

CEC's welcome volte-face

Having lost all credibility, he must go

WHAT was within the comprehension of a common man from the very beginning was so long beyond the intellectual capacity of the Chief Election Commissioner. He has at long last grasped the reality but only after meaningless procrastination, inconsiderate meanderings in thoughts and actions and after having tried deliberately to be extremely obtuse. The CEC has now thought it appropriate to have the enumerators visit door-to-door to update the voter list, something that should have been done initially. His U-turn surprises nobody at all, but we have all the reasons to feel irritated by his insensitivity.

From the very beginning his actions were bereft of rationale and common sense. Take the case of his holding dialogue with the political parties immediately after he had taken over as the CEC, that included most inconsequential parties. Was there any need for continuing the exercise when it became clear that barring BNP no important political party was interested in it?

Take another of his action that demonstrated blatant impropriety on his part. His dealings with two of his erstwhile colleagues whose views and opinions on the issue of updating the voter list proved to be correct in retrospect, was very impolite to say the least.

Being a man of law perhaps the most unseemly action of the CEC has been his treatment of the verdict of the High Court, and sticking to his guns on the issue reduced his position to the level of absurdity.

But so far every position he has adopted he has been unable to hold on to, instead he has retracted and retraced his steps. Will the CEC bother to ponder for a while what the willful neglect on his part to address the issue appropriately has cost the nation? It has cost us in valuable time and resources while helping to vitiate the already volatile political atmosphere further.

All the CEC's experiments have fallen through. But for his consistent resistance we would by now have had an updated voter list with the credibility of the Election Commission intact. It is our opinion that he is left with not even an iota of public confidence. Under these circumstances we feel that there is no other alternative but for him and his two colleague commissioners to make a honourable exit.

Indeed that is the only dignified option left to the gentlemen.

Dengue threat looming

Gear up drive against the disease

WITH the death of a dengue patient in the city, and more than 60 patients having been admitted to different city hospitals, it is obvious that the disease is spreading.

It took a heavy toll of human lives six years ago when neither the city fathers nor the doctors were aware of how to contain or manage it. But things improved in the following years with people in general becoming a lot more conscious about the problem. Drive against the aedes mosquito gained momentum and it appeared that the campaign against dengue was making progress. But after all these years it seems the preparedness to face the menace has slackened. There is no visible anti-mosquito drive and people are apparently oblivious of the measures like not allowing water logging in flower vases or any empty container that they have to adopt to stop breeding of aedes mosquito.

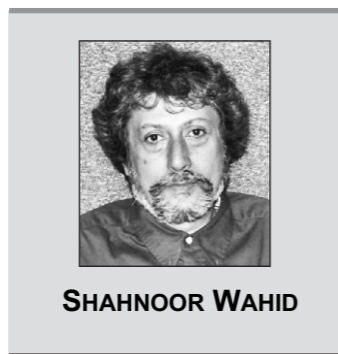
Most hospitals are not really well equipped to manage the disease which can turn fatal if timely medical support is not provided to the patients.

So the fight against dengue which will ensure that it doesn't assume menacing proportions must be conducted at three levels. The City Corporation has to launch a vigorous anti-mosquito drive, targeting the areas known as breeding grounds of aedes mosquito. Sadly, we witnessed in the past that this important task was never performed with due urgency. Then there is the need for awareness-building which proved to be effective in the past. Both the electronic and print media have a role to play in his respect.

Finally, the hospitals should open dengue units to handle the situation, lest it turned worse. But there is, of course, no reason to be panicked; what we need is sound planning, better sanitation and prompt delivery of medical services in case of affliction on the basis of which the situation can be tackled.

It is obvious that dengue visits us almost annually. The planners should concentrate on how this painful malady can be eradicated, and for the time-being steps will have to be taken to prevent it from spreading.

Somersaults at the EC



SHAHNOOR WAHID

THE citizens are being entertained by the superb performance of the athletes belonging to the country's Election Commission. All sorts of games like high jump, low jump, somersault, musical chair, musical table, hide and seek, keeping mute, closing doors, pulling strings, sticking to chairs, stuffing cotton in ears, changing rules etc., are being played in the EC ground with the fervour of the Olympics games. We are told that the spectators are enjoying every bit of the show, and the country's media now has only one destination -- the games village at Agargaon.

