

HC scraps Hasina case

FROM PAGE 1
Attorney General Fida M Kamal and Additional Attorney General Salahuddin Ahmed moved with the petition in the Chamber Judge's Court, seeking stay on it.

The judge, however, refrained from passing any order and forwarded the matter for hearing in the full bench of the SC today.

On June 13 last year, Managing Director of Eastcoast Trading Pvt Ltd Azam J Chowdhury charged detained Hasina and her cousin and former minister Sheikh Fazul Karim Selim with extorting Tk 2.99 crore from him in exchange for awarding the contract of setting up the Siddhirganj Power Plant in Narayanganj.

On July 24, Gulshan police indicted Hasina along with her sister Sheikh Rehana and cousin Sheikh Selim.

On July 16, the home ministry had directed to bring the case under the EPR, but investigation officer of the case Obaidul Haque submitted the charge sheet without including relevant sections of the emergency rules.

While pronouncing the judgment yesterday, the court said no law could be formulated that goes against the constitutional provisions regarding fundamental rights.

According to the provisions in articles 31-35 of the constitution, none of the rights of a citizen, including the right for bail, can be curtailed by promulgating any act during the state of emergency.

The court in its observation said the Emergency Power Ordinance also does not say that any rule could be formulated in contradiction with the constitution.

The ordinance gave the government the authority to formulate rules but not to formulate any that goes beyond the ordinance itself, the court added.

The court also mentioned that the ordinance was not empowered to formulate any rule that can cover incidents that took place before the declaration of the state of emergency. The ordinance thus does not permit bringing any offence committed before January 11, 2007—the day the state of emergency was declared—under the EPR.

The court also said when there is any conflict between the Emergency Power Ordinance, which is a law, and the EPR, rules formulated under the ordinance, the law will prevail.

Sections 19(Gha) and 10(2) in the EPR have restricted the power or right of the court, including the SC, to grant bail, which contradicts with the provision for bail ensured in sections 497 and 498 of the Criminal Procedure Code (CrPC). The court said these sections even entrust the court with the power to grant bail in case of non-bailable offences.

The emergency rules that have restricted the court's authority to grant bail also contradicted articles 31-33 and 35 of the constitution.

The court said when such procedural law restricts the citizens' rights it would be inconsistent with the constitutional provisions as much as it has restricted the rights.

The rights and provisions provided by articles 27-35 of the constitution have not been restricted even during the existence of the state of emergency, the court said.

If any law or provision inconsistent with these constitutional articles is formulated, it will become void, the court said, adding that the court has the authority to cancel such laws and such void laws cannot be applied in any other court.

Laws contradicting citizens' rights cannot be formulated by any ordinance and the provisions made in the EPR with the power of awarding punishment stand beyond the power the Emergency Power Ordinance, the court said.

It said these provisions of awarding punishment contradict the country's existing laws and the constitution.

THE SANCTION
The court said the extortion case filed by businessman Azam J Chowdhury was approved by the authorities concerned to be brought under the EPR.

"We called for documents regarding the sanction and observed that it was given on consideration of the status of the accused," the court said.

But the existing provision in the law regarding the sanction states that public importance of the offence must be considered for such sanction and there is no provision for considering the status of the accused, the court added.

While considering public importance of an offence, the authorities must take the objective behind promulgating the Emergency Power Ordinance into account, the court said.

Importance must be given to issues like protecting the state's security and economy and maintaining law and order on the basis of the gravity of an offence, it added.

The sanction cannot be given considering an individual although the dignity of the accused in this extortion case has increased the gravity of the offence, the court said.

The court said the sanction was given considering the status of the accused rather than the gravity of the offence.

Clarification Delwar

FROM PAGE 16
The Daily Star report said headed by former inspector general of police and caretaker government Adviser SM Shahjahan, representatives from the Chief Adviser's Office, Ministry of Home, Ministry of Law, Dr Kamal Hossain and Associates and the police formulated the draft and submitted it to the Police Headquarters.

We regret the inadvertent mistake.

45 killed

FROM PAGE 16
Three people were killed in a trailer park in Muhlenberg County, and four others died in Allen County, Rogers told AFP.

More than 50 tornadoes touched down as a series of thunderstorms raged for the winter season rolled through the region late Tuesday and early Wednesday.

"It took the whole house," a woman told CNN. "I just got up and I thought it was a fire. We got up and there's no house left."

A man was found dead in a truck and three other people died in a collapsed office building in the Memphis area, the Commercial Appeal newspapers said.

