ish- colonial regime's law of contempt and passed the bill to enact a new law of contempt on February 19 this year.

The new law defines two types of contempt of court – civil and criminal. The law was considered a strong step to strengthen people's right to freedom of speech and the freedom of press as it did not consider as contemptuous the publishing of impartial and objective reports on judicial proceedings and making objective and unbiased comments on the merits of a case after its final disposal.



PHOTO: SK ENAMUL HAQ

In absence of any such specific protection, media and people in general had been finding it difficult to write even objective reports or make comments on judicial proceedings, fearing action under the contempt law of 1926.

In defence of the enacting the new law, a parliamentary sub-committee formed by the parliamentary standing committee on the law justice and parliamentary affairs ministry in a report said in absence of any definition in Contempt of Court Act, 1926 judges on many occasions, have drawn contempt proceedings against the judges of lower courts, civil servants and journalists which have no relevance either violation of the court's order or disrespect to it but related with personal affairs arising out of their personal entitlement of accommodation, passing of the bills by the audit department and using some other public facilities.

"But the fact remains that issues which have no relevance with the court proceeding and relates to personal affairs of a judge shall not be dealt with within the scope of power of contempt as it hinders to put in place transparency and accountability," observed the parliamentary sub-committee in its report prepared in mid of 2012 after reviewing the then proposed bill on the contempt of court.

But the new law lasted only for a few months. The High Court on September 26 declared the law illegal and unconstitutional. Alongside giving some protection to the media, the law had also provided the government officials with some protection against the court of contempt charges. The High Court said both the provisions were discriminatory and against the constitution.

Interestingly, identical media-friendly provisions exist in the contempt of court law in India, the largest democratic country in the world with a vibrant judiciary. Passed in 1971, the law says fair and accurate reporting of judicial proceedings and fair criticism of judicial functions will not be considered as contempt of court.

India did not attempt to protect the government officials the way Bangladesh has.

In view of some legal experts and academics, the High Court should not have declared illegal the provision on the freedom of speech and freedom of press. They supported the court's ruling against the provision that had tried to protect the government officials in unjustified way.

The Appellate Division of the Supreme Court will now decide the fate of the High Court verdict and the fate of the contempt of court law as well.

The constitution is the source of power of the court. And the constitution as the solemn expression of the will of the people emphatically states all powers in the Republic belongs to the people. So, people's freedom of speech should not be limited in any unjustified way. Democracy cannot flourish by stifling freedom of speech and the freedom of press.

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