

Presidential Nomination of Vice-President Abdur Sattar and Sixth Amendment in Bangladesh: A Critical Analysis

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Abstract:

Bangladesh adopted her constitution in 1972. So many shortcomings were in this constitution. In the name of removing these short-comings and making it more-people oriented civilian governments from the very first year from the operation of the constitution had brought several amendments in it. But in reality it shows that peoples' interest or incorporation of the hopes and aspirations of the people of the concerned periods had no relevancy with regard to these amendments. Constitution sixth amendment is the glaring instance of this. This article explores how the unconstitutional nomination of an individual was made constitutional by bringing change in the constitution in the name of democracy and people's benefit.

Keywords: Nomination, Election, Party Chairman, Constitution, Democracy, Bangladesh Nationalist Party (BNP)

1.1 Introduction:

Constitutional change is a common place in all political systems. It is done usually to meet the requirements of prevailing political environment. In democratic society such change is the outcome of the demand of the people. On some occasions it is adopted to consolidate incumbent regime's position. In Bangladesh because of the absence of consensus on the fundamentals of governance as well as lack of secularised political culture constitutional alteration is done frequently. Political government in the name of people's welfare and realization of spirit of war of independence brought several changes in the constitution. But in reality these were done for hanging in power. People's interest or spirits of the war of independence were political rhetoric nothing more. After the resumption of civilian rule in 1979 sudden killing of President Ziaur Rahman forced Vice-President Abdus Sattar to take the charge of Bangladesh. Though constitutionally incumbent President or Vice-President was barred to stand for election yet BNP nominated Abdus Sattar as its presidential candidate. Opposition voiced against this nomination in the House. Consequently government adopted sixth amendment to the constitution to make its nomination endorsed by the constitution.

1.1.1. Research Questions:

Q1: Was the nomination of Vice-President Abdus Sattar lawful?

Q2: Does the Constitution (Sixth Amendment) Act uphold constitutional sanctity and democracy in Bangladesh?

1.1.2. Research Objectives:

The objectives of this research are to:-

- i) Give an account of the political environment of Bangladesh immediately after the killing of President Ziaur Rahman.
- ii) Portray the role of ruling elite in consolidating power in the name of democracy.

1.1.3. Research Hypothesis:

The author fixes two research hypotheses for this research –

- a) There was no need for the Constitutional (Sixth Amendment) Act.
- b) This amendment undermines the democratic norms and values as well as hopes and aspirations of the people of Bangladesh.

1.2 Declining Health of Vice-President:

Vice-President Abdus Sattar had poor physical health. Though President Zia had appointed Abdus Sattar his deputy for his sound, healthy and clean professional career yet his poor health compelled Zia to rethink about the future of Vice-President. Zia decided to remove his Deputy Abdus Sattar from his office because of old age sickness.(Ahmed, 1995) On May 30, 1981 when President Zia was assassinated in Chittagong Vice-President Abdus Sattar was lying in hospital bed.(The Bangladesh Observer, May, 1981) For greater national interest ailing Vice-President Abdus Sattar had to take the charge of state under the catastrophic moment of the country. Immediately with the assumption of the office of acting President, Abdus Satter declared state of emergency and suspended all fundamental rights under the Constitution of the People's Republic of Bangladesh on May 30, 1981 for the stability of the government as well as security of Bangladesh.(The Ittefaq, May, 1981)

1.3 Occupy the Post of BNP Chairman:

President Zia, the father of multi-party democracy in Bangladesh, was unanimously elected the chairman of BNP. After his demise although acting President Abdus Sattar and Prime Minister Shah Aziz reiterated to uphold

the democratic process introduced by Zia but they did not honour him. Under the BNP constitution there was no post of acting chairman of the party. Party chairman was to be elected by Electoral College consisting of the presidents and secretaries of each union, thana, city, municipality and members of each district and city executive committee, and two reserved women from each unit. Ignoring Electoral College acting President Abdus Sattar was made acting chairman of BNP on June 8, 1981 with the approval of National Standing Committee (The Bangladesh Observer, June, 1981) which had no power to elect or remove party chairman. Such occupation of party chairmanship by acting President Abdus Sattar meant to disrespect the democratic thought of Zia.

