

FAIR POLLS

## Need is free, strong EC

Says SC verdict on 13th amendment

STAFF CORRESPONDENT

A truly independent and strong Election Commission, and not a non-partisan caretaker government, is needed to hold a free, fair and neutral election, the Supreme Court has observed in its verdict on the constitution's 13th amendment case.

"The Election Commission needs to be made financially independent. It should be given complete administrative authority. No obstacle can be created to appointment of its manpower," says the verdict, adding holding free and fair polls is undoubtedly a basic structure of the constitution.

"The executive branch of the government will be obliged by providing [the EC with] all types of supports stipulated in the article 126 of the constitution without any delay. Otherwise they will be responsible for violation of the constitution," said former chief justice ABM Khairul Haque in the full text of the verdict released on Sunday night.

He made the observation in response to the apprehension expressed by almost all the amici curiae during the hearing of the case that the country would plunge into chaos in the absence of a caretaker government during election.

The former chief justice has noted elections are rigged in many countries, but democracy in those countries has not been suspended through amending the constitution.

On May 10 last year, the Appellate Division led by Justice Haque declared illegal the 13th amendment through which the caretaker government was introduced in 1996.

About the control of polls officials, the former chief justice said all the officials involved directly or indirectly with the election should be put under the control of the EC following the announcement of election schedule and until the election results are declared.

"The election commissioners will not be introvert. They will maintain transparency in their work. They need to keep in mind that they are accountable to people," Justice Haque said, adding, "People have rights to know about their work."

The former chief justice also said the EC must take legal action against election law-breakers.

He also urged the media and people to be ever vocal to hold the government and the election commission accountable.

## Fakhruddin's govt

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led the Appellate Division of the SC to declare illegal the constitution's 13th amendment through which the caretaker government system was introduced in 1996. The full text of the verdict was released on Sunday.

Citing the Election Commission's constitutional obligation, Justice Khairul said all responsibilities for holding the parliamentary polls in time are vested in the EC.

"The onus for violation of the constitution must be put on the EC on its failure to hold the polls in time," he said. "However, validity of the election is not undermined for the delayed election. The election remains valid."

The ninth parliamentary election, which was earlier

scheduled for January 22, 2007, was finally held on December 29, 2008, around two years after its schedule. The January 22 parliamentary polls could not be held as the state of emergency was declared in the wake of political turmoil.

The then president Iajuddin Ahmed, who assumed the office of the chief adviser on October 29, 2006, was forced to resign from the post on January 11, 2007, declaring the state of emergency. Then a new caretaker government was installed with Fakhruddin Ahmed as its chief adviser. The changeover took place a few days before expiry of the stipulated 90-day tenure of the caretaker government.

About the state of emergency, Justice Khairul said in

the verdict the provisions stipulated in article 141A must be followed to declare the state of emergency and it would remain effective for the period stipulated in the constitution.

He said the state of emergency will remain effective for the period which is possible without the approval of parliament, and after that, it will automatically cease to have effect.

As per article 141A (C), the state of emergency shall cease to operate at the expiration of one hundred and twenty days, unless before the expiration of that period it has been approved by a resolution of parliament.

Parliament did not exist when the then president declared the state of emer-

## Nothing but reviving CG

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elections could be held under a neutral government.

The Jatiya Party, largest ally of the ruling Awami League in the grand alliance, also welcomed the verdict.

"We will bring Sahabuddin Ahmed under trial if voted to power," JP Chairman HM Ershad said while addressing party leaders at a hotel in the capital.

Justice Sahabuddin Ahmed was the head of the country's first caretaker government in 1991 after the Ershad-led regime fell in the face of a mass upsurge.

Ershad said the scrapping of the 13th amendment that had incorporated the provision for the caretaker system to oversee general polls would prove to be a right decision if the next polls could be held in a free and credible manner.

"Now, it is the responsi-

bility of political leaders to find a way out so that all can participate in the elections."

BNP acting secretary general Mirza Fakhrul Islam Alamgir said the full verdict of the Supreme Court was insignificant as the government had already plunged the country into uncertainty through the constitutional amendment scrapping the caretaker system.