The chief executive of the election commission is reported to be scoring high points in the games and getting most coverage in both print and electronic media. He has become a national hero, an icon, a symbol of tight-lipped obstinacy and tenacity, and the people have not seen anything like this in decades. He stands firm on his ground, refusing to be unnerved by the court rulings, one

after another, and the propositions for resignation. As a result, the administration is likely to give due recognition to such a national hero. It is also being said by the critics that his biography and deeds will possibly go down in the school textbooks so that the next generation civil servants can learn a few tips as to how to become an adamant government official, if not an efficient one.

We are told that the EC officials are most adept in the game of somersault, which in Bengali they say digbaji. This is said when someone continuously keeps going back and forth on one's own decisions on a matter of national importance. This is what they are doing now. But, let us look at what happened before that.

In the first phase of the game, the EC officials played with the preparation of the voter list following their own rules of the game despite a commotion created by the civil society, various bodies of

SENSE & INSENSIBILITY

The EC gave a somersault. Next day they changed their own directive -- no need for certificates. Then the people refused to go to the registration centres. So, next day, the EC gave another somersault -- no need to go the centres, we shall go door to door! At last! The EC has steered itself to square one, but only after immensely entertaining the citizens of the country with a display of Olympic-level tricks. Now, all eyes are on the EC once again. People, we are told, are still not sure whether the games are over yet. Is there more coming from that office?

lawyers, the media, and finally the High Court. All the while, the officials kept their ears plugged so that no noise could destroy the concentration in their game. After months of playing, something of a voter list was prepared, which was rejected immediately by the people in general. The people refused to play along with the EC and take part in the forthcoming elections on the basis of that list. The EC refused to listen to the people and stuck to their chairs. This is a game that they proved to be good at. Sticking to chairs.

Then began the games of high jump and low jump, to avoid the press. These two games were very entertaining, as reported by the media. After a while they got tired of jumping. They started the game of hide and seek with great skill and in the process earned many points. They thought they almost got away by producing the voter list, which was termed "flawed" by those who were not good in playing games. But sud-

denly, like a bolt from the blue, came an order from the Supreme Court. The SC upheld the ruling of the High Court, which was on the question of going door to door and strictly observing other formalities while preparing the voter list. With the World Cup football around, we may say, the High Court ruling was the yellow card, while the Supreme Court order was the red card shown to the EC.

At this point the highly hilarious game of somersault began. Every second day the EC officials issued a statement but changed it on the fourth day, with a digbaji. One day they said the SC order did not specify that one has to go door to door to register voters. So they would not go door to door. Then they said they would modify the voter list prepared by them and they would do it sitting in their office.

Meanwhile, they introduced some more regulations, such as one has to produce certificates to prove one's age or house rent etc., to qualify as a voter. They

who is the deciding authority to determine whether the President is able or is unable to discharge his functions. The simple and the only answer to this question is that it is the President, and the President alone, who will decide whether he is able or is unable to discharge his functions. No other authority is, under the constitution, empowered to take the decision in this matter.

In the present case, the office of the President has not fallen vacant due to death or expiry of the term of his office. On the other hand, he is said to be unable to discharge his functions on account of "illness." Consequently, the functions of the office of President are being discharged by the Speaker until the President resumes his duty, and thereby, the Speaker can neither be called President No. 2 nor can he be designated as the Acting President (an expression which is absent in the Constitution except in the side note wherein it is stated "Speaker to act as President during absence, etc.") A side note is not a substantive provision of the constitution.

The Speaker is constitutionally bound to leave the government house and occupy his chair in Parliament as soon as the President appears in his office and expresses his intention to resume his functions. It is for the President, and the President alone, to decide as to when he will resume his functions. The recent arrangement was, therefore, perfectly in conformity with the constitution and is absolutely constitutional. The so-called legal experts and some political leaders were unnecessarily trying to create a storm in a tea cup.

The next question that arises is,



instructed the people to queue up in front of the various centers, produce those certificates and register themselves as voters. The people refused to do that. They made it very clear that in this country certificates were available on the black-market.