The changes brought by Zia in politics, economy, foreign policies, social life and administration placed Zia in the heart of the people of Bangladesh. Not only that for introducing multi-party democracy and democratic system, Zia has become an ideal of democracy in Bangladesh. (Franda, 1982) After his assassination every contemporary politician and politician to come who were/are oriented to Bangladeshi nationalism tried and tries to prove him/herself the best disciple of Zia to get his/her political ambition fulfilled.

1.4 Bagging Presidential Nomination:

Acting President Abdus Sattar and PM Shah Aziz asserted themselves to be the true follower of Zia's dream. On May 31, 1981 Prime Minister Shah Azizur Rahman pledged to follow the path of late President Zia. He said BNP Parliamentary Party resolved to implement late President's peaceful revolutionary programmes of national reconstruction and economic self-sufficiency. (The Ittefaq, June, 1981) Acting President Abdus Sattar in a nation wide radio-tv speech addressed that spirit infused by Zia would never die. The nation was determined to preserve independence and sovereignty, foil any conspiracy to undemocratic process in the country. (The Bangladesh Observer, June, 1981) By such statement they were able to bag people's sentiment for their political goal.

At the news of assassination of Zia the whole nation became shocked and plunged into deep grief. At the funeral of Zia Bangladesh had never witnessed the spontaneous participation of so many people in her life. (The Ittefaq, the Bangladesh Observer, the Banglar Bani, the New Nation, June, 1981) No sooner had the people got out from their grief and sorrow on June 3, 1981 Prime Minister Shah Azizur Rahman told the House that presidential election would be held within 180 days under the constitution. (The Ittefaq, June, 1981) Reiterating the same voice on June 4, 1981 acting President Abdus Sattar announced that presidential polls would be held as early as possible on the basis of universal adult franchise under the constitution. (The Bangladesh Observer, June, 1981) It is to be mentioned here that a very few number of ministers knew about the presidential polls and rest were kept in darkness. Sensing the undemocratic motive of acting President Abdus Sattar and Prime Minister Shah Azizur Rahman members of BNP National Standing Committee, National Executive Committee, Parliamentary Party and Council of Ministers not only asked the acting President to quit the office of President but also refrain from standing in polls. Petroleum Minister Akbar Hossain asked BNP acting Chairman of BNP Abdus Sattar to convene BNP council for determining suitable candidate of BNP for next presidential polls. (the Bangladesh Observer, June, 1981)

Ignoring the voice of the party members on June 13, 1981 acting President hurriedly announced that presidential polls would be held on September 21, 1981. (The Ittefaq, June, 1981) Not only that on June 19, 1981 news was published that acting President Abdus Sattar would be nominated as presidential candidate of BNP from the party on June 22, 1981. (The New Nation, June, 1981) Such report astonished most of the party members as well as members of BNP Parliamentary Party. On June 21, challenging this news 60 members of BNP Parliamentary Party (which was required to convene a requisition meeting of BNP Parliamentary Party) demanded an emergency meeting of BNP Parliamentary Party. In the meeting they criticised Prime Minister Shah Azizur Rahman and acting President Abdus Sattar for converting their individual decision into party decision violating the party constitution. They resolved to meet at party centre office on June 22, 1981 with the object of finding a suitable candidate for September 21, 1981 presidential polls. (Ahmed, 1995) It appears that for sinister motive BNP acting Chairman Abdus Sattar arranged meeting at Bangabhavan instead of BNP Centre Office. Most of the MPs were barred from entering into Bangabhavan on June 22, 1981. However a handful of MPs managed to enter into the Bangabhavan and attend the meeting. Prime Minister Shah Azizur Rahman hired armed cadres to control any un-towards situation in the meeting. All the ministers were present in the meeting. With the arrival of BNP acting Chairman Abdus Sattar, Abul Kashem, the Youth Minister, surprisingly standing up proposed acting President Abdus Sattar's name as a BNP candidate for September 21, 1981 presidential polls. And another minister M.A Bari seconded that name. (Ahmed, 1995) Attending MPs were not given any opportunity to say in the meeting. Attending MPs sounded against the nomination of Abdus Sattar. However from amongst the present MPs, one proposed the name of Begum Zia for the BNP candidate. But at the direction of Prime Minister Shah Azizur Rahman armed guards tried to stop the protesting MPs. (Ahmed, 1995) As a result scuffle broke out among the MPs, armed guards and ministers; and meeting ended in a chaotic situation. (The Bangladesh Observer, June, 1981)

