terms of reference etc.

After 9 days the BNP Secretary-General replied that the committee would be composed of 10 members, both the sides having equal representation, asking his counterpart of the AL to submit names of five members from his side.

The prelude to dialogue exercise is on.

The public are watching with concern if the committee will break the stalemate that has plagued the two major political parties and will be able to fetch some results through meaningful dialogues. Or it is simply a

tactic of the ruling BNP to buy time to hoodwink the adversary who often threaten to uproot the government.

In my humble judgement an answer to the above issues depends on, on mainly three factors. First, is the ruling alliance strong enough to protect their roadmap to victory in the upcoming national polls? Second, will the opposition alliance be able to muster people under their banner to launch potential movement against the government? Third, will the donor countries, mainly the US, find it that expedient as to potentially pressurise the alliance government to accept the proposed reforms, wholly or partly? Let us examine the factors one by one.

Factor one: The alliance government has assiduously completed the election engineering blueprint. The chief adviser of the CTG will be their man because they have enhanced retirement age of the judges of higher Judiciary to get him in. The chief election commissioner is their hand-picked and to give him a majority in the commission two more election commissioners of proven learning to the BNP have been inducted. The administration, the police are made pathetically submitting to the ruling parties by reckless, rampant promo-

tion, transfer, privilege, punishment. Above all to meet any eventuality, if occurring, during the tenure of the CTG, there remains the partisan President to realise party wish. So, the alliance government may at best sacrifice one or two pawns in the game of dialogue with the opposition but will surely fight tooth and nail to defend their king.

Strange is the game of politics in Bangladesh. True, power politics has fashioned the present day world. Even the most developed countries of Europe, America are found to have stooped to this vice, let alone poor, developing countries of Asia, Africa, Latin America. But as is prevailing in Bangladesh, very few countries of world have granted also almost total immunities to the ruling party leaders and their cohorts from accountability - financial, political and other kinds.

Louis xiv of France once vaunted -- "I am the Estate." Louis xvi continued -- "What I desire is decree." Our Louises are more vigorous. French Louises were sometimes 'enlightened.' But our Louises are furthest from that enlightenment which dryden deridingly described as one who "never deviates into sense."

Factor Two : The main opposition AL have blown many false whistles to

topple the government. They are fortunate that the alliance government have offered them (AL) many issues like price hike, electricity, diesel, fertiliser, religious militancy etc to launch movement against the government. But the BNP are more fortunate that the AL failed badly to capitalise on them. For a movement people's active participation is a prerequisite. So far on AL's call people have not marched on probably because the people have also seen their (AL's) greedy faces incompatible with promoting people's welfare unless it comes as a by-product.

However, the formation of an opposition alliance has somehow inspired the people because if the opposition alliance come to power there will remain some personalities to balance the dictatorship of the top brass of the AL. By now something like a campaign has been while floated that the opposition alliance would abandon corrupt persons nominating for the upcoming parliamentary polls.

Meanwhile, the issue of religious militancy has come on the top. Fortunately not one percent of the people of Bangladesh has approved it. The masterminds of religious militancy who hoped to befool the people by painting a rosy picture of instituting

'sharia' law in this vastly Muslim-majority country have themselves been hoodwinked by the reactions the people have distinctly demonstrated against all activities of the militants.

As days roll on, it has got clearer that the religious militancy is in one way or other linked to the Jamaat-e-Islam, a viable partner of the alliance government. This has put the BNP to face multi-faceted allegations of giving indulgence to religious militancy not only from the opposition but also from embassies of the foreign countries, though allegations coming in some tacit form, and even from some influential quarters in own partyfold. The BNP are now practically walking on a tight rope. On the other hand, along with responding to BNP's letter, the opposition alliance have continued to stiffen their movement by drawing countrywide programmes.

Factor three: The donor countries are primarily concerned with their own agenda. The geo-political conditions of Bangladesh have offered some lucrative prospects to the foreign countries indulging in global diplomacy of profit and potency spearheaded by the lone superpower USA. When the major political par-

ties, forming the ruling and the opposition, are equally disposed to serve their (donor countries') interests they (donor countries) may consider which of the political parties have greater capacity to placate the adverse public reactions that may occur in the event of exploring (exploiting?) the resources, underground or above, of a country by the donor countries. They (donor countries) are as well hawkish enough to examine what pattern of politics the political outfits are pursuing.

So long the donor countries seem to have stressed on the need for reforms in CTG, EC. But it is not known how they will react to acts of aberration, likely to come, from the ruling parties in future.

Quite intriguingly, with the same hand, in the same breath, the BNP have composed letters responding to the proposals of reforms and have set to decomposing political climate simultaneously. Has the essence of our present day politics degenerated into that pass?

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