

OPERATION CLEAN HEART HC releases full verdict scrapping indemnity law

STAFF CORRESPONDENT

The High Court yesterday released the full text of the verdict that scrapped the law legitimising the controversial criminal hunt -- Operation Clean Heart in 2003.

The court delivered the verdict on September 13 last year following a writ petition. The full text of the verdict was uploaded on the Supreme Court's website yesterday.

The HC in the verdict said the law does not permit the use of third-degree methods or torture of any accused in custody during interrogation and investigation in order to unravel the mystery surrounding an offence.

Protection of an individual from torture and abuse by the police and other law enforcement agencies is a matter of deep concern in a free society, read the judgment.

According to the HC, custodial torture is a naked violation of human dignity which destroys, to a very large extent, the individual personality.

"It is a calculated assault on human

dignity. Whenever human dignity is wounded, civilisation takes a retrograde step. The flag of humanity must not on each such occasion fly half-mast."

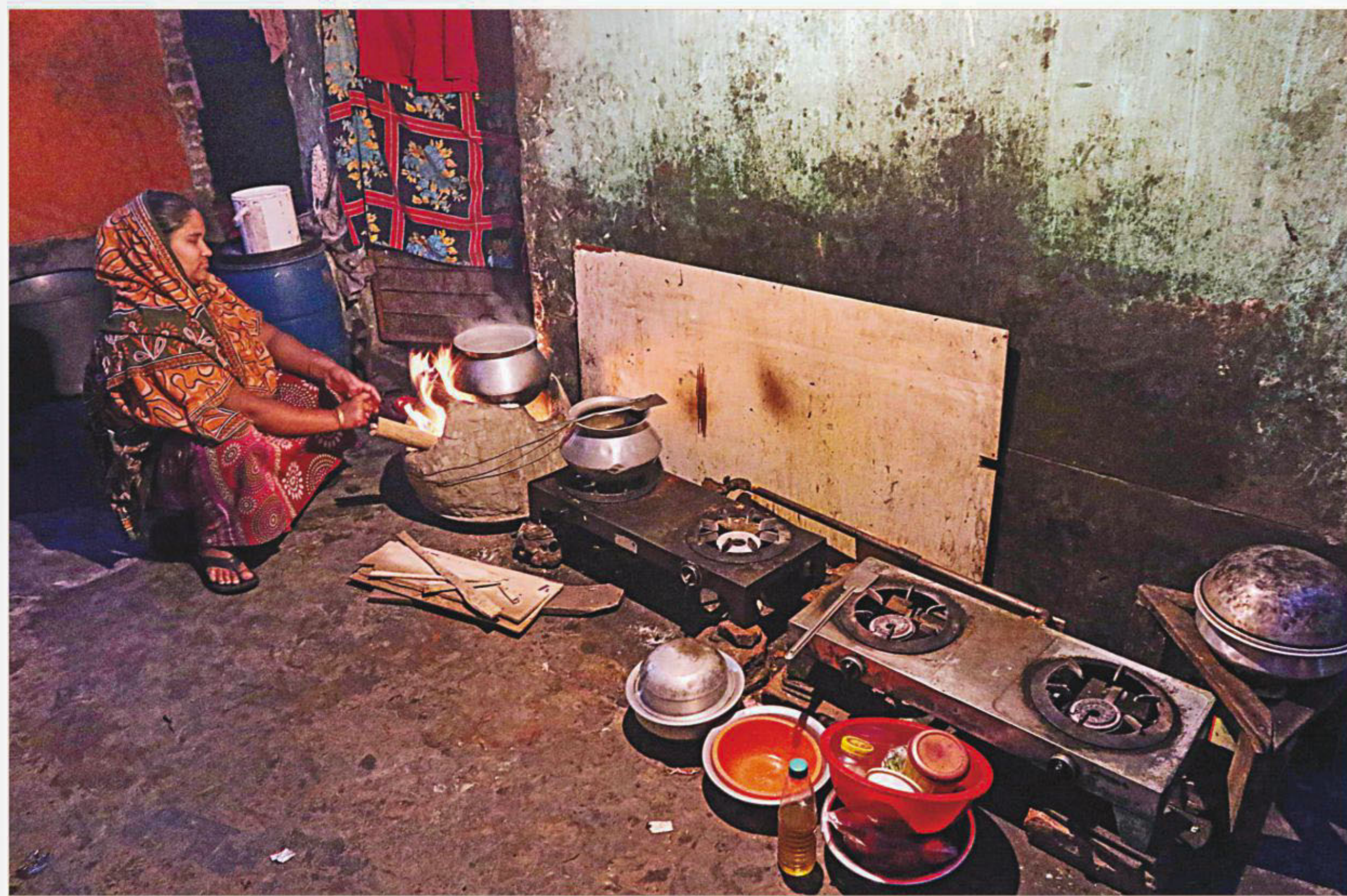
The police are, no doubt, under a legal duty and have the legitimate right to arrest a suspected criminal and to interrogate him during the investigation of an offence, the verdict said.