A tornado with wind speeds estimated at 150 miles (240 kilometers) per hour destroyed two dormitories at Union University in Jackson, Tennessee, injuring 86.

Search dogs searched for students in the rubble but no one was killed at the scene, CNN said.

Meanwhile a huge blaze lit the sky above a natural gas pumping station northeast of Nashville. The cause of the fire was not immediately known, although it broke out after a tornado ripped through the area.

"We do not know at this time what caused it, and we are attempting to get close enough to get some information. These flames are shooting 400, 500 feet (120, 150 meters) in the air," Tennessee Emergency Management spokesman Donnie Smith was quoted as saying by the eFlux online newspaper.

The pumping station operates on a 4,200-mile (6,760-kilometer) pipeline that moves gas through four southern states. Its owner, Columbia Gulf Transmission, planned to stop the gas flow and allow the fire to burn itself out, WTVF television of Nashville reported.

Hundreds of thousands of people in the area were left without power due to the storms.

Arkansas and Tennessee were among states holding nominating votes Tuesday for November's presidential election.

Democratic contender Hillary Clinton, celebrating victory in both states, told a crowd: "We want to keep the people of Arkansas and Tennessee in our prayers. They've suffered horrible tornadoes tonight."

"They are in our thoughts and in our prayers," said her Democratic rival Barack Obama. "We hope that our federal government will respond quickly and rapidly to make sure that they get all the help that they need."

Several polling stations in Tennessee and Arkansas had to be closed as the storm approached, reports said.

Bird flu

FROM PAGE 1
increased the amount of compensation for culled chicken, and Tk 1.27 crore has so far been distributed among the affected poultry farmers.

The affected owners will now get Tk 95 instead of the earlier rate of Tk 80 for a chicken, of local variety, Tk 90 instead of Tk 70 for a broiler chicken aged over 12 weeks, and Tk 20 instead of Tk 15 for a chick.

Samaddar said people have to be aware about the bird flu and they will have to ensure their own bio-security measures. He said instructions were given to city corporations and municipalities to ensure bio-security.

He said the virus remains active during the winter but it gradually disappears during the summer.

Prof Mahmudul Rahman, director at the Health Directorate, said there is no risk of eating chickens or eggs if they are fully boiled.

He said those who cut or cook chickens will have to wash hands with soap or detergent which destroys the virus.

Our staff correspondent from Chittagong reports: A poultry farmer allegedly dumped around 6,000 dead chickens at a canal and a pond near his farm at Kuaisah Burischar over the last three days.

Local authorities suspect the poultry have died from bird flu infection.

Locals discovered the mess after the odour of dead animals spread all around the locality. The dead chickens had been tied up in sacks and then dumped in the canal and pond. Dead crows were also found floating on the water bodies.

When contacted, Mohammad Ali, owner of Aziza Poultry Farm confessed that he had dumped 15,000 dead chickens from his farm. He however denied any knowledge of the remaining chickens found in the water.

Chittagong Deputy Commissioner Ashraf Shamim said he had sent a team to the spot to investigate the matter and arrange for all the dead birds to be buried properly.

He also said that action would be taken against the poultry owner if he were found to have secretly dumped the infected chickens instead of taking proper steps to bury the dead carcasses of the fowls.

Over 13,000 chickens have died of bird flu infection while another 3,000 infected chickens were culled in the last three days in the district.

The local administration, culled around 3,000 fowls at the Karnaphuli Poultry and Hatchery at city's Bakalia area on Tuesday night soon after the infection was confirmed through relevant tests.

Top graft suspects

FROM PAGE 1
currently being tried, while over 40 others are currently being investigated, following which those were also supposed to go on trial.

Since the army backed caretaker government had launched a crackdown on corruption suspects, the Anti-corruption Commission (ACC), the National Board of Revenue (NBR), and individuals filed the cases against top politicians, businessmen, and former bureaucrats accusing them of graft.

The accusations include amassing of wealth through illegal means, extortion, tax dodging, and concealing of information in wealth statements submitted to the ACC.

Following yesterday's HC verdict, all such cases have become illegal, said eminent jurists.

Before the verdict, Law Adviser Hassan Arif who is also a former attorney general, said the judgment on the writ petition filed by Hasina in connection with the extortion case against her would determine the fate of other such cases under EPR.

The verdict throws into uncertainty the caretaker government's plan for making it impossible for 'corrupt' political bigwigs, detained or convicted under EPR, to contest in parliamentary and local government elections.

