

Scrap or relocate Rampal project

12 environmentalist, rights activists urge govt

STAFF CORRESPONDENT

Demanding the Rampal power plant either be scrapped or relocated from its current location, twelve environment and rights activists said in a statement that the government has been trying to confuse people about the decisions of the World Heritage Committee made during the 41st sessions.

Actually, in four of the 11 decisions made during the session of Unesco heritage committee, they made it clear that no large-scale industrial or infrastructural development should be allowed to proceed in the vicinity of the Sundarbans before Bangladesh carries out a Strategic Environmental Assessment (SEA) for its south-west region.

Expressing their concerns, the activists said in a press release that Unesco never said that they had withdrawn

their objections about constructing Rampal thermal power plant near the Sundarbans. Rather they requested the government to fully implement their recommendations.

Citing Unesco decisions that were published recently, the statement said, that Unesco had actually requested Bangladesh to put in place a management system for shipping to minimise the negative impacts. It reiterated its request to Bangladesh to undertake the Environmental Impact Assessment (EIA) for any future dredging of the Pashur river.

In the statement, they said the government has been allowed time until December 1 next year to report on the conservation of the world's largest mangrove forest to the WHC. And the UN organisation would examine the conservation situation at the 43rd

SEE PAGE 10 COL 4



Rangamati-Khagrachhari link road being repaired in Moantola Hijing area yesterday. The dirt road was opened to traffic nine days after it got covered with thick, deep mud in the aftermath of heavy rains. The photo was taken yesterday

PHOTO: ANVIL CHAKMA

'Rape victim' kills herself

OUR CORRESPONDENT, Moulvibazar

A 16-year-old girl committed suicide on Tuesday night after she was reportedly raped in Chandpur village under Jagannathpur upazila of Sunamganj last week, her family said.

The victim lived with her parents in a tin-shed house in Chandpur area. She was a student of HSC second year at a local college.

The victim's father alleged that his daughter was returning from college on July 27 afternoon when CNG driver Yunus Miah and his gang picked her up. They forcibly took her to a jungle near Chokachampur area where they raped her repeatedly that day and night.

Later they fled the area leaving the girl unconscious. Locals found her later.

Yunus, 28, is from Chokachampur village in the same upazila.

To cover up the crime, Yunus along with others from the village forced the girl to marry him and alleged that she had illicit affair with Yunus, the victim's father told The Daily Star.

SEE PAGE 12 COL 6

BGB won't bar cattle coming thru' proper corridors

STAFF CORRESPONDENT

Border Guard Bangladesh (BGB) will not interfere when cattle is brought from India through recognised corridors during this Eid-ul-Adha, said Maj Gen Abul Hossain, director general of BGB.

"I told our regional commanders to provide the cattle traders a corridor," the BGB chief said during a press conference held at BGB headquarters in the capital's Pikhana.

"If someone wants to bring cattle, we will not stop them. We will allow the [use of the] corridor, but they have to agree to our conditions," he said, adding the cattle traders have to be registered and should not trespass the zero line.

According to data of Bangladesh customs, in the fiscal 2016-17, the

SEE PAGE 12 COL 1

PADMA 'GRAFT PLOT' Form commission to find out false story makers: HC

STAFF CORRESPONDENT

The High Court yesterday directed the government form an enquiry commission by August 31 to identify the "culprits who made up false stories" about a corruption conspiracy involving the Padma Bridge project.

The court also asked the government to submit a report before it on October 3 after complying with the directive.

The bench of Justice Quazi Reza-Ul Hoque and Justice Mohammad Ullah came up with the order during the hearing of a suo moto (voluntary) rule issued on February 15 this year, Deputy Attorney General Tapas Kumar Biswas told The Daily Star.

He said the HC ordered the cabinet secretary to submit the compliance report before the court on October 3, as the court would be on

SEE PAGE 10 COL 4

EC not empowered to hold fair polls

FROM PAGE 1

In the constitution's 13th amendment case verdict in May, 2011, the apex court said the EC should be made more empowered and institutionalised so that the parliamentary elections could always be held fairly without the non-partisan caretaker government system.

The apex court in that verdict declared the provision for caretaker system unconstitutional and void.

It had, however, said two parliamentary elections - 10th and 11th - could be held under the caretaker system. The court asked to strengthen the EC by this time so that it could hold free and fair elections in the absence of a caretaker government.

The SC had also asked to develop a system for automatic filling of vacancies in the EC without the government's intervention.

According to article 118 (1) of the constitution, the government is supposed to formulate a law specifying procedure for appointing election commissioners but no government in the last 45 years have been able to make the law. In the past, appointments of election commissioners had led to political controversies.

