

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."

About the state of emergency, Justice Khairul said in

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.

Parliament did not exist when the then president declared the state of emergency.

CPB General Secretary Mujahidul Islam Selim said they supported the direction given in an earlier short order of the SC that the next two elections could be held under a non-party caretaker government and that he hoped that direction was also there in the full verdict.

"Only that can create an atmosphere of understanding," he added.

Bangladesh Jatiya Party Chairman Andaleeb Rahman Partha, MP, said the next elections would not be acceptable if held under any political government as relations between the two major political parties were not good at all.

The verdict already lost its importance and effectiveness as the government amended the constitution on its own. Now, the government should take a decision considering people's aspiration," he added.

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 sign it, since he retired on May 17 last year, he added.

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.

The government would

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."

On March 23, 1971, the Pakistan Republic Day, Kaim 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, Molla, a neighbour of Kaim, rescued him and took him to the house of Abu Taleb where he was given primary treatment, said Kaim.

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

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

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

Kaim said after the war, he learnt that Akther Gunda and his accomplices had actually attacked him in March.

"I heard that Abdul Quader Molla had killed Bangla College Student Pallab [during the war]," said Kaim, 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 Muhammed 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

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

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The government would

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 Ashraful 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 take 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 Ashraful 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.

Contacted, Obaidul Quader said the government wanted to start the construction of the 6.15km bridge at Chandpur Sadar Hospital.

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have to wait for the WB funding.

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."

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The government would



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 Banskhali of Chittagong yesterday as they were getting on the boat.

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 Al-Badr there.

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