They did not have any time to go there. They were simply not interested. The EC gave a somersault. Next day they changed their own directive -- no need for certificates. Then the people refused to go to the registration centres. So, next day, the EC gave another somersault -- no need to go the centres, we shall go door to door!

At last! The EC has steered itself to square one, but only after immensely entertaining the citizens of the country with a display of Olympic-level tricks. Now, all eyes are on the EC once again. People,

we are told, are still not sure whether the games are over yet. Is there more coming from that office? This is the question clouding the minds of the people now.

And, through all the explosions, volleys of field-guns, hails of bullets, spraying of splinters and showering of arrows, the one person who remained cool as a cucumber, as tight-lipped as on day one, and came out unscathed, is the chief executive of the election commission. No wonder he has become a national hero, and icon. But, what he is the secret? How could he remain so unruffled through all the turmoil? There is a widespread feeling that he is saving all his emotions and energy for the day when he would laugh the last laugh.

Well, good luck, chief.

Shahnoor Wahid is a Senior Assistant Editor of The Daily Star.

The problem in the presidency

If he had been "compelled" to vacate his office by tendering a so-called resignation in view of circumstances deliberately created in order to compel him to do so, the whole process of his relinquishment of office, and the consequent election to fill in the office vacated by him under unconstitutional and compelling circumstances, would have been against the spirit of Article 54 of the constitution and, therefore, a clear violation of the constitution.

JUSTICE NAIMUDDIN AHMED

[The President resumed his responsibilities Thursday afternoon and returns to office today.]

PRESIDENT Iajuddin Ahmed who suffered a heart attack recently was immediately shifted to Mount Elizabeth Hospital, Singapore. On the advice of eminent physicians there he underwent by-pass surgery. He was discharged from the hospital after 25 days' rest. He returned home and walked down the tarmac of the VVIP lounge of the Zia International airport exchanging greetings with his cabinet ministers and others and went to his official residence, Banga Bhaban.

During his absence, the Speaker of Parliament discharged the functions of the President.

The drama began as soon as the President arrived in Bangladesh. President Iajuddin Ahmed did not resume his duties. Instead, he was taken to the Combined Military Hospital for a "check-up." It has not been disclosed by the government house why he needed another check-up by the Bangladeshi physicians after his successful

treatment in Singapore. His attending physicians at the Combined Military Hospital opined that he required complete rest for another fortnight and was not as yet fit to resume his functions.

So, the Speaker continued to discharge the functions of the President.

Various quarters now began to raise various types of curious questions. Some even questioned the constitutionality of having "two presidents" in one country. The main opposition party in Parliament even wanted to discuss the issue of having "two presidents" in one country. Many self-styled legal experts termed the continuance of the Speaker as the "Acting President," while the President himself was present in the country, as illegal. Some have been surmising that the departure of the President from Banga Bhaban was imminent, affording one of many aspirants the opportunity to occupy his place. An eminent Barrister cut a joke that some had started to pack their suitcases for a sojourn to Banga Bhaban.

There are several aspects to the entire episode taking place at the government house.

These aspects have to be exam-

ined with reference to the clear provision in the constitution in this respect. The provision is laid down only in one article of the constitution and this article is Article 54 which runs as follows:

"If a vacancy occurs in the office of President or if the President is unable to discharge the functions of his office on account of absence, illness or any other cause the Speaker shall discharge those functions until a President is elected or until the President resumes the functions of his office, as the case may be."

The expression, "if a vacancy occurs in the office of President" is related to the expression, "until a President is elected" and these two expressions must be read together.

These two expressions read together are clearly disjunctive from the remaining expressions.

Secondly, the expression, "or the President is unable to discharge the functions of his office" is related to the expression "on account of absence, illness or any other cause" and must also be read together.

Thirdly, the expressions, "absence," "illness," or "any other cause" are disjunctive and must be read as such. It means that if, on

account of absence or illness or any other cause, the President is unable to discharge the functions of his office the constitutionally designated person, the Speaker, shall discharge the functions of the President for as long as the President remains unable to do so.

In the present case, the office of the President has not fallen vacant due to death or expiry of the term of his office. On the other hand, he is said to be unable to discharge his functions on account of "illness." Consequently, the functions of the office of President are being discharged by the Speaker until the President resumes his duty, and thereby, the Speaker can neither be called President No. 2 nor can he be designated as the Acting President (an expression which is absent in the Constitution except in the side note wherein it is stated "Speaker to act as President during absence, etc.") A side note is not a substantive provision of the constitution.