However going out of the meeting Prime Minister Shah Aziz told the reporters that BNP Parliamentary Party unanimously had nominated acting President Abdus Sattar as their presidential candidate for the September 21, 1981 presidential polls. (The Bangladesh Observer, June, 1981) This process of hijacking presidential nomination by acting President Abdus Sattar undermined the democratic teaching of Zia. This event also proved that acting President Abdus Sattar and Prime Minister Shah Azizur Rahman were indifferent of Zia's dream for democratic system when their personal interest was involved.

1.5 Constitutional Bar against Nomination:

Prime Minister Shah Azizur Rahman and acting President Abdus Sattar imposed the nomination of acting President Abdus Sattar for presidential polls upon the BNP. They were not aware of the fact that their imposition was against the provisions of the Constitution of the People's Republic of Bangladesh. The Constitution of the People's Republic of Bangladesh barred incumbent President and Vice-President from standing for the Presidential or Parliamentary election. (Ministry of Law, Justice and Parliamentary Affairs, 2006) Opposition parties raised the legality of the nomination and brought charge of constitutional violation against the government in the House. (Ahmed, 1995)

1.6 Legalising Nomination of Acting President Abdus Sattar:

Allegation of the violation of the constitution not only shook the government but also pin pointed government's mistake in nominating incumbent Vice-President Abdus Sattar. With the object of correcting the presidential nomination of ruling party Prime Minister Shah Azizur Rahman on June 29, 1981 told the House that government would move a constitutional amendment bill to remove anomalies relating to contesting election by incumbent President, Vice-President and Speaker of the Jatiya Sangsad. (The Bangladesh Observer, June, 1981) Accordingly on June 30, 1981 BNP Parliamentary Party supported the Constitution Sixth Amendment Bill. (The Bangladesh Observer, July, 1981) It is worthy to mention that two groups- democratic and undemocratic existed in BNP. Democratic faction was nourished by Zia and it was dominant. After Zia's death democratic group of BNP was kept outside the saddle of power. Vice-President, Prime Minister and Council of Ministers were adamant to have the authority and control over party and BNP Parliamentary Party by any means. They used physical intimidation, cancelled development project, brought false corruption charge and threatened to file criminal cases against their party MPs who dare to show dismay against the government. (Ahmed, 1995) Threat of such suppressive measures was applied to secure unanimous support of BNP Parliamentary Party for the sixth amendment bill. (Ahmed, 1995)

On the same day Prime Minister Shah Azizur Rahman introduced the bill in House. In the objective of the bill it was said that the amendment was sought to remove certain anomalies in the constitution with regard to eligibility of a sitting President and Vice-President for election to the office of president. (The Bangladesh Observer, July, 1981) This bill brought changes in clause 4 of article 51 and said if Vice-President is elected as President, he shall be deemed to have vacated his office on the day on which he enters upon the office of President. It also brought change in clause 2A of article 66 and said that not only incumbent Prime Minister but also sitting President and Vice-President shall be eligible for contesting election in presidential as well as parliamentary polls. It further said that if President or Vice-President is elected in parliamentary polls President or Vice-President shall remain in his office until he takes the oath of Member of Parliament. Reverse where an Member of Parliament is elected as President or Vice-President he will not vacate his office until he enters upon the office of President or Vice-President. (Ministry of Law, Justice and Parliamentary Affairs, 1981) The bill was passed on July 7, 1981 and acting President endorsed the bill on July 9, 1981. It is necessary to mention that although suppressive action of government secured unanimous support of BNP Parliamentary Party over the bill but it did not ensure their presence in the House. BNP Members of Parliament boycotted the inaugural speech of acting President in the House. (Ahmed, 1995) Being fearful of losing support of BNP Members of Parliament over the bill Prime Minister agreed to meet their demands. The demands included making provision for direct election for the post of Vice-President, making Vice-President more accountable to the House and ensuring the nomination of Khaleda Zia for Vice-President. Prime Minister Shah Azizur Rahman pledged to materialize these demands by adopting seventh amendment immediately after the passage of sixth amendment bill. (Ahmed, 1995) But acting President Abdus Sattar and Prime Minister Shah Azizur Rahman blackmailed them. (Ahmed, 1995) They (BNP Members of Parliament) supported the autocratic attitudes of government for avoiding national crisis and the sake of BNP party image. If they did not support the bill Bangladesh would have been plunged into deep political crisis and it would have maligned Zia's BNP. (Ahmed, 1995) By this amendment government legalized her unconstitutional nomination of acting President Abdus Sattar for September 21 Presidential polls constitutional.

