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15TH AMENDMENT TO CONSTITUTION HC scraps part that abolished caretaker system

Appellate Division to have final say on its restoration; system for referendums restored

ASHUTOSH SARKAR and ASIFUR RAHMAN

In a landmark verdict, the High Court yesterday scrapped a part of the 15th amendment to the constitution that abolished the non-partisan caretaker government system.

The verdict removes an obstacle to reintroducing the system for holding parliamentary elections.

The court also restored the provision for holding referendums for amending the constitution.

The abolition of the non-partisan caretaker government system has destroyed democracy, the process of free and fair elections, independence of the judiciary and the sovereignty of people, which are the basic structures of the constitution, observed the HC bench of Justice Farah Mahbub and Justice Debasish Roy Chowdhury.

Delivering the verdict on two writ petitions, the bench also said the Appellate Division of the Supreme Court will make the final decision about the restoration of the caretaker government system as review petitions on a verdict on the amendment are pending with the apex court.

Attorney General Md Asaduzzaman, however, believes the next two polls can be held under caretaker governments even if review petitions remain pending with the Appellate Division.

A full bench of the Appellate Division is scheduled for January 19 to hear three review petitions that challenge a 2011 verdict that scrapped the system. The BNP, Jamaat-e-Islami, and five citizens lodged the petitions.

After the verdict was delivered yesterday, Mohammad Shishir Manir, a lawyer for Jamaat, told The Daily Star, "The Parliament has to pass a law in line with the judgment. Since there is no parliament now, the government may pass an ordinance."

Contacted, eminent lawyer Shahdeen Malik said, "Reviving the caretaker government system certainly reflects people's expectations."

"Articles 7A and 7B [abolished yesterday] were in conflict with the constitution, so it was expected that these would be declared unconstitutional. Bringing back the provision for a referendum is also a welcome decision."

"Overall, everyone would be happy with the judgment. It will pave the way for

ISSUES LEFT WITH JS

- Keeping secularism, socialism, state religion, nationalism in the constitution
- Whether displaying portrait of Bangabandhu at govt offices be mandatory
- If March 7 speech of Bangabandhu should be kept in the constitution
- Keeping reserved seats for women in parliament

a more democratic Bangladesh."

Citing writ petitions and lawyers' arguments, the HC bench led by Justice Farah Mahbub observed that after the caretaker government system was abolished, the country saw three consecutive elections that did not reflect the will of the people and led to the July uprising, the HC said.

The bench observed that the 13th amendment introduced the caretaker government system in 1996 to ensure free and fair election and to strengthen democracy, and therefore, the 13th amendment became part of the basic structure of the constitution.

The Appellate Division in its judgment on the 13th amendment had asked for holding two national elections (10th and 11th) under the caretaker government system, but after the 15th amendment, those elections were held under partisan governments.

On June 30, 2011, the Jatiya Sangsad passed the 15th amendment. With that, Islam's status as the state religion was retained and "Bismillahir Rahmanir Rahim" with its translation "In the name of Allah, the Beneficent, the Merciful/ In the name of the Creator, the Merciful" became a part of the constitution.

The amendment also introduced the provisions for holding parliamentary polls within 90 days before a parliament's tenure ends; gave more powers to the war crimes tribunal; and made it mandatory to display the portrait of Father of the

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BNP, Jamaat content with HC verdict

STAFF CORRESPONDENT

The BNP and Jamaat-e-Islami yesterday welcomed the High Court's verdict that declared parts of the 15th amendment unconstitutional, removing a major obstacle to reinstating the non-party caretaker government system.

BNP Standing Committee member Khandaker Mosharraf Hossain said people's expectations had been met.

In his immediate reaction to the HC ruling, Mosharraf said Sheikh Hasina had scrapped the caretaker government system to serve her party's interests, which led to "one-party rule" and ultimately to the fall of the previous Awami League government.