The Speaker is constitutionally bound to leave the government house and occupy his chair in Parliament as soon as the President appears in his office and expresses his intention to resume his functions. It is for the President, and the President alone, to decide as to when he will resume his functions. The recent arrangement was, therefore, perfectly in conformity with the constitution and is absolutely constitutional. The so-called legal experts and some political leaders were unnecessarily trying to create a storm in a tea cup.

The next question that arises is,

who is the deciding authority to determine whether the President is able or is unable to discharge his functions. The simple and the only answer to this question is that it is the President, and the President alone, who will decide whether he is able or is unable to discharge his functions. No other authority is, under the constitution, empowered to take the decision in this matter.

In the present case, the office of the President has not fallen vacant due to death or expiry of the term of his office. On the other hand, he is said to be unable to discharge his functions on account of "illness." Consequently, the functions of the office of President are being discharged by the Speaker until the President resumes his duty, and thereby, the Speaker can neither be called President No. 2 nor can he be designated as the Acting President (an expression which is absent in the Constitution except in the side note wherein it is stated "Speaker to act as President during absence, etc.") A side note is not a substantive provision of the constitution.

Then, the question is why was he subjected to a check-up by those physicians who had been considered unsuitable to treat him, and more so since the physicians who had successfully treated him in Singapore did not advise him to undergo any such check-up by the local physicians about thirty days after the successful operation on him. Who will answer these questions which are constantly agitating the public mind? It is rumoured that the President may be asked to resign. Constitutionally, no authority can ask him to resign.

If he had been "compelled" to vacate his office by tendering a so-called resignation in view of circumstances deliberately created in order to compel him to do so, the whole process of his relinquish-

ment of office, and the consequent election to fill in the office vacated by him under unconstitutional and compelling circumstances, would have been against the spirit of Article 54 of the constitution and, therefore, a clear violation of the constitution.

In my view, if any person assumes office under an election which is not in conformity with the spirit of the constitution, he cannot get any legitimacy and will be as contemptuously remembered in the constitutional history of Bangladesh as those civilian Presidents who were appointed to that office by the military usurpers in the past.

Would any sensible person, having even the slightest self-respect and conscience, agree to act as a pawn in the political game of chess played by the politicians? There is, many eminent persons believe, no dearth of such persons in Bangladesh.

"What a queer country is this, Seleukos!" Said Alexander to his general Seleukos Nikator after landing in India. Alexander was, however, unaware of Bangladesh.

If the Members of Parliament were convinced that the President had become physically or mentally infirm, why didn't they bring an impeachment motion against him for his removal under Article 53 of the constitution instead of adopting dubious means in what looked suspiciously like an effort to get rid of him?

Justice Naimuddin Ahmed is a former Justice of the Supreme Court.

A prescription for corruption

Introduce a system of awarding, publicly and attractively, through the Ministry of Establishment, the whistle blowers in every public office at upazila, district, and divisional levels. (It will be wise not to touch the national level at this stage; so that this is not opposed by the powerful ones who operate at the national level).

A M ZAKIR HUSSAIN

LACK of political and intellectual transparency is an evil that emanates from the selling or procuring of goods or services. While some of the evils are well known, some are difficult to notice, and many are hydra-headed. Although some of the reasons of how and where corruption has entrenched itself are known, there are amazing innovations.

The greatest problem is identification of the corrupt among the professionals and intellectuals. Corruption thrives when the governance system condones and connives; as leaders do not lead (with honesty), managers do not manage (dedicatedly) and intellectuals do not teach (dignity).

The noble notion of identifying a few good people and sending

them to the national parliament is a daunting prospect. Most of the good people are said to be good in this country because they did not get the chance to get spoiled. How many people in our history have resigned when they were accused of notoriety, for example?

Keeping the above in mind, a few suggestions have been given below. The axiom behind these suggestions is that corruption has become a part of our life and culture and politicians are too bent to straighten them up at this stage. It cannot be rooted out overnight with any magic wand. But punishable offences by the businessmen and intellectuals must be dealt with exemplarily.