The EC's failure to perform as per the desire of the people led to political chaos and subsequently caretaker government system was introduced in 1996.

Following the 13th amendment verdict, the government in June 2011 opted for abolishing the election-time non-partisan caretaker government system. This created a political turmoil as the BNP-led alliance boycotted the 10th parliamentary election held on January 5, 2014.

More than six years after the verdict in the 13th amendment case, the SC in the 16th amendment case verdict strongly spoke for a credible election with the EC preparing for holding the 11th parliamentary election in early 2019.

"Unless the national parliamentary election is held impartially and independently free from any interference, democracy cannot flourish. In the absence of credible election, a credible parliament cannot be established," observed the apex court.

It further stated, "As a result, our election process and the parliament remain in infancy. The people cannot repose trust upon these two institutions and if these institutions are not institutionalised to gain public confidence and

respect, no credible election can be held."

In the absence of a free and fair election, parliament could not be constituted with wise politicians and this might impede institutionalisation of parliament itself, it said.

If parliament was not matured enough, it would be a "suicidal attempt" to give parliament the power to remove judges of the higher judiciary, observed the SC.

It said the political parties should be cautious in selecting their candidates for the national elections.

"It is expected in a country run by constitutional democracy that the following indispensable constituents would exist: (a) purity of election, (b) probity in governance, (c) sanctity of individual dignity, (d) sacrosanctity of rule of law, (e) independence of judiciary, (f) efficiency and acceptability of bureaucracy, (g) credibility of institutions like judiciary, bureaucracy, Election Commission, Parliament, (h) integrity and respectability of those who run those institutions," read the verdict.

The SC also spoke about the troublesome political culture. "This court noticed that in every national election, the political party which lost the election questioned the impartiality of the election and the opposition party did not cooperate in parliament."

Referring to the last two-year-long emergency regime between 2007 and 2008, the court said it was due to the lack of foresightedness of the politicians in power and their apathy towards institutionalising democracy.

POWER OF PEOPLE
In the verdict, the SC spoke about the power of the people.

It said in the history of military, no war was ever won with so small and meagre supply of arms, with so small numbers of trained fighters, like the Liberation War.

"We fought a ferocious military force equipped with all modern weaponry and trained personnel -- we fought against them with courage and valour -- what really gave us the advantage over them? Were it arms and weapon only? The answer is No," observed the apex court.

"It was the stupendous courage of 'We the people' of this land. It was the readiness for supreme sacrifice if necessary and unsurmountable feeling of commonness for fellow people of this land that made

us unconquerable by the Pakistani military power," said the SC.

It said the founding fathers of Bangladesh, keeping in mind the struggle against the tyrannical rulers, gave all powers of the republic to the people under article 7. "Thus, if we carefully look into the philosophy of our political existence, we unfailingly see that the citizens of our country are woven by a common thread called 'we the people'."

"Now that we are living in a free, independent and sovereign country, however, we are indulging in arrogance and ignorance which threaten the very precious tie and thread of 'we'."

"No nation, no country is made of or by one person. If we want to truly live up to the dream of Sonar Bangla as advocated by our father of the nation, we must keep ourselves free from this suicidal ambition and addition of 'I' ness. That only one person or one man did all this and etc."

The apex court cited a few examples from the USA in which credit for national achievements was given to the people with vision.

"But in our country a disease has infected us and the name of that disease is 'myopic politicisation'. This is a virus and unfortunately this has infected our political culture to such a length that many of our policymakers now are hardly able to see or envision a future meant for a nation, not for a person. Due to this rotting disease, they have personified each and everything."

For their narrow and parochial party interest, they have established a fake and 'pseudo democracy' taking the shameful unfair advantage of the constitution, deplored the SC.

"We must get rid of this obnoxious 'our men' doctrine and suicidal 'I alone' attitude. Not party allegiance or money, but merit alone should be given the highest priority at all levels of national life and institution building."

It further stated: "If we cannot get ourselves out of this narrow parochialism and cannot overcome the greed of party nepotisms, then this will be the biggest assault to the very foundation of our Liberation War -- and the rock solid idea of 'We' which brought us the long cherished independence and to immortalise this momentum, the word 'we' has been put in the very first sentence of our constitution as the very first word of this sagacious document."

Cambodian rice

FROM PAGE 1

tonnes of rice from Vietnam under a separate deal.

Besides, over the past two months, the Directorate General of Food, the state-run grain agency, floated seven international tenders seeking to import an additional 3.5 lakh tonnes of rice.

