

# The unique case of Sultan Mansur's parliamentary membership

*The Speaker of the parliament holds constitutional authority to refer the matter to EC*

MOHAMAMD GOLAM SARWAR and EMRAAN AZAD

**A**MIDST much confusion as to whether Gonoforum-elect MPs would join sessions of the 11th parliament, Mr Sultan Mansur, the elected MP from Moulvibazar-2 constituency under Gonoforum's banner, finally took his oath as a member of parliament on March 7, 2019.

On the very same day, he was expelled from the party hours after taking oath, on the allegation that he violated his party decision of not joining the parliament. Referring to Article 70 of the Constitution, Attorney-General Advocate Mahbubey Alam commented to the media that the parliamentary membership of Sultan Mansur will stand as he neither resigned from the party nor voted against the party. Moreover, he is the only lawmaker from Gonoforum who has taken oath in parliament.

Professor Dr Ridwanul Hoque of Dhaka University, however, takes a different position and opines that the seat of Mr Mansur has become vacant in the parliament under Article 70. In response to a question by the Law Desk, *The Daily Star*, Professor Hoque said, "That Mr Mansur's decision to join parliament defying his party decision would not be affected by Article 70 is an interpretation that does not conform to the context and rationale of Article 70. His decision is nothing less than his resignation from the party. The very basis of Article 70 is to prevent horse-trading in the parliament, which has indeed occurred in this case though not in reference to a transaction in the House. The party which nominated Mr



Speaker Shirin Sharmin Chaudhury administers oath to Sultan Mansur at Jatiya Sangsad on March 7, 2019.

PHOTO: BSS

Mansur has expelled him, because of which the constitutional source of his being a member of parliament has been swept away. Article 70's scope is much wider than simply what is written under it."

The rationale of Professor Hoque's statement can be found in the Bangladesh Constituent Assembly Members (Cessation of Membership) Order 1972. Considered as the predecessor document from which came the genesis of Article 70, the 1972 Order in its Article 3(ii) provides that a member of Constituent Assembly was to lose his membership if he was expelled by such political party, and he was to cease to be a member of the Assembly for the unexpired period of his term as such member.

It seems that in the Constitution there is no direct solution to this unique problem. That is why, if Gonoforum appeals to the Speaker for vacating the expelled leader Sultan Mansur's seat in the parliament under Article 70 of the Constitution, it would be a constitutional law issue—first-of-its-kind—in Bangladesh. According to Article 70, membership of a lawmaker will be vacated if he or she resigns from the party or votes in parliament against the party.

Constitutional law jurist Advocate Mahmudul Islam, in his book *Constitutional Law of Bangladesh*, writes that the term "resign" may have extended meaning. If someone joins the cabinet/ministry formed by one party after being elected on the

nomination of another party, this may sometimes constitute resignation from the latter party under the interpretation of Article 70. However, in the case of Sultan Mansur, he has not resigned from the party; rather the party from which he got nomination has expelled him for defying party decision. The question now is: will Sultan Mansur lose his parliamentary membership for defying the party decision?

In this regard, Advocate Mahmudul Islam comments that violation of any direction of the party will not automatically lead to the vacation of a seat. So this would mean that, in the present context, Sultan Mansur will not lose membership in the parliament. The Constitution of Bangladesh rather contemplates the duty of each member to attend the sittings of the parliament and provides for vacation of seat for absence from parliament for a specified number of sitting days as referred to in Article 67(1)(b). Therefore, the interpretation of the constitutional provision does not facilitate a valid direction to refrain from attending the sittings of parliament.