According to a provision of EPR, any person, convicted of corruption by a trial court, will be disqualified from contesting in any election until adjudication of the person's appeal against the verdict.

But, if detained and fugitive political leaders are tried under general laws instead of EPR, then even convicted persons will be able to contest in polls until the Supreme Court (SC) upholds the convictions by the trial courts, which is usually a very lengthy process.

For instance, Jatiya Party Chairman HM Ershad contested in the parliamentary election of 1996 filing an appeal against his conviction by a trial court during a BNP regime between 1991 and 1996.

Moreover, once trials begin under general laws, detained politicians will have to be allowed to seek bail, a defendants' right denied by EPR.

Yesterday's HC verdict created a setback for the ongoing prosecutions under EPR of the offences committed before the advent of EPR under Emergency Power Ordinance (EPO), both of which were promulgated in January of last year.

If the Appellate Division of SC upholds yesterday's HC verdict then trials of the cases will have to begin afresh under general laws, legal experts said.

Talking to The Daily Star yesterday Justice Ghulam Rabbani, a former judge of the Appellate Division of SC, said trials of the pending cases under EPR will have to be started afresh including fresh indictments under general laws.

Asked what will be the fate of the cases in which verdicts were already delivered, Rabbani said it is difficult to say now what will happen to those.

"The matter will be resolved through the appeal process," Rabbani said.

Another eminent jurist, Shahdeen Malik said the interpretation of law is that crimes committed before the emergency cannot be tried under EPR.

"And it follows that others who had been tried and convicted under EPR for offences committed before the emergency shall also get the benefit of the judgment. Their convictions under EPR are also likely to be thrown out," Malik observed.

Many senior government officials, including officials in the attorney general's (AG) office said the verdict is sure to give rise to a big crisis ahead of the parliamentary election, which will inevitably prompt the government to appeal the verdict at the Appellate Division.

The verdict came at a time when the caretaker government is under tremendous pressure to lift the state

VoIP equipment

FROM PAGE 16
crore. No one was arrested during this raid, said Rab officials.

On Tuesday, members of Rab 11, acting on secret information, raided two houses at Pallabi and Naya Paltan and seized around Tk 80 lakh worth of VoIP equipment that included teller, high frequency antennas, chargers and channel ports.

The Rab 11 also arrested two individuals named Golam Rabbani and Babul Islam for their involvement in the illegal VoIP business.

AL to talk

FROM PAGE 16
the country including holding the next parliamentary elections, dialogue with the government and city corporation polls.

"We sat to discuss different issues including elections. But the main agenda of the meeting was to discuss about holding talks with the 14-party coalition on dialogue and election issues," AL presidium member Amir Hossain Amu told The Daily Star emerging from the meeting.

Another Presidium member Suranjit Sengupta said that they would sit with their coalition partners from February 11 to 13 to form a common attitude towards the issues.

The meeting welcomed the High Court verdict that quashed the extortion charge against the detained AL chief Sheikh Hasina.

Presidium members Abdur Razzak and Tofail Ahmed and acting general secretary Syed Ashraful Islam were also present at the meeting chaired by Zillur Rahman.

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police personnel including Additional Superintendent of Police Asaduzzaman and SI Saiful Islam, and four pedestrians.

Police lobbed ten rounds of tear shells near Modern point to disperse the agitators.

The police later raided the dormitories of the college and arrested at least 60 students – most of whom were activists of Islami Chhatra Shibir.

Five cases were filed against the agitators under Emergency Power Rules.

Expressing his resentment over the violence on the campus, Dr Rezaul Hoque, former principal of Rangpur Carmichael College, said, "The people of Rangpur want an autonomous and full-fledged university. They don't want Carmichael College to be upgraded to university."

Infant lands

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Jailer Iqbal Hossain said they have yet to get the court order. They kept the baby in the custody of two women inmates, he added. "We're giving the baby powdered milk and the female inmates are also breast-feeding her."

Mubarak was allowed to talk to two journalists at the jail yesterday afternoon. She gave satisfactory information regarding the baby's probable date of birth and age. She was however inconsistent in saying the birthplace.

Advocate Rehana Begum Ranu, president of Fight for Women's Rights, said safety of the baby has to be ensured first. Then a team might be sent to the woman's address to confirm her identity, she added.

"If she's the real mother, then an innocent woman is suffering in jail with her child."

Quake preparedness

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houses, evacuation to safer places, community shelters for general people and livestock and development of forecasting and warning system mitigating measures of surges with cyclones.