The moves come long after the crop loss in the March flashflood, which ravaged the backswamps in the country's northeastern region where 90 percent of standing Boro crops, totaling over 10 lakh tonnes, were damaged. Also, fungal attacks in at least 19 districts caused some crop loss in the last Boro season.

With the Cambodian deal signed, 8.5 lakh tonnes of rice is now lined up for import, which still falls short of a projected import need of 12 lakh tonnes.

A recent US Department of Agriculture projection, however, put the figure at 15 lakh tonnes in the current fiscal.

The food ministry's move also comes at a time when end-season rice stock in public granaries dropped to a six-year low and market price of coarse rice shot up to as high as Tk 48 a kg in June-July. This is a 47 percent rise from the price during the same period last year.

Despite government's import moves and increased imports by the private sector, the Trading Corporation of Bangladesh's market monitoring report shows that coarse rice price remained stationary at Tk 45 a kg for over a week since a Tk 3/kg-drop in the third week of July.

However, Commerce Minister Tofail Ahmed yesterday claimed rice prices declined by Tk 4 per kg following imports.

There is no doubt that a section of unscrupulous mill owners manipulated the supply shortage to make a hefty profit, he told reporters at the secretariat, adding that the government was taking action against those mill owners.

A five-strong government delegation led by Food Minister Qamrul Islam struck the deal with Cambodia. The Cambodian side was led by Cambodian Minister of Commerce Pan Sorasak.

The deal came little over a week after two more government-to-government (G2G) efforts to import rice fell through over price factor.

Before leaving Dhaka for Phnom Penh, a government delegation member, Badrul Hasan, told The Daily Star that Bangladesh could not sign import deals with India and Thailand as they asked for higher prices. Badrul heads the Directorate General of Food.

Official sources said the asking prices of Thailand and India were as high as \$500 and \$495 per tonne respectively.

The government had earlier agreed to offer Vietnam between \$430 and \$470 for each tonne of the 250,000 tonnes now in the import pipeline.

However, the government has so far got better deals for rice being procured through international tenders. It hovers around \$420.

To stabilise the volatile rice market, in a rather late response, the government recently cut import duty on rice to 10 percent from a whopping 28 percent. Subsequently, private traders brought in over 1.5 lakh tonnes of rice from India in first one month of the current fiscal year. Private sector import of rice was as low as 1.3 lakh tonnes in the entire financial year of 2016-17.

Of the 2.5 lakh tonnes of rice from Vietnam, 93,000 tonnes reached Bangladesh till yesterday with a consignment of 20,000 tonnes more is scheduled to reach the Chittagong Port today.

Bangladesh, the world's fourth-largest rice producer, emerged as a major importer of the grain partly because of flashflood-induced crop loss and partly due to the exhaustion of food stock in the silos.

"We want to immediately purchase 200,000 tonnes of white rice [Atap] and 50,000 tonnes of parboiled [Shiddo] rice from Cambodia," Qamrul Islam told reporters after the signing ceremony.

The Cambodian commerce minister said that in the first phase, the Cambodian government's rice exporter Green Trade will deliver 250,000 tonnes of rice to the Bangladesh's Directorate General of Food by October, and the remaining 750,000 tonnes will be delivered in phases until 2022.

"This is one of the biggest rice deal Cambodia has signed with friendly countries," he said.

Cambodia produces about 9.3 million tonnes of rice a year with one-third of it to spare for export.

'Govt argument to empower JS arbitrary'

FROM PAGE 1

The 16th amendment made in September 2014 had abolished the chief justice led Supreme Judicial Council and restored parliament's power to remove the SC judges on grounds of misconduct or incapacity. The amendment was challenged with the High Court.

In May last year, the HC declared the amendment unconstitutional and void as it found the changes went against the principles of the separation of powers and the independence of the judiciary.

In July last year, the Appellate Division of the SC rejected the appeal and upheld the HC verdict.

During the hearing of the appeal filed by the government against the HC verdict that scrapped the 16th amendment, the attorney general and his colleague had repeatedly made the argument of "1972 constitution" in favour of keeping the 16th amendment as it was.

Prior and after the 16th amendment that had restored the parliament's power to impeach SC judges on grounds of misconduct or incapacity some ministers and ruling party MPs had portrayed it as an effort to return to the original constitution of 1972.

"It appears that going back to the 1972 Constitution is a simple play on the psyche of the public, including the politicians in Parliament. It is 'playing

to the gallery' to gain popularity by targeting the 'liberation war sentiment' of the people," observed the apex court in its full verdict released on Tuesday.

The apex court also termed the argument as "cheap, populist and sentimental argument" and found no logic behind it.