"People wanted it [caretaker government], and our leader Khaleda Zia introduced the caretaker government system. Sheikh Hasina abolished the system to secure her party's interests, paving the way for one-party rule and killing of democracy."

"As a result, the Awami League government fell, and Sheikh Hasina had to step down," Mosharraf told The Daily Star.

The BNP leader said three elections under caretaker governments allowed people to vote freely and change governments as per their will.

"The BNP came to power in 1991, Awami League took over in 1996, and the BNP returned to power in 2001. This shows that people were able to vote freely

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Crucial door now open for restoring democracy

Says Badiul Alam



STAFF CORRESPONDENT

Badiul Alam Majumdar, one of the five writ petitioners challenging the 15th amendment, expressed satisfaction with the High Court's verdict yesterday declaring two articles of the act – regarding the abolition of the non-partisan caretaker government system – unconstitutional and nullified.

"This historic verdict has opened a critical

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TK 80,000CR GRAFT ALLEGATION

ACC to probe Hasina, family

Nowfel, ex-DB boss Harun sued for amassing illegal wealth

STAFF CORRESPONDENT

The Anti-Corruption Commission yesterday decided to launch a probe into allegations that Sheikh Hasina and her family members embezzled Tk 80,000 crore from nine priority projects.

The family members facing allegations are Hasina's son Sajeeb Wazed Joy, her sister Sheikh Rehana, and Rehana's daughter Tulip Siddiq, a British lawmaker.

The projects are Rooppur Nuclear Power Plant, Ashrayan and seven other projects under Bangladesh Export Processing Zones Authority and Bangladesh Economic Zones Authority, ACC Director General (prevention) Akhtar Hossain told reporters yesterday.

"The decision to investigate Sheikh Hasina and her family members was made at a meeting of the commission," he said.

According to a complaint filed with the ACC, the aforementioned individuals embezzled Tk 59,000 crore from the Rooppur Nuclear Power Plant through several banks in Malaysia.

Another complaint said Hasina embezzled Tk 21,000 crore from Ashrayan and seven other projects by abusing power and fraud.

The development came two days after the High Court issued a rule questioning the legality of the ACC's inaction

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INTERNATIONAL MIGRANTS DAY

Remittance soaring but workers still neglected

Despite a record increase in remittance, experts and migrant workers criticise the government for not taking meaningful steps to improve their welfare. Workers say their safety, health, and dignity remain neglected. Calls for reforms include reducing migration costs, regulating recruitment agencies, and ensuring proper job security and payment for workers abroad. Bangladesh earned US \$24.24 billion, a historic high, till November this year in remittance, despite the number of migrant workers declining.

STORY ON PAGE 3



Standing in long queues, people buy edible oil and pulses at subsidised prices from a TCB truck in the capital's Kakrail yesterday. The demand for OMS goods has grown sharply due to high prices of essentials.

PHOTO: PRABIR DAS

CASES AGAINST HASINA, OTHERS

ICT extends probe time by 2 months

Asks law enforcers to explain why they failed to arrest Quader

STAFF CORRESPONDENT

The International Crimes Tribunal yesterday extended by two months the deadline for completing the investigations into two cases against former prime minister Sheikh Hasina.

Alongside her, former roads and bridges minister and Awami League General Secretary Obaidul Quader, and 44 others are currently facing charges in a case of crimes against humanity and genocide.

Hasina is the lone accused in the other case on the same charges.

A three-member bench, led by Justice Golam Mortuza Mazumder, who is also the chairman of the ICT, passed the order and set February 18 as the new deadline.

The probe reports in both cases were due yesterday, but the investigating agency requested for more time, saying the process is following international standards, according to the prosecution.

Yesterday, 16 prominent individuals, including former ministers, bureaucrats, and other high-profile figures, were produced before the tribunal for the hearing on one of the cases.

However, Hasina, Quader, and some others, who were accused in both cases, could not be arrested as they are currently either in hiding or have fled the country.

The tribunal questioned law enforcement agencies as to why they had failed to arrest Quader, despite the issuance

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