

1996'S NONPARTY CARETAKER GOVERNMENT MOVEMENT AND THE ROLE OF OPPOSITION IN BANGLADESH: A POLITICO-LEGAL ANALYSIS

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ABSTRACT: *Role of opposition is very important in democracy. In parliamentary system opposition operates a parallel government for ensuring good governance in the country. In Bangladesh with the start of second inning of parliamentary system in 1991 people expected practice of peaceful democratic behaviour from the political parties. But opposition parties played reversed role in new system. Awami League, Jatiya Party and Jamaat-e-Islam seized the normal life of the people for executing their own political agenda. And in the name of ensuring voting right of the people they created unbearable atmosphere in the country and thereby forced the BNP government to adopt non-party caretaker government in the constitution. This paper is intended to show how opposition parties realized their illogical and irrational demand in the name of democratic movement in 1996.*

KEYWORDS: Opposition Movement, Free and Fair Election, Caretaker government. Chief Adviser, Demand, Formula.

INTRODUCTION

With object of establishing good governance in the country Bangladesh adopted parliamentary democracy in 1991. In democracy conflicting interest holders always employ all sorts of tricks and mechanisms to pursue their own values of life. As all the contending groups do not attain power simultaneously, at least some one has to play the role of opposition. In democracy opposition plays the role of a shadow government. In developing countries like ours, opposition political parties oppose all the actions-good or bad of the government. Not only that they create hindrance and bottlenecks to the way of economic growth and political stability of the country. In Bangladesh the moto of political parties is to give their party interest priority over national interest. After the unexpected loss in fifth parliamentary polls (the first free, fair and neutral election held under the auspices of Chief Justice Shahabuddin Ahmed) Awami League Chairperson Sheikh Hasina, the leader of the opposition, mentioning victorious party leader Khaleda Zia told the news media that her(Khaleda Zia) government should not be kept in peace for a single moment. With the aim of materializing this word AL leadership in cooperation with left political parties raised different issues and gave birth to some unnecessary movements in political arena making the economic and social life of the people as well as government pale. At the end in collaboration with autocratic ruler HM Ershad, President of Jatiya Party, and war criminal Golam Azam, Aamir of Jamaat-e-Islam, it forced the ruling BNP government to insert their agenda in the Constitution of Bangladesh in the name of ensuring the voting right of the people.. This dissertation is intended to synchronize different issues and movements of opposition which were launched to unsettle the democratically elected government and analyse the devastating role of opposition in materializing their irrational demand for caretaker government in 1996.

Trial of War criminal

All of a sudden immediately after handing over power by President Justice Shahabuddin Ahmed to President Abdur Rahman Biswas on October 10, 1991 AL leader Mr. Shamsul Huq Chowdhury former president of the Supreme Court Bar Association in a rally of Awami Jubo League held on November 11, 1991 at Bangabandhu Avenue urged the government to hold trial of the killers who had murdered the heroes of Bangladesh liberation war.¹

AL MPs such as Abdus Samad Azad, deputy leader of the opposition, Salahuddin Yusuf, Azizur Rahman, Begum Matia Chowdhury, Sheikh Salim in the House on January 12, 1992 demanded the government to declare Jamaat-e-Islam Bangladesh illegal for having elected Prof. Golam Azam a non-national as it's Ameer. They suggested Golam Azam should be tried and hanged for crimes against humanity in Bangladesh during the liberation war.²

On March 24, 1992 Prof. Jahanara Imam, convener of Ghatak Dalal Nirmul Committee (Elimination Committee for Killers-Collaborators), meeting with AL Chairman sought her support for the trial of Golam Azam in the People's Court on March 26, 1992. AL President extended her whole hearted support to the Gono Adalat (People's court).³ Accordingly they tried Golam Azam and gave him death penalty in people's court on March 26, 1992.⁴

On April 22, 1993 HC declared Prof. Golam Azam as the citizen of Bangladesh by birth.⁵ In spite of the verdict of the court AL sponsored Nirmul Committee on April 25, 1993 observed sit-in programme in front of the Ministry of Foreign Affairs in support of their demand for declaring Golam Azam non-citizen and execute the verdict of Gono-Adalat.⁶ Although AL was dragging the government over Golam Azam issue but the court did not heed them. The HC on July 14, 1993 declared Azam's detention illegal and on July 15, 1993 the Appellate Division refused to give stay on the verdict of HC regarding the issue.⁷ That means AL's movement against Golam Azam lost legal and moral basis.

Honeymoon Party

AL and Jamaat-e-Islam played a major role in toppling autocratic ruler Ershad through mass upsurge in 1990. AL organized and led a violent movement on war crime issue against Jamaat-e-Islam from October 11, 1991. JP stood by AL for this cause. As a result a bitter relation prevailed among these three political parties. Suddenly this enmity among AL, JP and Jamaat started melting and within a short period of time for political gain it turned into a honeymoon party.

Corruption Allegation and Liaison between AL and JP

AL and its allies brought corruption charges against Agriculture, Water Resources and Irrigation Minister Mr. Major General (Retd) Majedul Huq in the parliamentary committee.

¹ *The New Nation*, November 12, 1991

² *Ibid*, January 13, 1992

³ *The Bangladesh Observer*, March 26, 1992

⁴ *Ibid*, March 28, 1992

⁵ *Ibid*, April 23, 1993

⁶ *Ibid*, April 26, 1993

⁷ *Ibid*, July 16, 1993

But government cancelled the committee.⁸ In response to that cancellation, AL and JP formed *entente* on July 12, 1993 with regard to their demand for revival of Joint Parliamentary Committee to investigate corruption charges against Mr. Majedul Huq.⁹ In the face of AL, JP, and other left leaning opposition parties demand Speaker formed fifteen-member Parliamentary Probe Body to investigate the allegation of corruptions on July 13, 1993.¹⁰ They (AL, JP, JSD, CPB, BSD, NAP, Ganatantrik Party, GanaAzadi League, Janata Dal, Democratic League, JAGPA, Ganatantrik Biplobi Jote) observed *hartal* on July 19, 1993 against government corruption.¹¹ Government denied allegation of corruption. But on November 14, 1993 PM Khaleda Zia sacked Mr. Akbar Hossain, Environment Minister for human trafficking.¹²

Demand for Caretaker Government

The 5-year term of office of BNP government was supposed to end in November 1995. Top level AL leaders for political gain decided to launch movement on the issue of polls under interim administration. Accordingly Sheikh Hasina in a public meeting held on November 20, 1993 said any future election under party in power would not be free and fair.¹³

On November 30, 1993 AL President Sheikh Hasina addressing a rally at Bangabandhu Avenue demanded next parliamentary polls under caretaker government. She said any *Jatiya Sangsad* polls under the ruling BNP government would not be free and fair.¹⁴ On December 9, 1993 Prof. Golam Azam, Ameer of Jamaat, started singing with AL in matter of polls under caretaker government. He made it clear that there is no alternative to a caretaker government in order to hold a free, fair and impartial election. The Central Committee of Jamaat-e-Islami expressed their strong concern that next parliamentary election under BNP government would not be impartial.¹⁵

A question may arise here why all of a sudden AL and Jamaat-e-Islami, two bitter enemies, started talking in same language. Jamaat leadership might have agreed to assist AL and its allies in creating anti-government movement on the issue of polls under caretaker government and take part in that with AL perhaps to remove its pro-Pakistani role in the war of independence.

