

Panel Presentation
on
Regulatory Support for Privatized SOEs
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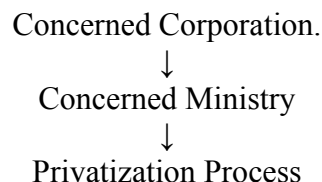
Respected Chairman of the Privatization Commission &
Chairperson of the Working Session
Ladies and gentlemen.
Assalamu Alaikum

I feel glad finding a privilege today to present a paper on “Regulatory Support for Privatized SOEs”. I am thankful to Mr. Chairman of the Privatization Commission for the opportunity he has provided to me to prepare the note.

A paradox underlies in the privatization of State Owned Enterprises (SOEs). There appears to be a very strong commitment for privatization on the part of the Government, but in reality the process stumbled due to poor evaluation of the policy makers. This sort of vacillations in the privatization process originated from absence of clear policy option. Whatever policy options we have, there appears to be considerable ambiguity in the privatization process. Conflicting policy options exist in the privatization process. Unless these conflicting options are reconciled and a common policy framework is initiated, privatization agenda may fail to achieve, what is intended from such move.

In Bangladesh privatization took place under two basic structures. One that followed the prefixed policy regulations, wherein bidders have been evaluated. In that case privatization of SOEs has been made to the right persons having knowledge, expertise and genuine interest to run a specific type of SOEs. The other one did not follow any prescribed policy options, rather they were privatized mostly on the basis of undue political influence and so called unfair underhand dealings. In the first case, the purpose of privatization has been proved to be successful, the firms privatized in line with the prescribed rules and regulation are functioning properly, whereas firms privatized under political influence and pressure have been either closed down or have been sick. The main reason behind such situation can easily be attributed to poor selection of the buyers. In most of the cases, the bidders have been people outside the industry, interested to occupy the land & use it as a rent seeker rather than being a genuine entrepreneurs.

In Bangladesh privatization process follows as shown below:



When the major responsibility of a unit identified to be privatized, the onus lies with the Corporation. The Corporation was supposed to initiate the initial process. However, the process in general stalled due to non-availability of financial statement, documents pertaining to the ownership of assets, land disputes etc. The SOE for privatization cannot gather pace due to non-cooperation and inactiveness of the Corporation under which the SOE operated earlier. As such valuation process fails to take into account the current market prices.

Privatization in Bangladesh is governed by a few major documents. They are :-

- (a) Privatization Act – 2000
- (b) Privatization Policy – 2007
- (c) Privatization Rules - 2007

Under the Privatization Act – 2000, the major areas of an effective Privatization are formation of Privatization Commission and Policy. For effective implementation the commission was empowered to determine the procedure of privatization which encompasses determination of value of the proposed privatizations, procedure for inviting & evaluating tender, preparation of transfer documents/agreements and procedure of payments.

Initially when Privatization Policy has been formulated in 2001, it was not a comprehensive documents. Over the years while implementing the policy, many shortcomings were detected. To have a comprehensive and clear policy devoid of ambiguity the policy has been revised in 2007, which encompasses a comprehensive and more integrated privatization program. The privatization policy as revised in 2007 outlines in more clear terms the process involved in privatization. These are :-

- (i) Finalization of SOEs list by the Cabinet Sub-committee for Privatization.
- (ii) Valuation of SOEs by enlisted firms.
- (iii) Finalization of SOEs valuation report & preparation of profile.
- (iv) Invitation of open bid/tender.
- (v) Evaluation of bid.
- (vi) Final approval by the Govt.
- (vii) Issue of letter of intent.
- (viii) Obtain primary deposit.
- (ix) Inventory & processing of handing over.
- (x) Agreements signing & Registration.
- (xi) Physical handing over.
- (xii) Follow-up of post transfer.

To have a result oriented privatization policy list of the SOE to be privatized must be approved by the Cabinet Sub-committee as provided in the Privatization Policy – 2007. However, it has been observed that the Ministry concerned fails to place the potential SOE list for privatization for approval. Bureaucratic red-tapism plays a vital role in the

delay in preparation of the list of potential privatized SOEs. Privatization Commission is empowered to go for privatization. Unless they receive the approved list, they have nothing to do. Concerned Ministry, therefore, need to be made accountable, for non-availability of the SOE list for privatization.