Declaring the Joint Drive Indemnity Act, 2003 illegal, void ab initio (dead from the birth) and unconstitutional, the court ruled that any family members of the victims of the operation can file cases with the lower court against those responsible for torture and custodial death of their relatives.

The families can also seek compensation from the government through the High Court or any other court, said the HC bench of Justice Moyeenul Islam Chowdhury and Justice Md Ashraf Kamal.

The BNP-Jamaat-led four-party government had passed the law to grant immunity from prosecution to all those who carried out the countrywide

SEE PAGE 10 COL 1



A woman cooks on a wood-burning earthen stove beside her gas cookers in her Mirhajirbagh home as there is no gas supply. The photo was taken last week.

PHOTO: AMRAN HOSSAIN

ATTACK ON NASIRNAGAR HINDUS

Police arrest 2 associates of 'mastermind'

A CORRESPONDENT, Brahmanbaria

Police yesterday arrested two men over their suspected involvement in the October 30 attack on the Hindus in Brahmanbaria's Nasirnagar.

The arrestees are Uttam Kumar Das, 25, personal assistant to Haripur Union Parishad Chairman Dewan Atikur Rahman Akhi, and Manaranjan Devnath, 40, a secretary at the UP.

Abu Jafar, officer-in-charge of Nasirnagar Police Station, claimed that during their interrogation, the arrestees admitted the UP chairman's involvement in the incident.

Though locals say Akhi was the "mastermind" behind the attack, he is still absconding.

"We'll interrogate them [the arrestees] further to trace Akhi," said the OC.

A day before the attack, police arrested Rasraj Das, a local fisherman, for "hurting the religious sentiments of the Muslims" through a Facebook post.

However, investigators later cleared him of the charge. But he is still languishing in jail.

Today, the court is scheduled to hear his bail prayer.

Mobs, including religious zealots and local goons, vandalised and looted over 100 houses of Hindus and temples in Nasirnagar upazila during the three-hour mayhem on October 30 following the Facebook post.

Meanwhile, sources say investigators have already submitted to the court the forensic reports on the computer and cell phone collected as evidence in the case filed against Rasraj.

Another report, submitted to the court, says the post was not uploaded from Rasraj's cell phone, added the sources.

Gas crisis in city worsens

FROM PAGE 1

Although the supply of gas usually drops in winter, the crisis is worse this year. A drop in production, an increase in demand, faulty supply lines and illegal connections are the major reasons for this, according to officials concerned.

Accumulation of condensate in major gas transmission pipes causes pressure to fall in winter but production has dropped a few months ago, they said.

Whatever the reason, it's the consumers who are paying the price.

"I've bought a kerosene stove a few months ago," said Ananya Begum of Pachim Kafrul. It increased her family's monthly expenditure by Tk 1,500.