Formation of Combined Opposition

Opposition was boycotting the House from early March, 1994 for caretaker government issue. On May 4, 1994 all opposition political parties having seat in the House except Rashed Khan Menon from Bangladesh Workers Party and Maulana Obidul Huq from Islami Oikkya Jote formed combined opposition in a meeting arranged by AL. The meeting unanimously declared that henceforth they would be treated as combined opposition both in the House and outside the House under the leadership of Hasina.¹⁶ After the meeting leader of the Combined Opposition Sheikh Hasina told the reporters that PM Khaleda Zia had ignored the demand for

⁸ *Ibid*, July 14, 1993

⁹ *Ibid*, July 13, 1993

¹⁰ *Ibid*, July 14, 1993

¹¹ *Ibid*, July 20, 1993

¹² *Ibid*, November 15, 1993

¹³ *The Bangladesh Observer*, November 21, 1993.

¹⁴ *Ibid*, December 1, 1993.

¹⁵ *Ibid*, December 10, 1993

¹⁶ *Ibid*, May 5, 1994

holding general election under a neutral caretaker government.¹⁷ Turning down opposition demand for election under caretaker government Finance Minister Mr. Saifur Rahman in a press conference held at Dhaka on May 7, 1994 said that caretaker government was not acceptable. Electoral process could be strengthened for making election free and fair.¹⁸

Three Party Liaison Committee

On January 24, 1996 three party liaison committee pledged to take all efforts and to apply all force to undo the February 15, 1996 *Jatiya Sangsad* polls. Accordingly they called 48-hour *hartal* on February 14 and 15, 1996.¹⁹ Amid stiff violence by the opposition polls was held on February 15, 1996. Election officers were manhandled severely by the opposition workers. Voter lists, ballot papers and ballot boxes were snatched away and in some cases were burnt down by the anti-election forces before and during polling. Even a number of presiding officers were abducted. Opposition workers set fire in the house of BNP candidate and EC office in Chittagong.²⁰ Voter turnout was poor. CEC AKM Sadeque said 26.74 percent vote cast.²¹ Polling was postponed in 84 constituencies and 213 MPs were elected. Of them 47 were elected unopposed. Final result depicted that BNP got 290 seats, Freedom Party and other Independent bagged the rest.²² Due to violence and intimidation different election observer groups withdrew their manpower before election.²³

Allegation of Malpractice in Vote

The opposition alleged that malpractice was used in November 15, 1991 UP polls, February 1, 1993 Pourashava election, January 30, 1994 City Corporation polls and by-elections of different constituencies in the year 1993 and 1994. It is interesting to note that Sheikh Hasina blamed of corruption for those results in which it lost but praised the one in which it won.

By-election of Dhaka-11

Regarding Dhaka-11 by-polls suffocative atmosphere was seen between AL and ruling BNP. All the big-guns of both AL and BNP took part in the election campaign. Even PM Khaleda Zia cancelled her trip to France for this polls scheduled on February 2, 1993.²⁴ In the polls BNP candidate Syed Mohammad Mohsin won bagging 80127 votes.²⁵ On the other hand defeated AL candidate got 77535 votes. AL demanded recounting. On February 4, 1993 Mohammad Nasim, Chief Whip of the opposition, alleged that BNP had hijacked result sheets of by-polls in Dhaka-11 constituency. AL Chairperson said PM Khaleda Zia postponed her France visit to influence Mirpur by-polls held on February 2, 1993.²⁶ On February 5, 1993 Matia Chowdhury and K.M. Jahangir blamed government for tarnishing the independent character of the EC. On the plea of manipulating Mirpur by-polls AL observed countrywide *hartal* on February 6, 1993. Refuting AL claim LGRD Minister and BNP

¹⁷ *Ibid.*

¹⁸ *The Daily Ittefaq*, May 8, 1994

¹⁹ *The Bangladesh Observer, the New Age and the Daily Star* January 25, 1996

²⁰ *Ibid.*, February 16, 1996.

²¹ *Ibid.*, April 12, 1996.

²² See the Election Commission report of February 15, 1996 polls supplied by EC without date.

²³ *The Bangladesh Observer*, January 15, 1996 See also *the Inqilabof* January 15, 1996

²⁴ *Ibid.*, February 5, 1993, *the new Age* of February 5, 1993

²⁵ *Ibid.*, February 4, 1993, *the Daily Star* of February 4, 1993

²⁶ *Ibid.*, February 5, 1993, *the Janakantha* of February 5, 1993

General Secretary Abdus Salam Talukder said there happened no such incident at all.²⁷ However in the face of stiff AL pressure EC on February 13, 1993 cancelled the Dhaka-11 by-polls result and ordered recounting of votes cast in 117 polling centres on February 15, 1993.²⁸ After recounting BNP candidate became victorious again. On the other hand AL reversing their demand asked for re-election. EC turned down this claim at once.²⁹

Magura By-election

On February 12, 1994 Magura-2 parliamentary seat fall vacant due to the death of veteran AL leader Mr. Ashaduzzaman. EC announced March 20, 1994 for by-election of Magura-2 constituency. AL nominated Mr. Shafiquzzaman, the eldest son of the deceased MP Mr. Asaduzzaman to stand for by-election. BNP selected Kazi Saleemul Huq Kamal, a leading industrialist of the country as their candidate. EC initiated to form All Party Polls Observer Committee to monitor the election. But the effort failed due to disagreement between opposition and BNP. The CEC Justice Abdur Rouf had planned to stay at Magura to coordinate the pre-polls activities as well as to monitor the working of the EC officials on election-day. For that object he had a booking of guest-house at Magura from March 19 and 20, 1994. He landed in Magura on March 19, 1994 but in the evening he found that his booking was cancelled to the name of AL Chairman Sheikh Hasina. He could not manage any accommodation for him for the night. Finding no other alternative CEC had to leave for Dhaka on the night of March 19, 1994.³⁰

Opposition leader Sheikh Hasina in a news conference held at Magura on March 19, 1994 told that minority people were being intimidated by BNP workers and they were out to snatch the Magura seat.³¹ On the other hand Dr. Mosharraf Hossain, Abdul Mannan Bhuiyan, and Majedul Huq influential leaders of BNP in a press briefing held at party office, Dhaka refuting Hasina's claim said opposition workers were trying to intimidate the voters not to cast vote for BNP candidate.³² On March 20, 1994 polls was held peacefully. No incident of confrontation or vote rigging was noticed. However the EC suspended polling in three polling stations in which AL musclemen tried to create problems.³³ The election result showed BNP candidate defeated AL candidate by 73248 to 39623 votes.³⁴

AL and its political allies rejected outcome of the by-polls and accused the BNP government of committing vote dacoity in the by-election. Opposition leaders including Sheikh Hasina condemned the role of BNP government and said no election would be free and fair under this government. AL called *hartal* on March 23, 1994 in protest of vote hijacking.³⁵ On March 22, 1994 AL President demanded the cancellation of the result within seven days and announcement of new election date. On March 28, 1994 AL leader Shajeda Chowdhury said any polls under CEC Justice Abdur Rouf would not be fair.³⁶

²⁷ *Ibid*, February 9, 1993, *the Daily Star*, February 9, 1993

²⁸ *Ibid*, February 14, 1993, *the Independent*, February 14, 1993

²⁹ *Ibid*, February 16, 1993, *the New Age*, February 16, 1993

³⁰ *Ibid*, March 20, 1994, *the Janakantha*, March 20, 1994

³¹ *Ibid*.