"Whatever the full verdict says, the next parliamentary elections must be held under a non-party neutral government," he told The Daily Star, adding that the main opposition would give its formal reaction to the verdict today.

Workers Party President Rashed Khan Menon said the full verdict would help remove confusion centring the judgment on the caretaker issue. "It will help all of us to take decisions in future in this regard."

## Onus now on politicians

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major political parties agree, even unelected persons can be picked for forming the interim government and later on they can be made elected from any constituency.

Both the ruling and opposition parties have elected persons, said barrister M Amir-Ul Islam. So there should not be any problem for forming the interim government.

"The prime minister and the leader of the opposition will now decide on this," he added.

Talking to The Daily Star over the phone from Bangkok, Dr Kamal Hossain said there is a scope for reviewing the apex court's verdict since some questions have been raised after the release of the full text of the judgment.

He noted that he would make detailed comments on the verdict after going through it properly.

Constitutional expert Shahdeen Malik, however, observed there is no necessity for filing a review petition as parliament has already scrapped the 13th amendment to the constitution.

The amendment mandated an elected government to transfer power to an unelected non-partisan caretaker administration for polls-time on the completion of its term.

The political parties, he said, will have to hold talks in and outside of parliament to find a solution to the problem. "The ball is now in the court of the politicians."

Asked about the review petition, Attorney General

Mahbubey Alam said he did not receive any instructions from the government yet in this regard.

If the political parties reach a consensus on the issue, it will be possible to pick the chief of the interim government, he added.

Dr M Zahir said he feared whether the SC verdict has become ineffective as parliament has already cancelled the 13th amendment.

TH Khan said as the constitution has been amended before the release of the full text of the verdict, the judgment has become a showpiece.

Former chief justice ABM Khairul Haque has lost his jurisdiction to write the judgment and sign it, since he retired on May 17 last year, he added.



Police arrest 112 people who were allegedly trying to illegally sail to Malaysia on an engine boat to work there. The law enforcers arrested them in Banshkhali of Chittagong yesterday as they were getting on the boat.

PHOTO STAR

## Mollah, his men

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Quader is facing six charges of crimes against humanity committed during the Liberation War. Among the charges, one is related to the killing of Taleb while another is related to the killing of Pallab.

The three-member tribunal headed by its Chairman Justice ATM Fazle Kabir recorded Kaium's testimony before adjourning the case proceeding until September 23, when Kaium will face cross-examination.

Kaium said he joined as the headmaster of Mirpur Bangla School in December, 1968. Following the non-cooperation movement declared by Bangabandhu Sheikh Mujibur Rahman on March 7, he closed his school.

Kaium said Abu Taleb was also his school advisory committee member and that Taleb liked him a lot.

On March 23, 1971, the Pakistan Republic Day, Kaium along with some of his students hoisted the Bangladesh flag at the school. He said for this reason he was stabbed by some youths on that very night.

After the stabbing, Mollah, a neighbour of Kaium, rescued him and took him to the house of Abu Taleb where he was given primary treatment, said Kaium.

The following morning he was taken to the house of Sheikh Mujib and then to Dhaka Medical College Hospital.

Kaium then went to his village home in Nasimgar of Brahmanbaria with the help of his colleague Faruk Ahmed Khan.

"In June [1971] Faruk Khan came to my home [in Nasimgar] and then I came to know that local non-Bangalees, Akhter Gunda and Quader Mollah had killed Khondaker Abu Taleb at Mirpur-10 Jalladkhana," said the witness.

Kaium said after the Liberation War, he learnt that Akhter Gunda and his accomplices had actually attacked him in March.

"I heard that Abdul Quader Mollah had killed Bangla College Student Pallab [during the war]," said Kaium, who identified Quader at the courtroom.

He said, "He was a youth at the time of the incident and had no beard."

Mohammad Ali, the conducting prosecutor of the case told The Daily Star that the next and the last two prosecution witnesses of the case are the two investigation officers of the case.