Normal time use of the facilities as educational institutions and other community development and income generating activities may play a very important role in socio-economic development, he noted.

Emphasising accurate warning system, Prof Jamilur Reza said the tsunami alert issued on September 12 in 2007 led to large-scale evacuation and millions of people were taken to shelters.

This incorrect warning had some negative impacts during Cyclone Sidr when some people were reluctant to move to shelters, he added.

"A system for public education and dissemination of the warning to enable the people at risk to quickly move to the cyclone shelters needs to be developed."

Dr Stefan Frowein, ambassador and head of Delegation of the European Commission to Bangladesh, said high-rise construction is booming in the major cities of Bangladesh. But quality of buildings is often low and existing regulations on standards are hardly enforced.

"It's horrifying to imagine the magnitude of damage and loss in human life a serious earthquake could trigger here."

Earthquake and Tsunami/Storm Surge Preparedness Component supported by European Commission is preparing seismic hazard and vulnerability map for Dhaka, Chittagong and Sylhet. It is also developing tsunami and storm surge inundation and vulnerability maps for coastal infrastructures and industries that are sources of livelihood.

"Based on scientific work a detailed contingency plan will be developed for earthquake, tsunami and tidal surge prone areas," said CDMP National Advocacy Expert SM Morsheed.

UNDP Country Director Manoj Basnyat, DFID Acting Country Representative Sarah Sanyal, CDMP Chief Technical Adviser Ian Rector also spoke at the ceremony chaired by Disaster Management Bureau Director General KH Masud Siddiqui.

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Saudi won't stop

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Al-Obaid Al Namla yesterday. The envoy said Saudi Arabia has been issuing work visas to Bangladeshis regularly, and there has not been any change yet.

At least 5,600 work visas were issued in the past four days, Namla said. Any one who commits offences will however be tried as per Saudi laws irrespective of their countries of origin. These are routine actions, he told the media after the meeting with the adviser at the foreign ministry.

Thanking the ambassador for dispelling the rumours concerning visas, Iftekhar said Bangladesh greatly values the friendship and cooperation with Saudi Arabia.

Hatab told Saudi Gazette that the kingdom is trying to maintain recruitment process for foreigners to keep the workforce balanced. "In fact, issuance of work visas to

particular nationalities will slow down when the workforce from that country reaches a certain quota," he said.

Quoting Bangladesh embassy statistics, he said approximately 1.5 million Bangladeshis are working in the kingdom. "Perhaps this will be the maximum number of foreigners for any nationality recruited to Saudi Arabia in the future," Hatab said.

Meanwhile, reports received in Dhaka quoted Haroon-ur Rashid, labour counsellor at Bangladesh embassy in Riyadh, as saying Saudi recruitment of foreign workers jumped by around 35 percent last year. Of them, Bangladeshis made up the largest group getting 24 percent of the work visas issued in the year.

Rashid said there was some anti-Bangladesh propaganda including distribution of video clips by some quarters.

Italian parliament

FROM PAGE 16
tiny centrist party after just 20 months in power, much of the political class as well as the electorate called for an overhaul of the voting system before any new elections were held.

Prodi, who co-signed the decree to dissolve parliament on Wednesday, was to convene his cabinet at 1.00 pm (1200 GMT) to set dates for the polls, which Italian media say will be held April 13 and 14.

That will be just over two years after Prodi defeated Berlusconi in the closest election in modern Italian history.

New elections became inevitable after the failure of attempts to form an interim government to correct a voting system that is blamed for the country's political instability by giving too much clout to tiny parties.

Berlusconi and his allies on the right have been clamouring for snap elections since voter surveys began favouring them by double-digit margins.

The 71-year-old billionaire media tycoon from Milan will face a new rival in the form of popular Rome Mayor Walter Veltroni, the now 52-year-old flagbearer of the left.

The new face-off makes a change from the three previous duels between the flamboyant Berlusconi and his professional arch-rival Prodi, both of them now former prime ministers twice over.

With 68-year-old Prodi's political star on the wane, the centre-left has been grooming Veltroni, who served as his culture minister in the 1990s, to

succeed him.

However, the Rome mayor insists he is running only as the leader of the Democratic Party (DP), the left's largest formation, and not the eventual head of a coalition.

The go-it-alone stance has the far left fuming and looking for a viable "new form of alliance," in the words of Italian Communist Party leader Oliviero Diliberto, quoted in the daily La Repubblica.

"The