³² *Ibid*

³³ *Ibid*, March 21, 1994, *the Inqilab*, March 21, 1994

³⁴ *Ibid*, March 22, 1994, *the Ittefaq*, March 22, 1994

³⁵ *Ibid*, March 21, 1994, *the Daily Star*, March 21, 1994

³⁶ *Ibid*, March 29, 1994, *the New Age*, March 29, 1994

On January 22, 1995 Pourashava polls was held in Sylhet, Chandpur, Barisal and Shibganj. Deviating from their position AL candidate Badruddin Kamran won the Sylhet Pourashava, Mohammad Yusuf Gazi, District Jubo League leader, bagged the Chandpur Pourashava.³⁷

Efforts to Mediate the Issue of Caretaker Government

Opposition led by AL and BNP government both held two different views regarding caretaker government issue. Opposition demanded a solution over caretaker government beyond the constitution. Though government had not heed opposition demand yet it was looking for constitutional solution. These contradictory demands of both opposition and government had loomed a disastrous consequence in political and socio-economic stability of the country. Thus intellectuals, political leaders and international figures tried their best to bring opposition and government in one place for dialogue over caretaker government issue. Dialogues of different groups of people with the government and opposition were held simultaneously.

First Initiative by Speaker

Speaker Sheikh Razzak Ali on June 4, 1994 took initiative to mitigate the difference between government and combined opposition over the issue of caretaker government and return to Parliament. As a part of that effort he met the leader of the combined opposition Sheikh Hasina and PM Khaleda Zia on June 6, 1994.³⁸ Referring the effort of the Speaker, Sheikh Hasina while addressing a public gathering held at Dhaka on June 7, 1994 said dialogue with PM Khaleda Zia would be held on the modalities of caretaker government.³⁹ On the other hand accepting the proposal PM on June 8, 1994 said discussion must be held in the House. Referring PM's call opposition leader said she would join the House if caretaker government bill was introduced in the House.⁴⁰

Second Initiative by Speaker

On April 19, 1995 Speaker Sheikh Razzak Ali proposed summit between PM and opposition leader Sheikh Hasina to find out peaceful solution to the political crisis. But AL General Secretary Zillur Rahmman rejected that call.⁴¹

Mediation of Foreign Diplomats

Diplomats of USA, UK, India and other European countries brought leaders of opposition and government in one table for dialogue. They agreed to form twenty-member advisory council with ten from opposition and ten from government. But hectic discussion was going on the question of who would be the head of the interim government.⁴² During dialogue Hasina offered live dialogue on TV with PM to resolve the crisis. Perceiving that offer a trick BNP rejected that. Consequently dialogue collapsed.⁴³

Mediation by LDF

³⁷ *Ibid*, January 23, 1995, *the Independent*, January 23, 1995

³⁸ *Ibid*, June 7, 1994, *the New Age*, June 7, 1994

³⁹ *Ibid*, June 8, 1994, *the Daily Star*, June 8, 1994

⁴⁰ *Ibid*, June 9, 1994, *the daily Star*, June 9, 1994

⁴¹ *Ibid*, April 20, 1994, *the Independent*, April 20, 1994

⁴² *Ibid*, December 22, 1995, *the Independence*, December 22, 1995

⁴³ *Ibid*, December 25, 1995, *the Inqilab*, December 25, 1995

Watching the unmoved stand of both opposition and government Left Democratic Front leader Mr. Manjurul Ahsan Khan undertook steps to mitigate the political impasse.⁴⁴ Accordingly BNP General Secretary Abdus Salam Talukder held meeting with Chief Whip of the opposition Mohammad Nasim on August 27, 1994.⁴⁵ Deputy leader of the House Prof. A.Q.M, Badruddoza Chowdhury held discussion with Abdus Samad Azad, deputy leader of the opposition on August 31, 1994.⁴⁶ As a part of their initiative BNP General Secretary Abdus Salam Talukder and deputy leader of the House Prof. A.Q.M. Badruddoza called on Jamaat General Secretary Matiur Rahman Nizami on September 4, 1994. During the meeting Jamaat Secretary said his party would not move an inch from its stand on caretaker government.⁴⁷ They also held talks with JP Secretary Mizanur Rahman Chowdhury on September 5, 1994. JP emphasized on its demand for caretaker government along with the release of their president H.M. Ershad.⁴⁸

While the parley was going on AL and its honeymoon partner Jamaat, JP observed Dhaka Seize on September 10, 1994 and 72-hour *hartal* from September 11 to 13, 1994 for their cause and their leader Hasina said her party would fight to establish voting rights of the people.⁴⁹ On the other hand A.Q.M. Badruddoza Chowdhury said that no power could dethrone elected government.⁵⁰ As a result mid level dialogue ended due to cool response of the opposition.

Mediation by Commonwealth Secretary

In spite of opposition *hartal* and seize programmes Bangladesh was heading towards economic emancipation. The foreign powers became hopeful of potential economic outburst in Bangladesh. Perhaps for that reason for astonishing growth in the economic field Bangladesh was called as emerging tiger in South Asia. Whatever may be told the foreign powers were fearful of the confrontational politics of the opposition and government. They wanted peaceful solution to the crisis. Perhaps that's why Commonwealth Secretary General Emeka Anyaoku while visiting Dhaka took initiative to defuse this political deadlock. Before starting proceedings he on September 17, 1994 in an interview with press said, "I think free and fair election is possible under the present government if there is further strengthening of the EC, formulating of an election code of conduct for all political parties and allowing the Commonwealth observation team well ahead of polls."⁵¹ He held discussion with both ruling BNP and major opposition political parties on September 19, 1994 and expressed possible solution to the difficulties with regard to holding free and fair election in democracy. However government and opposition stood on their respective position.⁵²

On September 26, 1994 Commonwealth Secretary prepared an agenda for dialogue between government and opposition. The agenda included— strengthening of the EC, the question of caretaker government and proposals for an overall code of conduct to guide political activities. It also stipulated that both parties to the dialogue would make joint statement at the

⁴⁴ *Ibid*, August 9, 1994, *the Janakantha*, August 9, 1994

⁴⁵ *Ibid*, August 28, 1994, *the Ajker Kakoj*, August 28, 1994

⁴⁶ *Ibid*, September 1, 1994, *the Inqilab*, September 1, 1994

⁴⁷ *Ibid*, September 5, 1994, *the Ajker Kakoj*, September 5, 1994

⁴⁸ *Ibid*, September 6, 1994, and see chapter 4.7.1

⁴⁹ *Ibid*, September 11, 1994, *the Daily Star*, September 11, 1994

⁵⁰ *Ibid*,

⁵¹ *Ibid*, September 18, 1994, *the New Age*, September 18, 1994

⁵² *Ibid*, September 20, 1994, *the New Nation*, September 20, 1994

end of each setting regarding the progress of the dialogue and there would be no other comment on that.⁵³ Both BNP and opposition accepted the agenda. But senior *Nayeb-e-Ameer*⁵⁴ of Jamaat Mr. Abbas Ali Khan denounced this dialogue saying it as interference into country's internal affairs.⁵⁵