Despite all sorts of interpretations and uncertainties, the unique case of Sultan Mansur's parliamentary membership deserves due course of action as mandated in the Constitution of Bangladesh. In an earlier event, in the seventh parliament, two persons were elected with the ticket of Bangladesh Nationalist Party (BNP) and they were appointed as ministers by the then ruling Awami League. They did not resign from BNP, but BNP wrote letters to Speaker Humayun Rashid Chowdhury requesting him to publish notification under rule 178 of the Rules of Procedure (RoP) stating that they vacated

their seats as members of parliament as their conduct amounts to resignation from BNP. The Speaker refused to publish notification or to refer the matter to the Election Commission (EC). Rather he took the stand that there was no allegation of resignation or voting against BNP and as such there was no dispute to be referred to the EC under Article 66(4) of the Constitution.

Article 66(4) of the Constitution provides that if any dispute arises as to whether a member of parliament has, after his election, become subject to any form of disqualification mentioned in Article 66(2), or as to whether he should vacate his seat in line with Article 70, the dispute shall be referred to the EC to hear it, and the decision of the Commission would be final.

BNP leader Khandaker Delwar Hossain subsequently challenged the ruling of the Speaker in the Supreme Court of Bangladesh. The Court in this case observed that the facts and circumstances of the case disclosed a dispute regarding the alleged resignation of the two members and the EC is the authority designated by the Constitution to determine the question as to what is meant by resignation. Accordingly, the Court directed the Speaker to refer the matter to the EC.

As the experience of the aforesaid case suggests, the fate of Sultan Mansur's parliamentary membership now depends upon the ruling of the Speaker of the parliament who can only refer the case to the EC for a decision. If the case of Sultan Mansur is referred, the EC would be the ultimate authority to make a decision on this matter.

Mohamamd Golam Sarwar and Emraan Azad work for the Law Desk, *The Daily Star*.

# All women and girls must be able to build the future they want

*Every woman and girl must have the right and a real possibility to build the future she wants. And every woman and girl must have the right to make her own decisions—be it about her body, her career, or her education.*

MD EMAMUL HOQUE

**T**HE data—with its sexism and its gaps—shows us that many of the barriers girls experience are determined merely by their gender. This inequality, present in all societies, is by far the most widespread bias.

During the next decade, 14.2 million girls under the age of 18 will be married each year. That's 39,000 girls every single day. In Mali, a country in Africa, 52 percent of girls are married before they turn 18. Meanwhile, of the 57 million primary-school-aged children out of education, 31 million are girls.

In case of Bangladesh, despite various preventive measures by government and non-government organisations, violence against women shows little sign of decreasing. According to ASK, a legal aid and human rights organisation, the extent of harassment and other acts of violence, including rape, murder and domestic abuse over dowry, has forced many girls to stop pursuing education. Many such cases are well-recorded but the actual figures could be much higher as many go unreported. As an example, about 2,000 complaints of violence against women and children are reported every day through a hotline number (109) set up by the government.

According to Unicef, while the incidence of child marriage has decreased worldwide, it has increased in Bangladesh. Bangladesh stands fourth in child marriage prevalence, second only to India in numbers.

Unicef says that at present, one out of every five girls is married before 18 years of age. A decade ago this was one in every four. The most progress has been made in South Asian countries where the percentage of girls being married off before reaching the age of 18 has fallen from 50 percent to 30 percent. However, the fight is far from over.

Bangladesh is pledge-bound to eliminate violence against women as it ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As part of the pledge, the government is implementing a project called Multi-Sectoral Programme on Violence against Women, building a legal framework that addresses, prevents and eliminates violence against women and children, and creating public awareness to change negative attitudes, beliefs and values towards women and children.

The story of Asma Akhter, now 25 years old, proves that children who are most vulnerable can thrive with solid support from schools and communities.

Asma started her education in 2001 at Intervida Pathshala Korail TnT, a school run by Educo Bangladesh. Asma achieved good results in her Secondary School Certificate exam which inspired her to continue her studies. Her parents also supported her decision to continue her education.