Seeking anonymity, an official

said the city's gas supply and distribution network was old and needed to be replaced. Leakages were affecting gas pressure and supply at many places.

"Besides, in recent times, some people are using home gas compressors to forcibly draw gas into their home burners. This means others are not getting whatever gas is available in the line, while the ones with compressors are being able to keep their stoves performing just fine," the official said.

The gas crisis is also hurting businesses, particularly, the city's refuelling stations.

Omar Faruk, manager of Padma Services Ltd, said gas pressure was usually low from 6:00am to 11:00pm

every day. Instead of the usual 15 PSIs (pound-force per square inch), they now receive gas at only 3 to 4 PSIs during daytime, he said.

"We can provide gas to vehicles only through one dispenser out of the four due to the low pressure. We have been facing this since October."

Faruk said their daily sale has dropped to Tk 1.50 lakh from Tk 2 lakh due to the crisis. There are 10 filling stations between Jatrabari and Jurain and all of them have been hit hard, he added.

The state-run Titas Gas Transmission and Distribution Company Ltd, the sole gas distributor in the capital, attributes the crisis to high demand for gas in winter.

However, sources at Titas blamed

illegal gas connections for the situation.

Engineer HM Ali Ashraf, director (operations) of Titas, said currently the demand for gas in Titas areas was 2,050 million cubic feet per day (mmcf) but they are able to supply only 1,750 mmcf.

Apart from the shortage of 300 mmcf, domestic use of gas increases by 20 percent in the winter, which worsens the situation, he said.

Speaking on condition of anonymity, a Titas official said illegal connections drain around 30 to 40 mmcf of gas.

Although drives against illegal connections are being conducted on a regular basis, public representatives often impede the raids, the official

claimed.

Another Titas official said they had ripped out 820km of illegal gas lines in different areas, including Narayanganj, Sonargaon, Narsingdi, Gazipur, Chandra, Tongi, Tangail, Manikganj and Savar, Kamrangirchar, Basila, and Mohammadpur of Dhaka.

He said they disconnected 4.5 lakh illegal domestic gas connections during their drives between 2014 and November 2016.

According to Titas, it now has 13,038.69km of pipelines and has 20.23 lakh consumers -- 20.06 lakh domestic, 10,917 commercial, 4,604 industrial, 1,085 captive power, 333 filling stations, seven public power plants, 31 private power plants, and three fertiliser factories.

No use of religion in seeking votes

FROM PAGE 1

have allegiance to such an activity," the bench said.

The court said the function of an elected representative should be secular.

"Religion has no role in electoral process, which is a secular activity," the judges added. "Mixing state with religion is not constitutionally permissible."

Referring to the term "his religion" used in section 123(3) of the Representation of the Peoples (RP) Act, which deals with "corrupt practice", Chief Justice TS Thakur and three others in the 4:3 verdict said it meant the religion and caste of all including voters, candidates and their agents etc.

However, the dissenting minority view of three judges -- UU Lalit, AK Goel and DY Chandrachud -- held that the term "his religion" means religion of candidate only.

It has been interpreted in an earlier verdict that the term "his religion" used in section 123(3) of the RP Act meant the faith of the candidates only.

Section 123(3) of the RP Act, which is being scrutinised, reads: "The

appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols... for furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate" would amount to corrupt practices.

The majority view of the seven-judge constitution bench, also shared by Justices MB Lokur, SA Bobde and LN Rao, said "secularism" has to be considered while dealing with the issue.

The bench delivered the judgement, hearing a clutch of petitions in the 20-year-old Hindutva case, where an earlier apex court bench had observed that Hinduism is a way of life.

The judgment will have significant implications in states that go to the polls just months from now, especially in Uttar Pradesh, where the construction of a Ram Temple in Ayodhya and caste-based mobilisation

are top poll planks.

In Punjab too, religion and sacrilege are top campaign issues.