In order to facilitate the dialogue Sir Ninian Stephen, a special envoy of Commonwealth General Secretary, arrived at Dhaka on October 5, 1994. He in an interview with journalists on October 14, 1994 said, "I am not a mediator but a facilitator. I came here to facilitate the dialogue between political parties. I am anxious to see the two leaders arrive at a consensus."⁵⁶ He called upon Sheikh Hasina and Khaleda Zia on October 14 and 15, 1994 respectively and expressed his positive outcome to the dialogue.⁵⁷ The Commonwealth sponsored dialogue between government and opposition began on October 20, 1994. Opposition was represented by Zillur Rahman, AL General Secretary, Mr. Abdus Samad Azad, deputy leader of the opposition, Mr. Tofael Ahmed, AL Standing Committee member, Mr. Matiur Rahman Nizami, Jamaat General Secretary, Barrister Moudud Ahmed, Acting President of JP.⁵⁸

Barrister Abdus Salam Talukder, BNP General Secretary and LGRD Minister, Barrister Nazmul Huda, Information Minister, Prof. A.Q.M. Badruddoza Chowdhury, deputy leader of the House, Oli Ahmed, and Barrister Zamiruddin Sirkar participated in the talk on behalf of the government.⁵⁹ On October 25, 1994 on the fifth day of dialogue the dialogue broke down owing to the rigid stand of both parties. On October 27, 1994 PM Khaleda Zia while addressing Jubo Dal National Conference said that BNP was pledged bound to uphold Constitution.⁶⁰

On October 28, 1994 Jamaat Ameer Golam Azam while addressing a rally in Sylhet said that caretaker government was a must to ensure voting right of the people. He urged the government to accept caretaker government with a view to holding a free and fair election.⁶¹ On October 29, 1994 deviating from its earlier position BNP proposed interim government under PM Khaleda Zia for holding free and fair polls.⁶² Combined opposition rejected that proposal on October 30, 1994.⁶³

On November 1, 1994 AL president Sheikh Hasina addressing a huge public gathering held at Manik Mia Avenue, Dhaka threatened the government to accept caretaker government otherwise they would resign from JS. On the other hand BNP proposed a 10-member interim government headed by incumbent PM Khaleda Zia for holding free and fair election. Of the ten four were offered to Opposition.⁶⁴ This proposal was also rejected by opposition. On November 16, 1994 PM said political crisis might be solved within constitutional

⁵³ *Ibid*, September 27, 1994, *the Janakantha*, September 27, 1994

⁵⁴ Vice-President

⁵⁵ *The Daily Star*, September 29, 1994

⁵⁶ *Ibid*, October 15, 1994

⁵⁷ *The Bangladesh Observer*, October 15 and 16, 1994

⁵⁸ *Ibid*, October 21, 1994

⁵⁹ *Ibid*

⁶⁰ *Ibid*, October 28, 1994

⁶¹ *Ibid*, October 29, 1994, *the Daily Star*, October 29, 1994

⁶² *Ibid*, October 30, 1994, *the New Age*, October 30, 1994

⁶³ *Ibid*, October 31, 1994, *the Independent*, October 31, 1994

⁶⁴ *Ibid*, November 10, 1994, *the Inqilab*, November 10, 1994

framework.⁶⁵ On November 17, 1994 opposition proposed interim government under technocrat PM.⁶⁶ On the other hand government proposed 10-member interim government under PM Khaleda Zia. However it agreed to give five members to the opposition. Opposition rejected the offer and called off its representatives from the dialogue. Consequently dialogue failed.

On November 20, 1994 Sir Ninian Stephen accused the opposition of failure of dialogue. He said though dialogue failed yet government was willing to accept Commonwealth proposal.⁶⁷ However on the eve of departure on November 21, 1994 he expressed positive hope that Bangladesh will overcome political crisis.⁶⁸

Immediately after his (Sir Ninian Stephen) take off US Ambassador David N. Merrill and UK High Commissioner Peter J-Fowler called upon Sheikh Hasina on November 22, 1994 and asked her to carry forward the ongoing dialogue to solve the political *impasse* for Bangladesh's own democratic process and its economic march towards progress.⁶⁹

Under the circumstances it was heard that Commonwealth Secretary took another step to mitigate the difference between government and opposition. But AL and JP on December 10, 1994 rejected his (Emeka Anayoku) overture initiative for dialogue.⁷⁰

Mediation by Three Party

Rashed Khan Menon from BWP, Moulana Obaidul Huq from Islami Oikkya Jote and Shamsuddoha from Gono Forum took initiative for resolving the deepening political crisis through dialogue on December 13, 1994. Accordingly on December 21, 1994 Speaker Sheikh Razzak Ali undertook step to bring the opposition on table to pacify the crisis. But his effort was bogged down on question of acceptance or rejection of the concept of caretaker government. However PM accepted the offer but asked the Speaker to specify the concrete demand of the opposition before dialogue started.⁷¹

Effort to Solve Political Crisis by Civil Society

In the meantime in order to find out an acceptable solution to the political deadlock on the issue of caretaker government National Democratic Foundation arranged a round table conference with some renowned constitutional and political experts viz, Barrister Istiaque Ahmed, T.H. Khan, President of SC Bar Association, Barrister Amirul Islam, Barrister Asrarul Hossain, Barrister Moinul Hossain, Dr. Rafiqur Rahman on July 28, 1995. All the discussants opined for constitutional amendment to accommodate opposition demand. They said there was no alternative to dialogue for resolving the crisis. On July 28, 1995 Barrister Ishtiaq proposed 10-member council would be nominated by both the ruling and opposition parties for contesting the next by-election. These individuals could constitutionally form caretaker government. T.H. Khan said there was no guarantee that a free and fair election would be held under caretaker government. There was lack of tolerance and voters could be

⁶⁵ *Ibid*, November 17, 1994, *the New Age*, November 17, 1994

⁶⁶ *Ibid*, November 18, 1994, *the Ajker Kakoj*, November 18, 1994

⁶⁷ *Ibid*, November 21, 1994, *the Ajker Kakoj*, November 21, 1994

⁶⁸ *Ibid*, November 22, 1994, *the Inqilab*, November 22, 1994

⁶⁹ *Ibid*, November 23, 1994, *the Independent*, November 23, 1994

⁷⁰ *Ibid*, December 11, 1994, *the Daily Star*, December 11, 1994

⁷¹ *Ibid*, December 24, 1994, *the New Age*, December 24, 1994

easily purchased.⁷² Dr. Rafiqur Rahman said that constitution did not say anything about caretaker government. Denouncing opposition Barrister Moinul Hossain said that there was no alternative to holding the democratic constitution for making their political leaders conform to democratic values and ways.⁷³

US Government Mediation

Perceiving uncertain and violent political future US President Bill Clinton on August 16, 1995 sent Mr. Robin Lynn Raphel, US Assistant Secretary for South Asian Affairs to Dhaka with a special mission to resolve the long-drawn political *impasse* and thereby help Bangladesh move onward smoothly on democratic path.⁷⁴ AL President Sheikh Hasina called on US special representative Mr. Robin Lynn Raphel over the issue of caretaker government and tried her best to convince him of their movement. On September 7, 1995 US special envoy called on PM Khaleda Zia and expressed her futility in removing the differences between government and opposition.⁷⁵

