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## India

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 174th session (Geneva, 22 to 26 March 2024)*



© Mahua Moitra

### IND-01 – Mahua Moitra

#### Alleged human rights violations

- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate
- ✓ Other violations: gender-based discrimination

#### A. Summary of the case

Ms. Mahua Moitra is an opposition parliamentarian from the All India Trinamool Congress (AITC), who is well known for her vocal criticism of the policies and leadership of the ruling Bharatiya Janata Party (BJP). In particular, Ms. Moitra has made several outspoken speeches and raised queries in the Lok Sabha, the lower house of parliament, suggesting instances of cronyism, collusion and corruption involving Prime Minister Narendra Modi and Mr. Gautam Adani, who owns the Adani group conglomerate.

#### Case IND-01

**India:** Parliament affiliated to the IPU

**Victim:** An opposition member of parliament

**Qualified complainant:** Section I.(1)(a) of the Committee Procedure (Annex I)

**Submission of complaint:** March 2024

**Recent IPU decision(s):** - - -

**IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the Lok Sabha (March 2024)
- Communication from the complainant: March 2024
- Communication to the authorities: Letter to the Speaker of the Lok Sabha (March 2024)
- Communication to the complainants: March 2024

On 15 October 2023, Ms. Moitra was accused of sharing the login credentials of her parliamentary online portal with Mr. Darshan Hiranandani, a businessman and competitor of Mr. Adani, so that he could raise objection queries against the Prime Minister and Mr. Adani on her behalf. The complainant adds that the fact of sharing one's portal credentials does not breach rules of ethical conduct, but is in fact a widespread practice among parliamentarians, who rely on the support of others for their work. Nevertheless, on 8 December 2023, Ms. Moitra was expelled by parliament following a report by the Ethics Committee, an act which the complainant describes as abusive.

The complainant asserts that the Ethics Committee failed to cross-examine her or allow her to submit questions to the two witnesses, whose statements were contradictory. In addition, the complainant stresses that Ms. Moitra has been expelled without being given an opportunity to be heard in plenary before the vote on her expulsion, despite repeated calls to that effect by herself and other members of the opposition. In addition, the complainant maintains that the Ethics Committee failed to assuage itself that the original complaint of unethical behaviour was made in good faith and was not frivolous or vexatious, as required by section 233(A) of the Rules of the Ethics Committee. The complainant adds that the Committee relied on biased information provided by Ms. Moitra's ex-partner, who faces a legal dispute with her, including multiple complaints from Ms. Moitra to the police for infraction after their relationship came to an acrimonious end.

The complainant adds that Mr. Vinod Kumar Sonkar, the Chairperson of the Ethics Committee from the BJP, acted in bad faith when Ms. Moitra appeared before the Committee on 2 November 2023. The complainant stresses that all five opposition members of the 11-member Ethics Committee walked out in protest at the Chairperson's line of questioning, which the complainant described as unwarranted, sexist and biased. The complainant highlights that the Ethics Committee did not conclude that there was any evidence of bribery or any misconduct aside from the fact of sharing her online portal credentials with an acquaintance, which does not violate any rules. The complainant reached the conclusion that these proceedings were carried out without jurisdiction and that the decision to act on the Committee's recommendation to expulse her was unlawful and unwarranted.

Ms. Moitra's appeal to the Supreme Court did not result in a stay of the decision to expulse her from parliament as of 14 March 2024, and the complainant fears that she is unlikely to regain her seat in parliament before the general elections that are due to take place in May 2024. The complainant adds that, as a result of that decision, Ms. Moitra was evicted from her official premises in New Delhi, which interfered with her electoral campaign. In addition, the complainant shared that on 21 March 2024 a first information report was issued against her with allegations that she had received cash in exchange for the queries submitted to parliament through her web portal, which is denied by Ms. Moitra and Mr. Hiranandani. Within hours, Central Bureau of Investigation personnel raided four of her properties, which led Ms. Moitra to complain to the Electoral Commission to protest against what she saw as further interference with her electoral campaign in an attempt to blacken her name.

The complainant is of the view that the authorities violated Ms. Moitra's rights to due process, resulting in the abusive suspension of her parliamentary mandate. According to the complainant, this was done to silence Ms. Moitra and that this incident has to be seen within a broader pattern of escalating harassment against vocal opposition members by the authorities and the BJP. The complainant shared, *inter alia*, reports of several allegedly abusive proceedings against opposition leaders, including against opposition leader Rahul Gandhi, who lost his seat after having been found guilty of defaming the family name of Prime Minister Modi in March 2023, which was later suspended following an appeal to the Supreme Court. The complainant also mentioned the example of the suspension of 143 opposition parliamentarians from both houses of parliament in December 2023, following protests by these parliamentarians against the denial of the right to discuss the conflict in Manipur and matters related to their own security in parliament.

The IPU received a letter from the Secretary General of the Lok Sabha in March 2024, which dismissed concerns raised by the complainant and stressed that the expulsion of Ms. Moitra had followed due process. According to the authorities, Ms. Moitra is not the first parliamentarian to be expelled for receiving rewards in exchange for raising critical queries in parliament. The authorities stressed that Ms. Moitra faces no interference in her campaign in the 2024 general elections.

## **B. Decision**

### The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged facts;
3. *Notes* that the complaint concerns allegations of lack of due process in proceedings against a parliamentarian, the undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate, and gender-based discrimination, allegations which fall within the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case;
5. *Requests* the Secretary General to convey this decision to the Speaker of Parliament, the complainant and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.