Actions to be taken

1. Educate continuously through primary school (when

the children are receptive) and university curricula (just before the graduates enter job market) and mass media about the deleterious effects of corruption on the economy and the social and spiritual environment of the people so that people look down on the corrupt, overtly or at least covertly, and/or avoid them publicly so that these people start feeling humiliated. (National curricula at each level also has to teach the next generation unflinching self respect and respect to the civil rights of others);

2. Introduce a system of awarding, publicly and attractively, through the Ministry of Establishment, the whistle blowers in every public office at upazila, district, and divisional levels. (It will be wise not to touch the national level at this stage; so

that this is not opposed by the powerful ones who operate at the national level);

3. Create a constitutional post of ombudsman on corruption with statutory power and post a nationally voted person who will be the one to award prizes to the whistle blowers (when posted) and protect them legally and financially, if necessary. The ombudsman will also have the authority to sack a public official when it is recommended by an assessor committee;

4. Development partners may advocate and support the Chief Justice, in absence of an ombudsman, to commission research to understand the levels of occurrence, how it happens and the force behind. For manageability the most corrupt offices known publicly may be the point of departure. This information may be useful for the judicial system to initiate suo moto cases. Public information system, newspapers and journalists are expected to publicise these cases widely. Recent experience of reduction in corruption in Nigeria may be a useful;

5. Nationally acceptable persona, nominated by three or four second-rung political parties, may be selected/elected through some referendum, to be conducted electronically and managed by a group formed with representatives of the three or four most popular political parties, and the judicial system represented by the Chief Election Commissioner, and Chief of the Anti-corruption Commission. (The electronic system will be inaccessible to the illiterate and the poor but this is the price we have to pay at this stage);

6. A public body be formed with journalists, academicians, bureaucrats and technocrats who will be selected from the two largest political parties with equal numbers from each profession. It ought to be provided with funds to commission a research organization, that would not include any Bangladeshi, to sort out corruption in academia in primary and university levels (to keep the job manageable) according to the type of corruption and the individuals involved. The respective high level governing authorities will use this information for rewards

and sanctions on yearly basis for the next five years. If no action is taken then the head of the highest level of the governing authority will lose his job on recommendation of the body to the ombudsman or the chief justice;

7. Recruitment through the Public Service Commission will be made after investigation of ancestral history of a candidate, on corruption, besides others. If a false report by an investigator is unearthed at any time strict disciplinary measures shall be taken against both. If punitive actions are not taken then the ombudsman, or the anti-corruption commission, in the absence of the former, will sack all the involved people.

8. Any one who tries to influence the disciplinary procedures will have to be dealt with up front. Professional associations and politicians are frequent arm-twisters. Journalists and newspapers must play a stronger counter-offensive role to silence these forces. Civil societies should come forward to publicise the dirty roles of these dark forces. Development partners need to strengthen these civil

societies. One transparency international is not enough;

9. Public complaints system, tried in the past, always ended in failure. This is because nothing happened as a result of complaints. On the other hand, those who lodged complaints were endangered. If a trust-worthy environment is created, and the state mechanism is seen to be functional and effective, this strategy will engender extra strength in the move against corruption. A protocol however, would be required on the procedures; from how the complaint would be lodged, received, treated, processed to how it would be disposed off. A strong law will be necessary to conceal the identity of the complainer and ensure his safety in case the identity is revealed. The role of Anti-Corruption Commission and/or Ombudsman on Corruption would be important in this regard;

10. Adopt a big IT project with training of public sector officials and establish local area network in all the public sector offices, starting with those that are incriminated as the most corrupt.

Convert all the public sector offices into virtual no paper offices with links between desks through LAN system;

11. Corruption is always on the other side of the coin that describes rules and laws. There are rules and laws affecting everyday public life. These need to be publicised through the ombudsman's office or by the social welfare ministry in the present situation. There are rules and practices that are stupid and used by clever and tricky people to harass innocent people and for extortion. A study may be conducted by the social welfare department to find these so that they can be abolished. This will empower the affected ones and would initiate a culture of challenging the fake forces;

12. The only suggestion that is given at this stage on politicians is a system of declaration of assets, by those who would run for the parliament, one month before the national election.

A M Zakir Hussain is a freelance contributor to The Daily Star.