The verdict said elections can't be fought by making a pitch to the candidate's, opponents' or voters' religion, caste, race, community or language.

But the three dissenting judges said such a decision amounted to "judicial redrafting of the law" and said to prohibit people from articulating legitimate concerns reduced "democracy to an abstraction".

"No government is perfect. The law doesn't prohibit dialogue or discussion of a matter which is concern to the voters," the dissenters said.

The three judges added any such verdict would reduce democracy to an abstraction.

In October last year, a seven-judge bench of SC began debating the issue of whether appealing for votes in the name of religion amounted to corrupt practice under India's election laws. It then referred the issue to the constitution bench.

A three-judge bench headed by former chief justice JS Verma in 1995 had ruled that a mere reference to

Hindutva or Hinduism wasn't a corrupt practice, as Hinduism was not a religion but a way of life in India.

The top court had then cleared nine top BJP leaders of the charge of appealing for votes in the name of religion.

On day one of the deliberations, the chief justice asked some searching questions to senior advocate Arvind Datar, who was appearing for some candidates facing the charge.

The bench wondered if a person belonging to one community sought votes from members of his community for a candidate belonging to another community, would that also come under the ambit of the election law.

The election law bars an appeal in the name of religion. If found guilty, a candidate can be disqualified. But the question before the bench in 1995 was whether the use of terms such as Hindutva or Hinduism per se would amount to such practice.

RELIGIOUS GROUPS HAIL

VERDICT

The Vishwa Hindu Parishad (VHP) said politics based on caste, community and religion had harmed the country.

"We welcome the decision of the

Supreme Court," VHP International General Secretary Surendra Jain said. "National integration has also been damaged by this practice."

He added, "Vote bank politics should be curbed by this decision. This judgement may prove a landmark in nation-building."

Jamaat-e-Islami Hind (JIH) said the prohibition to use religion to garner votes should be strictly implemented.

"Although the Supreme Court ruling was not something new as the existing law already bars people from stoking communal sentiments to get votes, but now this order should be implemented in letter and spirit," JIH Secretary General Mohammed Salim Engineer said.

He said the Supreme Court taking notice of it was an evidence of the fact that such practice by political parties and candidates had been "rampant".

[Based on reports of Hindustan Times, The Economic Times and The Tribune, India, with inputs from Pallab Bhattacharya, New Delhi Correspondent of The Daily Star]

How good is it for AL?

FROM PAGE 1

exercise of political power. Opposition parties, both in the parliament and the local government bodies, were never in such weak position as they are today.

The process of capturing the elected institutions began in 2014 and ended with the just held elections of the zila parishad five days ago.

The AL easily won three-fourth seats in Jatiya Sangsad in the parliamentary election on January 5, 2014 held amid a boycott by the BNP-led alliance. One hundred and fifty-three MPs out of the 300 were elected unopposed setting an unprecedented record.

A few months later, the AL men won majority of the upazila parishad chairman posts in the elections marred by violence and various electoral irregularities like capturing polling stations and stuffing ballot boxes

The story of establishing control over city corporations by AL is different.

Held amid a boycott by the BNP supported candidates halfway through the polling day, the AL favourites won all mayoral posts in the three city corporations in Dhaka and Chittagong in April 2015.

Earlier in 2013, the AL men suffered defeat to BNP leaders in free and fair mayor elections in five city corpora-

tions of Rajshahi, Khulna, Barisal, Sylhet and Gazipur.

All but the mayor of Barisal city were suspended in 2015 after they were accused in different criminal cases filed by police. After their removal, pro-AL city councilors took over as panel mayors.

In the municipality polls in December 2015, AL men also won a landslide victory by obtaining 198 majority posts in the 234 municipalities. There were plenty of reports of unlawful means in the polls like capturing polling stations and stuffing of ballot boxes.

For the ruling party, the just concluded 2016 may be considered as the final step in their monopoly control of powers.