KAMARUZZAMAN

A freedom fighter yesterday told Tribunal-2 that under the directives of war crimes accused Jamaat leader M u h a m m a d Kamaruzzaman, Al-Badr men picked up his father and took him to an Al-Badr camp.

He was killed on November 23, 1971.

Ziaul Islam, son of Shaheed Nurul Islam and the eighth prosecution witness in war crimes case against Kamaruzzaman, also said after the war, Bangabandhu Sheikh Mujibur Rahman wrote to his family and gave financial help.

Tribunal-2 recorded the testimony before adjourning the case proceedings until tomorrow when the witness would be cross-examined.

On June 4 this year, Kamaruzzaman was charged with the murder

and torture of unarmed civilians and complicity to other crimes against humanity during the Liberation War.

During his half-hour testimony, Ziaul said he was Bachelor of Arts student of Mymensingh Nasirabad College during the war. He said like other freedom loving Bangalees, he took part in the Liberation War.

After the Pakistani army entered Mymensingh, he along with his associate fighters went to India through Haluaghat border. They engaged the Pakistani army at the border, said the 61-year-old witness.

"I had no communication with my father during the nine-month-long war," said the witness, adding that they freed Mymensingh town on December 10, 1971.

On the way to his home, Ziaul heard from one of his friends at Haluaghat that the Pakistani army had killed his father.

He said, after the war, he asked his mother about his father.

His mother told him that when he joined the war efforts, people of the Shanti Committee, an anti-liberation force, mounted pressure on his father to know his whereabouts, said the witness.

"Under the instruction of the then Al-Badr commander Kamaruzzaman, Tayab, son of the imam of Mymensingh Bara Mashjid, and Rabbani picked up my father in the first half of November [1971] and took him to the Al-Badr camp at the [Mymensingh] District Council Rest House.

"When my family asked Tayab and Rabbani, both Al-Badr members, about my father, they said Al-Badr leader Kamaruzzaman ordered them to pick up my father," Ziaul went on to say.

He said his family members tried to get his father freed but failed.

The people at the camp had told his family members that they had no orders from Kamaruzzaman to free him, said the witness.

"On the night of November 23, 1971, my father along with another person called Kenidi was taken to Babera Khal of Ghagra union, five miles away from Mymensingh town. They were killed with bayonets and Al-Badr members left the bodies over there," said the witness.

He said his family members brought the body from there. Before Ziaul gave his testimony, seventh prosecution witness Liakat Ali testified before Tribunal-2.

Liakat said Al-Badr men abducted him from his village home and later sent him to Ahmednagar military camp in Sherpur during the Liberation War.

Liakat, who claimed to be a freedom fighter, said one day during the war, Pakistani army men of Ahmednagar camp forced him along with some others to stand in a big hole blindfolded.

They were ordered to say the Kalema, a line stating faith in Allah and his prophet.

"When we completed saying the Kalema, [army men] ordered to kill us, but at that time Major Riaz came to the spot and prevented the shooting. He called us [three persons] by our names and we got out of the hole," said the witness.

"When our blindfolds were taken off, I saw Kamran [an Al-Badr member] in

front of me and I think I saw Kamaruzzaman behind Kamran," said Liakat, adding that they were later released.

As per the prosecution documents, Kamaruzzaman, then president of greater Mymensingh Islami Chhatra Sangha, the then student wing of the Jamaat-e-Islami, played a key role in the formation of Al-Badr there.

Al-Badr force collaborated with the Pakistani military, which committed genocide and mass killings during the war.

Liakat said he could not say about the activities of Al-Badr and Razakars of his area during the war.

After lunch, defence counsel Kafil Uddin Chowdhury completed cross-examination of Liakat within 15 minutes and asked

Khaleda slates

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and condemn the very recent film made in the US and posted online on the life of Prophet Hazrat Muhammad (SM) with false, fabricated and motivated information," she said.

Mentioning that the film has hurt the religious beliefs and sentiments of the Muslims, the former prime minister said, "We think all concerned should be respectful and tolerant towards all religions for maintaining world peace."