In the meantime under relentless efforts of US Ambassador David N Merrill the lost dialogue was revived again on December 31, 1995. In the dialogue Barrister Salam Talukder, BNP General Secretary, Mr Shamsul Islam, Commerce Minister and Abdul Mannan Bhuiyan represented BNP and Amir Hossain Amu, AL presidium member, Tofael Ahmed AL leader and Anwar Hossain Monju JP represented opposition. The two sides haggled over who would be the head of interim government after Khaleda's resignation. Opposition put two pre-conditions on January 3, 1996 one was Advisory Council headed by a chief advisor and another was deferring the election date.⁷⁶ On the other hand BNP delegates offered Advisory Council headed by president.⁷⁷

In the meantime as a part of a dialogue initiated by US Ambassador BNP negotiators proposed ten-member (five from government. and five from opposition) Advisory Council headed by the president. The proposition also laid down that President shall enjoy the power of Prime Minister for the interim period after PM's resignation. This proposal was communicated to Hasina through US Ambassador Devid N Merrill on January 14, 1996.⁷⁸ Opposition leader Sheikh Hasina rejected the proposal.

Mediation Offer by PM

On October 14, 1995 PM Khaleda Zia addressing a public gathering held at Nachol, Chapai Nawabganj offering dialogue to Hasina said that she would invite her (Hasina) on tea to discuss political deadlock.⁷⁹ Rejecting PM's call Hasisna threatened if government failed, opposition would form caretaker government. Prof Gholam Azam asked government to accept caretaker government to avert *hartal*.⁸⁰ In order to die down the political crisis PM

⁷² *Ibid*, July 29, 1995, *the Janakantha*, July 29, 1995

⁷³ *Ibid*

⁷⁴ *Ibid*, August 17, 1995, *the Inqilab*, August 17, 1995

⁷⁵ *Ibid*, September 8, 1995, *the Ajker Kakoij*, September 8, 1995

⁷⁶ *Ibid*, January 4, 1996, *the Daily Star*, January 4, 1996

⁷⁷ *Ibid*

⁷⁸ *Ibid*, January 15, 1996, *the Independent*, January 15, 1996

⁷⁹ *Ibid*, October 15, 1995, *the Daily Star*, October 15, 1995

⁸⁰ *Ibid*

Khaleda Zia sent two letters through Abdul Mannan Bhuiyan to AL chairperson Hasina inviting her for dialogue. But she refused that offer.⁸¹

On November 26, 1995 PM Khaleda Zia talked to Hasina over telephone to solve the crisis. PM said she was ready to talk on any issue within constitution. On the other hand Hasina asked her to resign and help form caretaker government. As a result, conversation ended in smoke.⁸²

On March 3, 1996 PM Khaleda Zia took oath as PM for second term. She on the same day in a nationwide speech offered a 3-point package proposal to solve the political crisis quickly and effectively. The proposals were as follows-⁸³

- 1) A non-party government will be formed to function during all national election in future;
- 2) A bill will be introduced in the first session of the sixth parliament to amend the constitution in this regard; and
- 3) The election to the seventh parliament will be held within shortest possible time. Thereafter a referendum will be held according to the constitution.

Sheikh Hasina rejected the proposal straightway.⁸⁴

Mediation by Five-eminent Citizens

Five eminent intellectuals namely Barrister Istiaque Ahmed, Justice Kamal Uddin Hossain, Prof. Rehman Sobhan, Mr. Fakruddin Ahmed and Mr. Faez Ahmed met twice with PM to find out peaceful solution to the crisis. But their effort did not get air because of stubborn nature of the opposition.⁸⁵

Formula of Caretaker Government

During three year long caretaker government movement opposition, government, political parties and intellectuals proposed several formulas to the caretaker government issue for holding free, fair and neutral election. These formulas were not unanimous. Each was different from other. But each formula was intended to protect the interest of their respective proposer.

First Formula of Caretaker Government

Combined Opposition leader Sheikh Hasina in the presence of opposition MPs on June 27, 1994 unveiled their formula of caretaker government. It called for the appointment of a non-partisan acceptable person as PM on the basis of recommendation of parties in movement. It also laid down a caretaker government is to be appointed after dissolution of parliament by the President. The sitting PM Khaleda Zia would have to resign after such dissolution. The caretaker PM would appoint a cabinet from among persons who would not contest in *Jatiya Sangsad* polls and conduct the election.⁸⁶

⁸¹ *Ibid*, November 4, 1995, *the Ittefaq*, November 4, 1995

⁸² *Ibid*, November 27, 1995, *the Independent*, November 27, 1995

⁸³ *Ibid*, March 4, 1996, *the New Age*, March 4, 1996

⁸⁴ *Ibid*

⁸⁵ *Ibid*, November 2, 1995, *the Daily Star*, November 2, 1995

⁸⁶ *Ibid*, June 28, 1994, *the Janakantha*, June 28, 1994

Referring that formula Information Minister Barrister Nazmul Huda on July 23, 1994 said that the concept of caretaker government was unconstitutional and confusing.⁸⁷ On August 8, 1994 AL president added some proposition to the formula. She proposed caretaker government provision for holding free and fair election should be inserted in constitution for 15-years and also proposed ordinary bill to further strengthen the EC.⁸⁸

Huda-Jaman Formula

Sheikh Hasina on November 24, 1994 called for ousting government movement in order to materialize caretaker government. Consequently Barrister Nazmul Huda, Information Minister, without the knowledge of BNP leadership proposed an interim government manned by Appellate Division Judges for holding free and fair conduct of future elections. But he and Major (Retd) Akhtaruzzaman were suspended from party on the ground of violating party discipline.⁸⁹

Proposal for Strong EC and Voter ID Card

While the opposition were demanding for caretaker government, government emphasized on strong EC and voter identification card in its place. On November 30, 1994 Parliament passed laws granting more power to EC and with regard to issuance of voter ID card to all voters. Referring the laws Sheikh Hasina on December 1, 1994 said empowered EC is not substitute to caretaker government.⁹⁰

Fourth Formula of Caretaker Government

Immediately after the *enmasse* resignation of the opposition Sheikh Hasina outlined the new formula of caretaker government in the following language-

- 1) There shall be resignation of the PM and dissolution of Parliament to pave the way for holding next general election under a non-partisan caretaker government.
- 2) The President shall appoint an interim PM from among the sitting or retired judges of the Supreme Court. A small council of advisers shall also be appointed to run the emergency business of the state.
- 3) The interim government will hold power until a new PM is appointed by the President after the general election.
- 4) Neither the PM nor the advisers could seek election.