AL now has successfully managed to secure absolute control over the local government institutions by ensuring landslide win of its candidates, however controversial.

In the first three months of the year, the party candidates won more than 85 percent of chairman posts in the union parishads, the lowest tier of the local government system.

The elections were stained by controversies as many of them resorted to violence and electoral irregularities to win. More than 100 people were killed in poll time violence surpassing

all previous records.

Over a week ago, the AL won the Narayanganj City Corporation polls in a free, fair and peaceful election. This has been the first fair and peaceful election in the last three years.

But the party men again resorted to unlawful means to win the chairman posts in zila parishads.

Though other parties including BNP and Jatiya Party did not contest the polls, some ruling party MPs actively worked for their preferred candidates. In so doing, the lawmakers broke the electoral code of conduct that prohibits them from participating in electioneering. Many chairman and member aspirants allegedly used huge sums of money to bribe voters to ensure their wins.

The process for establishing control over all the local government bodies completed with the zila parishad election.

Now, the AL is in an unassailable position in both the local and the national level bodies with no strong opposition to question its supremacy.

Its archrival BNP is still shell-shocked. For its political blunder of boycotting the 2014 general election, the party had no place within the parliamentary politics for the first time in two and a half decades.

Its anti-government agitation was waged with unprecedented violence in 2013 and early 2014 and again in the first three months of 2015. It could neither stop the parliamentary election in 2014 nor "topple" the government in 2015 with its agitations. These failures have made politics a nightmare for the party leaders.

The government used the state machinery to crush the street agitations. Numerous police cases against BNP's rank and file in connection with the street violence have put the grass roots leaders on the run. Many are lying low and staying inactive.

BNP's efforts to reorganise through national council last year was of little use.

The BNP still has to seek government permission to hold any types of rallies including protesting government's activities. For the last one and a half years, activities of the party's senior leaders remain largely confined to only attending some seminars and discussion programmes.

Inside the parliament, Awami League has been facing little challenge for the last three years, thanks to the unusual character of the main opposition Jatiya Party.

The ruling party MPs are also unable to play effective role in the

House and its committees in overseeing government functions.

The unprecedented supremacy over political powers, as many political analysts predict, may not remain pleasant for AL for long.

In their views, absolute power without effective check and balance may encourage more party men to engage in wrong-doing and corrupt practices as there is an aphorism "Power tends to corrupt and absolute power corrupts absolutely."

History says, possession of absolute control over all elected institutions puts the party in power in a vulnerable situation. Such situation has led to the rise of authoritarian rule in many countries. Exercise of political powers without check and balance yields good results for none.

The ruling AL, therefore, is not free from such risks. Past experiences are not inspiring either. The party could not take stern actions against its unruly leaders and activists who engaged in unlawful activities in the past.

Many dissident AL leaders took part in the local government bodies' elections in the last three years defying the high command's decisions. They paid little heed to the party high command's warnings and expulsions. This has exposed the weakness of the party's

chain of command.

There is more to worry for the party. BNP men no longer seem to be major rivals of the leaders and activists of the AL. Members of JP and even the Jamaat-e-Islami men do not pose any threat to the ruling party either. The ruling AL men now fight none but their own party colleagues.

At least 56 AL men were killed and nearly 3,500 injured in 334 incidents of internal clashes from January 2015 to October 2016, according to Ain o Salish Kendra (ASK), a leading rights body. The ASK statistics are based on newspaper reports and its own investigation.

Establishing supremacy appears to be the major factor behind internal conflicts at grassroots level of the AL. Making money in unlawful ways like extortion, tender manipulation and influencing the government's development work are the main causes behind their frantic efforts to establish supremacy or retain control over a particular area, shows an analysis of the incidents of clashes.

The above situation indicates, though the party possesses absolute control over political powers, it lacks control over its own unruly leaders and activists. Over time, it might erode away the party's true political power.