Asma was determined to finish school and make her dreams come true. But things took a different turn



SOURCE: WWW.ONTAHEEN.COM

for Asma, who was only 16 years old at that time. Just before her Higher Secondary School Certificate exam, Asma's parents arranged her marriage with a boy who belonged to a decent family. The future groom's family had no demands of dowry. Asma's parents were so overwhelmed with the proposal that they failed to mention to Asma the only condition of the future groom's family: that she would stay at home and leave school after marriage.

It was only after the wedding date was set that Asma came to know the situation, and she requested her parents to call off the marriage. But all her efforts went in vain. She then asked her college teachers and her primary school teacher Ms Ferdousi for help. After several meetings with Asma's parents, the teachers were able

to help call the marriage off. Asma told us: "Without the help of my former teachers, I would not have been able to pursue my dreams. My teachers had always kept in touch with me and that's why I had the courage to approach them and ask for help."

Currently, Asma is working as a teacher at Educo Pathshala Shahjadpur and continuing her education. She is now a student pursuing a degree in Bachelor of Social Science at Government Titumir College. Asma dreams of pursuing further education to be able to contribute to the country's development, and to be independent and self-sufficient.

Receiving an education is critical for girls but it's often overlooked due to deeply embedded patriarchal

structures. Promoting gender equality and the rights of women and girls is not only a question of social justice, but an inherent principle of the Universal Declaration of Human Rights and an essential requisite for achieving the Sustainable Development Goals.

It is therefore important for communities, schools, the government and the civil society to help improve children's overall well-being and performance in school by reducing violence against women and girls, empowering youth groups to act as change agents to prevent violence against women and girls at the community level, and educating communities about gender-based violence and its impact on children.

The UN theme for this International Women's Day was "Think equal, build smart, innovate for change." Through collective action, we know that women and girls can and do think equal, build smart and innovate for change, if they are given the opportunity. Just like Asma.

Every woman and girl must have the right and a real possibility to build the future she wants. And every woman and girl must have the right to make her own decisions—be it about her body, her career, or her education. We call for a diverse and colourful world in which pink and blue do not impose limits, and where no one can dictate how far a woman or girl can go.

(Note: Some names have been changed to protect individuals' identities.)

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## A WORD A DAY

**T**HROTTLEBOTTOM  
NOUN

*An innocuously inept and futile person in public office.*

### CROSSWORD BY THOMAS JOSEPH

**ACROSS**

1 Insipid

6 Cap feature

11 Custom

12 Concert setting

13 Longtime senator

14 Unspoken

15 Mars, e.g.

17 Corn setting

18 Before now

19 Wrestling holds

22 Bow wood

23 Laundromat

sights

24 Cop's concern

25 Walked with

purpose

27 Braille bit

30 Tiger features

31 Coronado's gold

32 Mine find

33 Declares

35 Prominent

38 Squashed circles

39 Earlier

40 Like Thor and

Odin

41 Showed again

42 Called off

**DOWN**

1 Lane for commuters

2 "All the world's ---"

3 Constricted

4 Wildly eager

5 Tart candy

6 Big tub

7 Radio's Glass

8 District

9 Burger toppers

10 Assesses

16 Makes fun of

20 Quarry rock

21 Catch sight of

24 Dernier --

25 Rake with gunfire

26 Small quake

27 Senile sort

28 Threat phrase

29 Flung

30 Up to now

34 British river

36 Memorable time

37 Cub's cave

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### YESTERDAY'S ANSWER

D	E	N	S	E	P	A	W	E	D
A	V	A	I	L	O	L	I	V	E
D	A	R	T	S	L	A	D	E	N
C	R	O	P	E	D	B	E	N	T
M	O	W	B	O	O	M	E	R	S
O	B	E	S	E	M	A	C	A	W
N	E	S	T	L	E	S	E	R	A
S	H	A	D	K	I	E	V		
P	I	P	E	R	A	M	E	N	D
A	R	E	N	A	G	O	R	E	S
T	E	S	T	Y	O	N	S	E	T

### BEETLE BAILEY

by Mort Walker

### BABY BLUES

by Kirkman & Scott