At the end she said the process through which interim government will be formed could be ratified by the next parliament.⁹¹ Rejecting opposition proposal PM Khaleda Zia said, "We have to go by constitution." However she offered to step down from her post 30 days before the election.⁹² Opposition leader Hasina rejected the offer.⁹³

⁸⁷ *Ibid*, July 24, 1994, *the Ajker Kakoj*, July 24, 1994

⁸⁸ *Ibid*, August 9, 1994, *the Inqilab*, August 9, 1994

⁸⁹ *Ibid*, November 25, 1994, *the Dailt Star*, November 25, 1994

⁹⁰ *The Daily Star*, December 2, 1994

⁹¹ *Ibid*, December 29, 1994

⁹² *Ibid*, December 30, 1994

⁹³ *Ibid*, January 11, 1995

Fifth Formula

On September 6, 1995 in a new development AL, JP, and Jamaat simultaneously asked the government to form caretaker government with Chief Justice as Head of that government⁹⁴

Sixth Formula

On September 17, 1995 BNP General Secretary Abdus Salam Talukder made a new offer of dialogue and proposed that PM will resign before the formation of interim government.⁹⁵ On the other hand Sheikh Hasina said there required no constitutional amendment to accommodate caretaker government demand. Experts such as Barrister Ishtiaq Ahmed, Dr. Kamal Hossain, Barrister Mainul Hossain, etc termed her proposal a rubbish one.⁹⁶ On September 26, 1995 JP General Secretary Mizan proposed a new formula for caretaker government to the Home Minister Mr. Matin. The proposal was- the President first shall dissolve the Parliament and at his request the PM and his cabinet will resign. Thereafter he shall appoint a neutral person in consultation with the political parties as PM.⁹⁷

Ishtiaq-Kamal Formula

On August 2, 1995 Barrister Istiaque Ahmed and Dr. Kamal Hossain met PM and proposed 10-member caretaker government with equal representation from both sides. These members could be elected uncontested in the by-election on the basis of agreement. This body could hold credible election without amending constitution.⁹⁸ On August 3, 1995 Jamaat Ameer Golam Azam proposed '90 model caretaker government. He in an interview with BBC on August 14, 1995 rejected Ishtiaq-Kamal formula, and termed it a drama and impracticable.⁹⁹

Caretaker Issue and Motive of AL

In the name of caretaker government AL president Sheikh Hasina demanded resignation of the BNP government and on July 27, 1994 in a huge public gathering held at Dhaka declared anti-government movement enchanting "Aeik dhafa aeik dabi Khaleda tui kobe jabi (one point one demand Khaleda, when will you go)."¹⁰⁰ English version of the statement appears to be a simple and humble remark whereas in Bangla it is used in a derogatory sense.

Caretaker Issue and Motive of JP

Though Jatiya Party had been giving full hearted support to AL led non-party caretaker government for holding free and fair election yet its intrinsic objective was to free their party chairman H.M.Ershad. On September 3, 1995 JP General Secretary Mizanur Rahman Chowdhury said that ceaseless movement against the BNP government would ensure the release of H.M. Ershad.¹⁰¹

Public Opinion and Opposition Movement

⁹⁴ *Ibid*, September 7, 1995

⁹⁵ *Ibid*, September 18, 1995

⁹⁶ *Ibid*, September 24, 1995, *the New Age*, September 24, 1995

⁹⁷ *Ibid*, September 27, 1995, *the New Age*, September 27, 1995

⁹⁸ *Ibid*, August 3, 1995, *the Inqilab*, August 3, 1995

⁹⁹ *Ibid*, August 15, 1995, *the Daily Star*, August 15, 1995

¹⁰⁰ *Ibid*, July 28, 1994, *the Janakantha*, July 28, 1994

¹⁰¹ *Ibid*, September 4, 1995, *the Independent*, September 4, 1995

For the cause of caretaker government the combined opposition observed Dhaka Seize on September 10, 1994,¹⁰² 72-hour *hartal* from September 11 to 13, 1994. Hasina said her party would fight to establish voting rights of the people.¹⁰³ Prof. Golam Azam on July 29, 1994 said election under party government would not be fair. He said government might have to face an ignominious exist if it did not concede to their demand.¹⁰⁴ On May 30, 1994 Dr. Kamal Hossain, president of Gono Forum, said that caretaker government was no guarantee for free polls.¹⁰⁵

But people as a whole did not like opposition stand and programme. On November 14, 1994 Mr. Anthony Baldry, MP and British Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, expressed that destructive activities of the opposition would create political uncertainty and instability which would hamper foreign investment. Bangladesh had huge potential in foreign investment. She should not spoil that potentiality by creating uneasy political chaos in the country through *hartal*, blockade and seize.¹⁰⁶

Condemning *enmasse* resignation by the opposition retired Chief Justice and ex-Acting President Shahabuddin Ahmed on January 31, 1995 said premature dissolution of Parliament will be tragic for the democratic and parliamentary system of government.¹⁰⁷

On September 6, 1995 in a new development AL, JP, and Jamaat simultaneously called 72-hour *hartal* from September 16 to 18, 1995 in support of their proposition.¹⁰⁸ On September 14, 1995 the High Court in reply to the petition of Abu Bakar Siddiqui issued a rule upon the opposition political leaders to explain within two weeks why their 72-hour *hartal* call from September 16 to 18, 1995 should not be declared illegal.¹⁰⁹

The business delegates urged Sheikh Hasina not to call *hartal* or blockade very often and requested her to solve the political crisis through dialogue.¹¹⁰

Condemning opposition *hartal* US State Department said, "Threat of violence without political will makes *hartal* a success."¹¹¹ Though common people as well as foreign governments condemned destructive policy of the opposition yet in order to make *hartal* a success opposition activists-AL, JP and Jamaat started stripping off dresses of the office bound persons in broad daylight during 72-hour *hartal* started from September 16 to 18, 1995. Such type of acts of the picketers revealed the heinous and barbarous lust for power of the opposition.¹¹² She (Sheikh Hasina) called 96 hour *hartal* from October 16, 1995.¹¹³ In protest of *hartal* and for peaceful solution to the explosive political crisis leaders of Bangladesh Garment Manufacturers and Exporters Association went on token hunger strike on November 9, 1995.¹¹⁴ The chairman of editorial board of the Daily Ittefaq, Barrister

¹⁰² *Ibid*, September 11, 1994, *the Ajker Kakoj*, September 11, 1994

¹⁰³ *Ibid*, September 11, 1994.

¹⁰⁴ *Ibid*, July 30, 1994,

¹⁰⁵ *Ibid*, May 31, 1994, *the Ittefaq*, May 31, 1994

¹⁰⁶ *Ibid*, November 15, 1994, *the New Age*, November 15, 1994

¹⁰⁷ *Ibid*, February 1, 1995, *the Janakantha*, February 1, 1995

¹⁰⁸ *Ibid*, September 7, 1995, *the Independent*, September 7, 1995

¹⁰⁹ *Ibid*, September 15, 1995, *the Daily Star*, September 15, 1995

¹¹⁰ *Ibid*, April 7, 1995, *the New Age*, April 7, 1995

¹¹¹ *Ibid*, September 10, 1995.

¹¹² See *the Ittefaq*, *Inqilab* and *Bangladesh Observer* of September 17, 18, 19 of 1995

¹¹³ *The Inqilab*, September 29, 1995

¹¹⁴ *The Bangladesh Observer*, November 10, 1995

Moinul Hossain criticizing opposition said what they earned through blood they did not maintain. He indicated democratically elected government. Dr. Kamal Hossain condemned AL for its alliance with anti-liberation force (Jamaat) and anti-democratic party (JP).¹¹⁵ Former chief justice Habibur Rahman denouncing opposition demand said that constitution could not be changed by a group of people.¹¹⁶

Enmasse Resignation and Order of High Court

Sheikh Hasina on December 6, 1994 put an ultimatum to the government to accept their demand by December 27, 1994 or they would resign *enmasse* on December 28, 1994.