Referring to the killing of four people, including the US ambassador, in Libya and some vengeful reactions to the film in some other countries, Khaleda said there was no place of vengeance, extremism, unjust killing and resentful reaction in Islam as "it is a religion of peace".

She condemned the attacks and urged Muslims to exercise restraint and maintain peace.

## Yunus

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concern that these measures are tarnishing our reputation and image in the world community. We believe the issues concerning Prof Yunus and the Grameen Bank should be resolved through open discussion and compromise befitting the practices of a true democratic and civil society," said the NRBs in a joint statement sent to The Daily Star.

They believe the prime minister can make use of Yunus' stature to draw benefits for the people of Bangladesh and that any attempt to denigrate him, tarnish his image or belittle his contributions would be counter-productive.

They have also suggested that the prime minister form a small committee with non-partisan civic leaders to find ways to settle all outstanding issues in a dispassionate and professional manner.

The signatories of the letter include Hasanat Husain, Anisur Rahman, Hasan Zillur Rahim, Tajul Islam Hashmi, Shamsul Islam Choudhury, Sadiqur Rahman, Hasan Mahmud and Enam Choudhury of Voice for Justice World Forum's US, UK, Canada and Sweden chapters.

Rafi Ahmad, former head of Laser Technology Department, Shrivenham Military College, Swindon, UK, M A Jabbar, former associate professor of Singapore National University, Singapore, and Bani Amin, former senior lecturer of University of Sunderland, UK were also among the signatories.

## 112 desperados

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Rezaul Hoque, chairman of Chhanua Union Parishad, informed police of the matter around 2:00am.

Police rushed to the spot around 3:00am. They detained 113 people including boatman Monu and seized the engine boat.

Habibur Rahman, one of the detainees, said that he had paid Tk 2,000 to a broker and committed to pay Tk 2 lakh to him after reaching Malaysia.

"I dreamt of going to Malaysia to become financially solvent. But now I can realise that I have been deceived," said Habibur, who used to work as a night guard at a private company in Dhaka.

"I was supposed to make a phone call to my family after reaching Malaysia and they were supposed to pay Tk 2 lakh to the broker," he said adding, "They told us that we would be taken to Malaysia by ship."

Habibur, however, could not name the broker.

Nurul Kabir, owner of the engine boat, went into hiding soon after police detained 113 people.

Contacted, Ruhul Amin Siddique, assistant superintendent of police (Satkania circle) in Chittagong, said police were conducting drives to nab the traffickers including Imrul.

Apart from the 113 detainees, there were more people on the spot who had been gathered by the traffickers. Sensing presence of police, they managed to flee the scene, he added.

Akhter Hossain, officer-in-charge of Banshkhali Police Station, said Monu would be sued under anti-trafficking law.

## Tofail's refusal

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Saturday night that Tofail had rejected the proposal in consultation with Matiur Rahman at a dinner.

"This is totally false and baseless. I did not meet Tofail Ahmed at any dinner that night," said Matiur in the statement, adding, "I met Syed Ashrafur Islam yesterday (Monday) and he told me that he did not make any such comment (in the meeting)."

Matiur said, "I have nothing to do with his [Tofail's] refusal to become a minister. It is beyond anyone's guess that such veteran leader like Tofail would seek my advice to make a political decision."

He said it was true that he had a close relationship with Tofail for the last 45 years. Apart from that, he had good relations with many other leaders of different political parties.

But it was unfortunate that many ruling-party leaders had spat venom at him on different occasions, said the statement.

On September 21, 2010, several ministers including Abdul Latif Siddique and Shahjahan Khan spoke against him in parliament. A minister had even demanded that he be called to the House over reports published in the Prothom Alo, read the statement.

On May 19 last year, prime minister's defence adviser Maj Gen (retd) Tarique Ahmed Siddique, at a press conference attended by some of his selected journalists, brought up the false allegation of Matiur's involvement in the August 21 grenade attack.

In the statement, Matiur said that such false allegations against him were nothing new. "For the last 14 years, we have been trying heart and soul to carry on with free and objective journalism amid such adversity."