In the verdict, the apex court judges listed some provisions in the constitution which were inserted by the Martial Law Proclamations and by other constitutional amendments, but they were not erased from the constitution by the 15th or the 16th amendments made in 2011 and 2014 by the Awami League government.

Those provisions include status of state religion, the phrase "bismillah-ar-rahman-ar-rahim" (in the name of Allah, the beneficent, the merciful) above the preamble of the constitution, appointment of SC judges to judicial or quasi-judicial bodies after their retirement, giving the president power to control lower judiciary.

In the original constitution, the SC has been given the authority to have full control over the lower judiciary.

"It appears that the desire of reverting to the 1972 Constitution has been carried out somewhat whimsically and arbitrarily."

It was argued before the court that the provision for removal of SC judges

by parliament has been included in the 1972 constitution and this should not be questioned.

The apex court did not agree with this argument.

"Using the words used in the 1972 Constitution will not make any such amendment sacrosanct and unquestionable. The Constitution of 1972 has sacrosanctity only because it was 'pleinary law' created for the first time by the will of the people and there is nothing against which to compare or test its validity," said the court.

"This is absolutely a novel argument of the learned Attorney General and the learned Additional Attorney General just to give a seal of legitimacy to Sixteenth Amendment by capitalising easysentiment."

The attorney general had also argued that the Supreme Judicial Council was cancelled by the 16th amendment as it was the intention of the parliament to rid the constitution of any vestiges of Martial Law Proclamation.

The apex court made the following observations in response to the arguments made by the attorney general.

It said the original 1972 constitution describes the Government of Bangladesh as "secular", but in 1977 an executive proclamation deleted the word "secular" and inserted a phrase stating that a fundamental State principle is "absolute trust and faith in the

Almighty Allah".

"The phrase "bismillah-ar-rahman-ar-rahim" (in the name of Allah, the beneficent, the merciful) was inserted before the Preamble of the Constitution. Undoubtedly these were political moves in order to strengthen relationships with the Muslim countries, including wealthy Arab oil-producing countries," it adds.

But no attempt has been made to erase these amendments from the constitution. On the contrary, after lengthy discussion, there was a conscious decision to retain these provisions, it adds.

The court said by the eighth amendment, Islam has been given the status of state religion. But in order to cope with the religious sentiment, it was retained though secularism was restored by the fifteenth amendment in 2011.

"Thereby, the principle of secularism was totally compromised and thus buried the spirit of original constitution and liberation war, as was espoused in the 1972 constitution," said the apex court.

It said article 99 of the 1972 constitution provided that a SC judge after retirement or removal could not practice as a lawyer in any court or before any authority nor could be appointed in any post of the country.

The court said martial law proclamations amended this article and allowed

judges to be appointed in a judicial or quasi-judicial capacity and permitted a judge of the HC to practice in the Appellate Division after retirement or termination of service, said the SC verdict.

"These amendments were validated by the Fifth Amendment. This amendment was declared unconstitutional, but the Fifteenth Amendment reintroduced article 99 as amended by the Martial Law Proclamations," reads the verdict.

It is interesting, the court said, to note that in the original 1972 constitution there was provision for the President to be sworn in by the chief justice. The fourth amendment provided that the President would be sworn in by the Speaker.

"Thereafter the Martial Law Proclamations reverted back to the position whereby the President would be sworn in by the Chief Justice. The Fifteenth amendment reverted to the position under the Fourth Amendment, and not the 1972 Constitution, thus the President is to be sworn in by the Speaker. That is the position as it stands to date," said the SC verdict.

The court said: "If it was the intention of Parliament to revert to the 1972 Constitution, then the provision should allow the Chief Justice to swear in the President. Hence, it appears that the

desire of reverting to the 1972 Constitution has been carried out somewhat whimsically and arbitrarily."

The Constitution of Bangladesh became effective on 16th December 1972, one year after liberation.

In the preamble of the 16th constitutional amendment bill placed in parliament in 2014, the law minister cited some reasons to defend the change.

One of his arguments was that the policy to ensure accountability of higher court judges to the parliament exists in most of the democratic countries in the world.

In the verdict, the apex court however, said: "It is known to the whole world that we achieved independence at the cost of 3 (three) million people."

"So, whatever amendment has to be made in our Constitution must be made according to our need keeping in view our socio economic and political condition and public opinion as the foundation of necessity," hoped the SC. It added that the rule of law which is the fabric of our constitution must not be impaired in any condition.

It further stated: "By referring to the practice/system prevalent in the other countries in the bill of Sixteenth Amendment 'we, the people of Bangladesh', have been undermined, disgraced, degraded, belittled and