While the opposition threatened to *enmasse* resignation the High Court on December 11, 1994 declared their ongoing JS boycott illegal and unconstitutional. The court also asked the boycotting MPs to attend parliamentary session. It is worthy to mention that some Anwar Hossain Khan filed a writ petition challenging JS boycott by combined opposition illegal on November 9, 1994. Justice Monwaruddin heard the case.¹¹⁷ This judgment discredited opposition movement. Perhaps such verdict hurt the opposition. That's why bomb was exploded at the residence of Justice Monwaruddin on December 11, 1994.¹¹⁸ According to earlier declaration 147 MPs of Combined Oppositions resigned from the Parliament on December 28, 1994 *enmasse*.¹¹⁹

Speakers Ruling on *Enmasse* Resignation

On February 23, 1995 Speaker Sheikh Razzak Ali rejected *enmasse* resignation of 147 opposition MPs fifty seven days after their resignation. However, he accepted resignation of JP President H.M. Ershad, Democratic League President Salauddin Quader Chowdhury and AL MP Mr. Dabirul Islam. In his 29-page judgment Speaker said that he was clearly of opinion that the resignation letters which contained reasons opposed to the very concept of democracy and contrary to the fundamental principles of state policy were not contemplated by article 67(2) of the Constitution. Quoting different provisions of constitutions of different countries particularly India and Pakistan he said there were various anomalies in the resignation letter of the opposition MPs in the light of article 67(2) of the constitution and section 177 of the Rules of Procedure of the *Jatiya Sangsad*. He said an MP could resign his seat in writing under his hand addressed to the Speaker and should not give any reason for his resignation.¹²⁰

Revolt of Government Officers

Dissatisfaction surfaced in secretariat over the transfer of Mr. Mahiuddin Khan Alamgir, a secretary, to a junior post and alleged manhandle of Deputy Commissioner of Sylhet by Deputy Minister of Health Sirajul Huq. The BCS Administration Association put several demands, viz. a) Immediate cancellation of current appointment of Dr. Mahiuddin Khan Alamgir and reappointing him to a post equivalent to the rank of secretary, b) Cancellation of the appointment of journalist Gias Kamal Chowdhury as Economic Minister of Bangladesh

¹¹⁵ *Ibid*, December 16, 1995

¹¹⁶ *Ibid*, January 6, 1996

¹¹⁷ *The Bangladesh Observer*, December 12, 1994. See the case *Anwar Hossain Khan vs. Combined Opposition MPs (1994)*, date November 10, 1994.

¹¹⁸ *Ibid*

¹¹⁹ *Ibid*, December 29, 1994, *the Daily Star*, December 29, 1994

¹²⁰ *Ibid*, February 24, 1995, *the Daily Star*, February 24, 1995

High Commission in London, c) Apology from the Deputy Minister of Health Sirajul Huq for his alleged misbehaviour with Deputy Commissioner of Sylhet, and d) Filling up of all vacant post in administration. On May 29, 1995 they threatened to resort to direct action against government if demands were not met by June 8, 1995.¹²¹

Parliament Boycott and Court Ruling

In spite of declaring *enmasse* resignation of the opposition void by the High Court and Speaker they did not join parliament. The Speaker became confused regarding the status of the boycotting MPs. That's why on July 4, 1995 Speaker referred the question of continuous boycott of parliament by opposition MPs through President to the Appellate Division under article 107 of the constitution and sought opinion on article 67(1) (b) of the constitution. The President asked four questions namely:-¹²²

- 1) Can the walkout and consequent period of non-return by all the opposition parties taking exception to a remark of a ruling party minister be construed as absent from parliament without leave of parliament occurring in article 67(1) (b) of the constitution?
- 2) Does boycott of the parliament by all members of the opposition parties mean "absent" from the parliament without leave of parliament within the meaning of article 67(1)(b) of the constitution?
- 3) Whether ninety consecutive sitting days be computed excluding or including the period between two sessions intervened by prorogation of parliament within the meaning of article 67(1)(b) read with the definition of sessions and sittings defined under article 152(2) of the constitution.
- 4) Whether the Speaker or Parliament will compute and determine the period of absence.

In order to make opinion on those questions Chief Justice formed a larger Bench consisting of (1) Chief Justice A.T.M Afzal (2) Justice Mostofa Kamal (3) Justice Latifur Rahman (4) Justice Abdur Rouf and (5) Justice Ismailuddin. The court appointed S.R. Poul, Barrister Dr. Kamal Hossain, Barrister Istiaque Ahmed as *Amicus Curiae* on the questions.

After hearing experts' opinions the court drew the following conclusion:-¹²³

- 1) walkout or boycott means absence;
- 2) speaker is to compute days of absence;
- 3) Reassembled House is to be informed of vacancy.

According to that verdict 87seats of the parliament fall vacant on July 30, 1995. The CEC A.K.M. Sadeque said EC would hold by-election in these vacant seats.¹²⁴ On the other hand JP General Secretary Mizanur Rahman Chowdhury on August 3, 1995 vowed to thwart the by-election at any cost.¹²⁵

¹²¹ *Ibid*, May 30, 1995, *the Janakantha*, May 30, 1995

¹²² *Ibid*, July 5, 1995

¹²³ *The Bangladesh Observer*, July 28, 1995

¹²⁴ *Ibid*, July 31, 1995, *the New Age*, July 31, 1995

¹²⁵ *Ibid*, August 4, 1995, *the Ajker Kakoj*, August 4, 1995

Non-cooperation and *Janatar Mancha*

In order to materialize their demand AL, JP and Jamaat called non-cooperation and *gherao* (Seize) programme simultaneously from February 24-28, 1996.¹²⁶ During non-cooperation opposition leaders and workers became mad in destruction of public and private buildings, motor vehicles-cars and properties to create anarchy and jungle rule in the country. On February 29, 1996 Hasina called for non-stop non-cooperation from March 9, 1996 until fall of government.¹²⁷

During the non-cooperation movement dissatisfaction of secretariat turned into anti-government movement and it extended cooperation to opposition non-cooperation movement. President of Officers' Coordination Council of the Republic and Planning Commission Member Dr. Mohiuddin Khan Alamgir and General Secretary of Bangladesh Sangjukta Karmachari Parishad Syed Mohiuddin in a joint statement on March 29, 1996 called upon all government officers in the Secretariat to join the non-cooperation movement.¹²⁸ On March 28, 1996 some government officers observed sit-in programme inside the secretariat and enchanted anti-government slogans. Some of these officials not only actively joined the "Janatar Mancha(Public Stage)" an anti-government stage built up by and under direct auspices of Dhaka Mayor and veteran AL leader Mohammad Hanif on February 26, 1996 but also gave speeches against the government violating the Government Servants(Conduct) Rules, 1979.¹²⁹

Election Commission and Sixth Parliamentary Polls

On November 5, 1995 EC announced its preparation for holding bye election by December 16, 1995 to carry out constitutional responsibility. However, in order to create chaos and to make election questionable AL president demanded new voter list because current voter list was procured by BNP government.¹³⁰ After such call CEC on November 6, 1995 postponed EC's activities for holding by-election to avoid bloodshed.¹³¹