Prothom Alo had always been in favour of the spirit of Liberation War, justice, democracy and progress

## 48 Bangladeshi

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their earlier company Hastie International had shut down operations.

However, the UAE immigration authorities in Dubai accepted all the transfer pleas, except those of the Bangladeshis due to a "visa ban", added Mainuddin.

Earlier, Nazmul Quanine, Bangladesh ambassador to the UAE, told The Daily Star that the Gulf nation had become stricter with their policy for issuing new visas and visa transfers.

## Mashiur refutes report

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It may be mentioned, the government has just three days for revival of the loan deal with the WB, because co-financier Jica's loan effectuation deadline ends on Friday.

Sources told The Daily Star the adviser had taken one-month's leave in the face of pressure from the top leaders of the AL, including its General Secretary and LGRD Minister Syed Ashrafur Islam.

The adviser submitted his leave application to Sheikh Hasina on Sunday evening, said officials in the Prime Minister's Office.

The leave took effect yesterday and the government could extend it if needed, they added, preferring anonymity.

Taking a copy of Mashiur's leave application, prime minister's Foreign Affairs Adviser Gowher Rizvi left Dhaka on Sunday night for Washington for talks with the WB about revival of the deal.

WB's Bangladesh Country Director Ellen Goldstein has also flown to Washington from Nepal on Sunday to attend the meeting at the bank's headquarters, according to the sources.

Before his departure,

Rizvi at a meeting with some top Economic Relations Department officials drafted a formal letter to be sent to the WB for reviving the loan.

After his name appeared in the media, Mashiur made it clear that he would not go taking responsibility of the alleged "corruption conspiracy" in the Padma bridge project.

He has all along maintained his innocence, but said he would go only if the prime minister asked him.

At a party meeting on Saturday night, Syed Ashrafur requested Hasina to send Mashiur on leave. His request was unanimously supported by all the members of the party's Central Working Committee.

PMO Secretary Molla Wahiduzzaman said Mashiur did not join the weekly cabinet meeting yesterday.

The prime minister has already informed a number of secretaries that Mashiur would not attend the cabinet meetings from now on, sources in the PMO said.

The adviser, however, held an unscheduled meeting with Communications Minister Obaidul Quader and Bridge Division secretary at the communications minister's office around 12:45pm. They discussed the

future of the Padma bridge project.

In June, the WB cancelled its \$1.2 billion loan deal citing "corruption conspiracy" in the project. The global lender said the government should meet three conditions, including sending Mashiur on leave, for revival of the agreement.

Two other conditions were removing Syed Abul Hossain, former communications minister who was later made ICT minister, and ensuring access of a WB monitoring team to the findings of the Anti-Corruption Commission investigation into the alleged graft.

Abul has already gone and the government has also agreed to give the WB team access to the ACC findings.

The WB monitoring team would be able to start working with the ACC once the bank revives the loan deal, ACC Chairman Ghulam Rahman told reporters yesterday. "The commission has no objection to it and we hope there will not be any problem."

Contacted, Obaidul Quader said the government wanted to start the construction of the 6.15km bridge this fiscal year.

The government would

welcome the WB funding but if the global lender finally does not offer assistance, the government would look for an alternative source of funding for the job, he added.

## 3 cops hurt in attack by Shibir men

A CORRESPONDENT,

Chandpur

At least three policemen, including a sub-inspector, were injured in a clash between a group of Islami Chhatra Shibir activists, a pro-Jamaat-e-Islami student organisation, and the law enforcers in front of Chandpur Government College yesterday.

The injured policemen -- Sub-Inspector Mahfuz Ahmed, 32, and constables Masud Rana, 24, and Redwan Ahmed, 20, -- of Sadar Model Police Station are undergoing treatment at Chandpur Sadar Hospital.

Police held four of the activists -- Jahirul Islam, 25, Iqbal Hossain, 25, Shahadat Hossain, 18, and Shahriar Tanzim, 20, -- for their alleged involvement in the attack.