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Fakhruddin government: A chronicle

BARRISTER HARUN UR RASHID

THE non-party caretaker government led by Dr. Fakhruddin Ahmed took over on January 12 2007 and continued until the evening of 6th January 2009 when Sheikh Hasina was sworn in as Prime Minister by the President.

Why the caretaker government?

In 1996 the unique mechanism of non-party caretaker government was introduced by amending the constitution. The genesis of the system was based on suspicion that ruling political governments would not be able to hold free and fair parliamentary election.

In 1996, the amendments were incorporated in the Chapter IIA of the constitution. The provisions of the amendments (Articles 58B, 58C, 58D and 58E) could have been drafted with more exactness and some of the imprecise provisions relating to system of the caretaker government have been often open to various interpretations and have come into conflict with other provisions of the constitution.

For example, under Article 123(3), a general election of members of parliament would be held "within ninety days" after parliament is dissolved but Article 58B which deals with the tenure of the caretaker government has not been linked with Article 123(3) that provides time-table for holding general parliamentary election.

Article 58B provides that the duration of the interim government would continue till the "date on which a new Prime Minister enters upon" his/her office after the constitution of parliament. There is no timeframe built into

Article 58B for the duration of the caretaker government. Thus the duration of the interim government has arguably been left open-ended while there is a provision that requires parliamentary election to be held within ninety days.

The tenure of four-party coalition government led by BNP expired on October 28, 2006 and a caretaker government led by President Dr. Iajuddin Ahmed was installed. The general election for the parliament was scheduled to be held on January 22, 2007.

However, confrontational politics between the major political parties that spilled on to the street led to a situation in which the President declared emergency on 11th January, 2007 in terms of Article 141A of the Constitution and called armed forces in aid of civil authorities to maintain law and order. Following this, the President announced his resignation from the post of the Chief Adviser and dissolved his team of Advisers of the caretaker government.

On 12th January, the President appointed a new caretaker government headed by Dr. Fakhruddin Ahmed as the Chief Adviser. The media called the Fakhruddin caretaker government an "army-backed government", probably because it had been speculated in the media that armed forces urged President Dr. Iajuddin Ahmed to resign from the post of Chief Adviser for the sake of national interest and appoint Dr. Fakhruddin Ahmed as the Chief Adviser under Article 58C (5) of the Constitution.

Some legal experts raised the constitutional validity of the appointment of Dr. Fakhruddin Ahmed as the

The ultimate achievement of the caretaker government has been holding of a fair, free and impartial election through the Election Commission on December 29th and the smooth transition of power to the elected government headed by Prime Minister Sheikh Hasina on January 6th 2009. The government may be credited for providing strong support all the way to the Election Commission to prepare a fresh voters' list. With the assistance of armed forces, the preparation of the voters' list by the Election Commission was a groundbreaking exercise and more than 81 million voters were registered with photographs and finger prints within 11 months.

Chief Adviser as the President skipped sub-clause (4) of Article 58C to appoint retired Chief Justices, available in the country. On the other hand, some legal experts justified the action of the President, given the circumstances on 11th January, to appoint Dr. Fakhruddin Ahmed.

The Fakhruddin government continued almost two years in power and did not feel bound by Article 123(3) to hold the election in 90 days, due to vagueness of the provisions of the constitution. It was argued that in order to hold a fair, free and impartial election, they needed a fresh voter's list and certain amendments to the Representation of the People Order 1972 that would guide the procedure of holding fair and credible parliamentary elections.

Policy of the caretaker government

People accepted the Fakhruddin government for the sake of peace and stability in the country. Besides providing assistance to the Election Commission to hold parliamentary

elections, the caretaker government adopted a three "Ms" policy, meaning that they would direct its campaign to eliminate muscle power, money power and misuse of power, thus creating a suitable environment for holding credible parliamentary elections.

The caretaker government demonstrated its efforts as far as possible against corrupt and criminal elements in society with the active assistance of armed forces and law enforcing agencies.

Persons who once were considered themselves "untouchable" were arrested for alleged corruption. Suspected corrupt former ministers, businessmen, former MPs and musclemen were arrested and put on trial.

Observers say that the government took a huge political risk when former Prime Minister Sheikh Hasina was arrested on 16th July 2007 on charges of extortion and corruption. On 3rd September, 2007, her political rival the immediate-past lady Prime Minister Begum Khaleda Zia was arrested on charges of corruption and

misuse of power.

The two former Prime Ministers were detained in houses, declared as sub-jail, on the premises of the Parliament building. The legality of their arrest on different charges is being contested in the Supreme Court.

About 160 politicians and businessmen including two sons of Begum Khaleda Zia were put behind the bar at one stage, awaiting trial for allegation of corruption, tax evasion and extortion. A few of them have been found guilty and sentenced to long-term imprisonments.

Since then almost all politicians and businessmen have been out of the custody on bail by the courts and many of the cases have been stayed by the High Court on the questions of legality and jurisdiction.

The achievements of the government

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