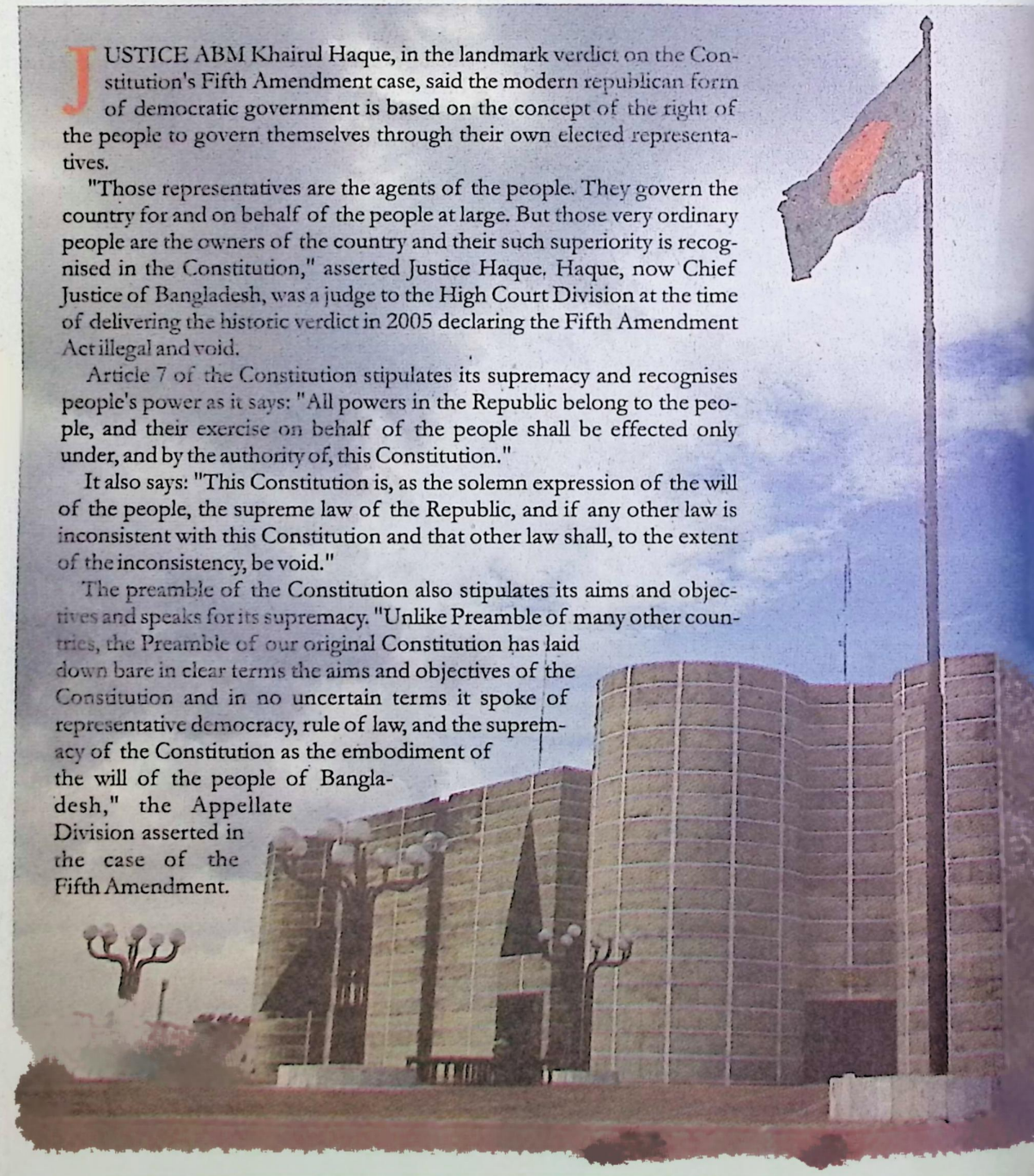
Of Chaos, Confusion and our Constitution

SHAKHAWAT LITON goes back in time, tracing the nation's history of constitutional adventures and misadventures.



JUSTICE ABM Khairul Haque, in the landmark verdict on the Constitution's Fifth Amendment case, said the modern republican form of democratic government is based on the concept of the right of the people to govern themselves through their own elected representatives.

"Those representatives are the agents of the people. They govern the country for and on behalf of the people at large. But those very ordinary people are the owners of the country and their such superiority is recognised in the Constitution," asserted Justice Haque. Haque, now Chief Justice of Bangladesh, was a judge to the High Court Division at the time of delivering the historic verdict in 2005 declaring the Fifth Amendment Act illegal and void.

Article 7 of the Constitution stipulates its supremacy and recognises people's power as it says: "All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this Constitution."

It also says: "This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is inconsistent with this Constitution and that other law shall, to the extent of the inconsistency, be void."

The preamble of the Constitution also stipulates its aims and objectives and speaks for its supremacy. "Unlike Preamble of many other countries, the Preamble of our original Constitution has laid down bare in clear terms the aims and objectives of the Constitution and in no uncertain terms it spoke of representative democracy, rule of law, and the supremacy of the Constitution as the embodiment of the will of the people of Bangladesh," the Appellate Division asserted in the case of the Fifth Amendment.