A High Powered Industrial Board may be formed to oversee the performance of the ministry to make them accountable:

Regarding valuation of the SOE meant for privatization it has been observed that bidders are more interested in land rather than factory, machinery and other assets. Valuation process is mostly influenced by the Corporation. As a result in most cases an unrealistic/exorbitant price is placed which discourages the potential bidders and left the SOE for years to remain in the privatized list. Valuation of machinery shall be made at the written down value. Another lacuna in the process of valuation is that there is no time bound for the valuation. Over the years, value of machinery depreciates and real market value is hardly placed on the SOE. There is a condition that the land of the potential SOE unit ready to be privatized, shall be used for industrial purposes. But while valuating it land price is based on other use of the land. Besides these litigation issue and non-availability of documents also pose problems for smooth privatization process. Since chain of documents have been missing and in some cases lease deeds of the land have not been renewed. These pose further problem in valuation process. Therefore, for appropriate valuation a Committee comprising people from various private sector, and experts from relevant/concerned private sector & Ministry be formed to have correct and appropriate valuation and at the same time liabilities of the privatized SOEs be taken over by the Government.

According to the Privatization Act, the Privatization Commission is the sole authority to privatize or denationalize SOEs as per list approved by the Cabinet Sub-committee for Privatization. However, it has been observed that Ministry and Autonomous Bodies/Corporation are also privatizing SOEs. This sometimes creates confusions. When an agreement is drawn for privatization certain clauses may discourage the potential buyers. For example while formulating a draft agreement for privatization of a textile mill, corporation authority put up a clause on security deposit. It said that the buyer needed to make a security deposit of Tk. 20 million for 20 years without earning any interest. Is it not ridiculous? Who is going to accept that? Different agencies go for leasing and off load of shares exercising dual authority. Contradictory provisions in the lease agreement should be avoided, and it should be as easy and simple as possible.

One of the principal reasons for privatizing public enterprises in Bangladesh is to reduce the fiscal burden that their losses and their subsidization impose on the state. Private ownership is supposed to lead to better management. Privatization in Bangladesh can be regarded as successful when it raises firm level productivity, financial and operational performance and improves profitability. Successful privatization would reduce if not altogether eliminate, the need for continued subsidized credit from banks. Effective privatization and private sector development require legal & social institutions and institutional practices.

It is a fact that most of the SOEs carried excess labour and needed downsizing. However, the process of downsizing carries a social cost in the way of disemployed workers and loss of income to their families since there is no access to unemployment insurance for the affected families. It is assumed that in LDCs like Bangladesh, workers disemployed from SOEs or privatized SOEs will be absorbed in other parts of the fast growing economy. Experience shows that dis-employed workforce having skill and production friendly attitude are employed in private organization. However, workforce, not having appropriate skill and identified as trouble mongers, face difficulties in getting jobs in the private sector. Since there is acute shortage of skilled manpower, persons with skill, knowledge and expertise easily get absorbed in the private sector mills ensuring social benefits.

There appears to be a need for integration of various policies from law and order to fiscal to create an appropriate climate to have an effective privatization. In absence of a firm commitment from authorities to have genuine investors to be involved privatization process in Bangladesh would not be highly successful. It was also agreed that both nationalization and denationalization in Bangladesh did not originate from a well designed strategy. In the past Privatization policy has been mostly driven by the interest group. If the original SOE was not viable, possibly it would not be viable after privatization if genuine investors are not involved. Some of the macro policies might have also contributed to the failure of the privatized SOEs. Therefore, major policy issues impacting SOEs be discussed in details to develop professional managerial class in the SOEs. There had been no fundamental difference between the managerial capabilities in public & private enterprises in Bangladesh. The only difference is that private sector perform more efficiently due to dynamism and managerial effectiveness of the entrepreneurs. Once it has been decided to privatize a unit, it needs to be disposed off as early as possible. Otherwise, this leaves SOEs to the suffer from two fronts. They are left with no future and no efforts is made to revive them or to even make them fit for privatization. Such a policy of keeping SOEs in limbo is a recipe for disaster since it demotivates management & workers of SOEs & encourages rampant corruption.

Moreover, a comprehensive review of the outcomes of privatization should be made to see whether they are at all operational or not. Since conditions are rapidly changing, projects are becoming costlier i.e. what is viable today may be unviable tomorrow. If change in ownership to private hand can categorically ensure improved micro and macroeconomic gains as well as higher social welfare, moves in the privatization direction will be more acceptable. Ideological posturing, based on a poor foundation of evidence, will not solve the problems of mis-governance in Bangladesh which remains endemic both in the public and private sectors.

Therefore, a comprehensive review of the privatization program should be made to see whether privatization will result in areas such as increased productivity, higher profit tax payments, better debt servicing, better access to financial support with better cost effective operation. Besides these privatization will ensure better use of space available in the SOEs. Once these factors are ensured new investment will put in the privatized SOEs.

With dynamic & effective Privatization Commission, privatization program will surely usher-in a new horizon in the SOEs.