1.7 Comments on the Amendment:

When the bill was introduced in the House entire opposition excepting Mr. Rafiquallah Chowdhury of Gono Front staged a walkout on protest. The opposition on point of order accused the treasury bench of violating the rules of business regarding the introduction of the bill without seven days notice. According to rules of business a bill must be introduced to the House with seven days notice. The opposition also accused the government of introducing an amendment of the Constitution which is a sacred document of the nation, only to suit the interest of one single person and his election. (The Bangladesh Observer, July, 1981)

Replying to the objection of the opposition members Prime Minister Shah Azizur Rahman said that the Speaker had the right to waive the rule for seven days notice in introducing a bill. Shah Azizur Rahman refuted the opposition's charge and said "sixth amendment was introduced not for acting President Abdus Sattar or closed chapter and if necessary more amendment would be introduced." (The Bangladesh Observer, July, 1981) On July 3, 1981 the opposition and independent members declared that they would not join the Session till July 13, 1981 in protest of the Bill. (The Bangladesh Observer, July, 1981)

Sheikh Hasina, the Chairperson of Awami League on July 3, 1981 said, "The ruling party had moved the Sixth Amendment Bill ignoring the demand of all opposition parties for parliamentary democracy in the country. She alleged that the government aimed at consolidating the power of ruling party. Awami League (H) called upon all progressive democratic forces in the country to resist the Sixth Amendment. (The Bangladesh Observer, July, 1981) Communist Party of Bangladesh criticized the Bill. (The Bangladesh Observer, July, 1981) Jamat-e- Islam Bangladesh Chairman Mr. Abbas Ali Khan said that the Sixth Amendment Bill had been moved in the interest of an individual. (The Bangladesh Observer, July, 1981) NAP(B) Chairman Abu Naser Khan Bhasani urged the acting President to contest the election by resigning his post and shift the date of election sometime in November, 1981. (The Bangladesh Observer, July, 1981)

1.8 Conclusion:

Although constitutional changes are expected to incorporate the hopes and aspiration of the people but with regard to constitution sixth amendment to the Constitution of the People's Republic of Bangladesh welfare/interest was not served. Sudden killing of President Ziaur Rahman forced the ailing Vice-President to undertake the responsibility of President under the constitution. But lust for power lured him and PM Shah Azizur Rahman to occupy the post of BNP Chairman. Not only that to stay in power Prime Minister Shah Azizur Rahman helped acting President Abdus Sattar in attaining Presidential nomination of BNP. These processes were not only autocratic but also unlawful and unconstitutional. The regime for the sake of endorsing these undemocratic and unconstitutional tasks of acting President Abdus Sattar and PM Shah Azizur Rahman brought Sixth amendment to the constitution. Though the process was not correct yet the audacious statement of PM Shah Aziz proved that ruling party has power to do whatever it desires to do for staying in power. Such type of political stand of the ruling party was not helpful for democratic system in Bangladesh and it was against the spirit of the democratic teaching of President Ziaur Rahman.

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