After the dissolution of fifth parliament on November 24, 1995 CEC A.K.M Sadeque on December 3, 1995 declared that sixth parliamentary election would be held on January 18, 1996. Opposition rejected the election schedule and in protest on December 9, 1995 opposition activists burnt down Chittagong EC office.¹³² On the request of AL, JP and Jammata he shifted election date from January 18 to February 7, 1996.¹³³ Not only that EC also on December 17, 1995 extended voter enrolment time at the request of the opposition.¹³⁴ CEC AKM Sadeque on December 30, 1995 announced that armed forces would be deployed for forty days from January 1 to Feb 9, 1996 at every district and thana for maintaining law and order.¹³⁵

¹²⁶ *Ibid*, February 27, 1996, *the Daily Star*, February 27, 1996

¹²⁷ *Ibid*, March 1, 1996, *the Inqilab*, March 1, 1996

¹²⁸ *Ibid*, March 30, 1996, *the New Age*, March 30, 1996

¹²⁹ *Ibid*, March 29, 1996, *the Janakantha*, March 29, 1996

¹³⁰ *Ibid*, October 29, 1995, *the Ajker Kakoj*, October 29, 1995

¹³¹ *Ibid*, November 7, 1995, *the Independent*, November 7, 1995

¹³² *Ibid*, December 10, 1995, *the New Nation*, December 10, 1995

¹³³ *Ibid*, December 16, 1995, *the New Nation*, December 16, 1995

¹³⁴ *Ibid*, December 18, 1995, *the Daily Star*, December 18, 1995

¹³⁵ *Ibid*, December 31, 1995, *the Janakantha*, December 31, 1995

But opposition called 48-hour *hartal* on January 7 and 8 to resist the submission of the nomination paper.¹³⁶ It is necessary to mention that according to Constitution EC was bound to hold general election by February 22, 1996. In case of failure BNP government would have faced legitimacy crisis. However, in the hope of accommodating all political parties in election CEC for the second time shifted election date from February 7 to February 15, 1996.¹³⁷ On January 14, 1996 he urged President to arrange a meeting between Khaleda Zia and Hasina.¹³⁸

But Sheikh Hasina on January 15, 1996 called on the people to boycott February 15, 1996 polls.¹³⁹ The leaders of AL, JP and Jamaat on January 19, 1996 called *hartal* on February 15, 1996. Accordingly on January 21, 1996 opposition withdrew their nomination paper and vowed to resist polls.¹⁴⁰ However, election was held without the participation of major political parties amid *hartal* and opposition resistance on February 15, 1996.

Insertion of Nonparty Caretaker Government in the Constitution:

Being forced by the opposition movement sixth parliament materialized the opposition demand in the constitution by thirteenth amendment. The main provisions of the amendment were-

Insertion of Article 58A

Thirteenth amendment included a new article 58A which asserted the legality and validity of the non-party caretaker government in defiance of all the provisions of the constitution. It said that the executive action of the non-party caretaker government should be taken in the name of President and its business should be operated according to the rules and regulations made by President. It also said no question should be raised in any court against any action of this government. President should have the right to call emergency meeting of Parliament if any emergency situation occurred.¹⁴¹

Inclusion of Chapter IIA

Thirteenth amendment inserted a new chapter titled IIA. Article 58B explored the general idea of non-party caretaker government and said “A nonparty caretaker government shall be formed with Chief Adviser (CA). It shall be formed only when Parliament is dissolved as a result of expiration of its term. It lasts until new Prime Minister enters upon his office. It shall be collectively responsible to the President. CA shall act in accordance with the advice of his Advisers.”¹⁴²

Article 58C described composition of non-party caretaker government and said “Nonparty caretaker government shall be constituted of eleven members including CA. It shall be appointed within the period of fifteen days from the date of dissolution of Parliament. CA shall be the last retired Chief Justice of Bangladesh. If he is not available the second last retired Chief Justice shall be appointed as CA. If he is not available then the last retired

¹³⁶ *Ibid*, January 5, 7, and 8 of 1996, *the Inqilab*, January 5, 7 and 8, 1996

¹³⁷ *Ibid*, January 9, 1996, *the Daily Star*, January 9, 1996

¹³⁸ *Ibid*, January 15, 1996, *the Daily Star*, January 15, 1996

¹³⁹ *Ibid*, January 16, 1996, *the New Age*, January 16, 1996

¹⁴⁰ *Ibid*, January 22, 1996, *the Inqilab*, January 22, 1996

¹⁴¹ See Act No. 1 of 1996 published in official Gazette on March 28, 1996

¹⁴² *Ibid*

Justice of the Appellate Division shall be appointed as CA. If he too is not available then second last retired Justice of the Appellate Division shall be appointed as Chief Adviser. If he is not available then the person selected by political parties on the basis of consensus shall be appointed as CA. If such consensus person is not found then president shall assume this post in addition to his normal function. It said that advisers should possess the qualification of an MP. They shall not have any political affiliation. They shall not stand in the ensuing election. They shall not be above seventy two years of age. Advisers shall be appointed by the President on the recommendation of CA. A member of nonparty caretaker government shall resign at any moment by writing under his hand addressed to the President. They shall cease office if they become disqualified. CA shall enjoy the status of Prime Minister and an Adviser shall have the status of a Minister. CA shall get remuneration of a Prime Minister. An Adviser shall receive the remuneration of a Minister. This provision gave emphasis heavily for neutral CA on highest judiciary. As a result it opened the door of politics in highest judiciary.

Article 58D said “nonparty caretaker government shall carry out day to day function and shall not take any policy decision. However it shall give all possible aid and assistance to the EC for arranging and holding free, fair parliamentary election peacefully, fairly and impartially.” This provision gave caretaker government absolute power for holding general election peacefully, fairly and impartially.

Article 58E gave President enormous power which he could not exercise in the presence of Prime Minister. During the tenure of nonparty caretaker government President had no restriction to assert any power even the declaration of emergency. Though CA enjoyed the status of Prime Minister yet President was not bound to abide by his advice.

Amendment of Article 61

After twelfth amendment executive power was transferred to Prime Minister. Though President is the head of state and supreme command of defense lies with the President yet he is to act according to the advice of Prime Minister. Though CA enjoyed the status of Prime Minister yet he was not entrusted with this power of defense force. President was given the charge of defense force during nonparty caretaker government.¹⁴³ By this it revealed that elected government did not believe in the motive of the non-elected temporary government.

Amendment of Article 99

Judges were allowed to hold CA's or Adviser's office. Although constitutionally judges of the highest court were not to hold any office of profit after retirement but both civil and military governments put judges in the state power. AL appointed justice Abu Sayeed Chowdhury as President on January 23, 1972, Khaled Mosharraf brought Abu Sadat Mohammad Sayem in statepower on November 6, 1975, Abdus Sattar was made Vice-President by Zia in 1977, Ershad made Ahsanuddin Chowdhury President on March 26, 1982. Thirteenth amendment legitimized this unconstitutional practice by allowing judges of the highest court to hold CA's and Adviser's office.

¹⁴³ See Act No.1 of 1996 published in official gazette on March 28, 1996

Amendment of Clause (3) of Article 123

A new clause (3) was inserted in article after (2) in article 123 which said Parliamentary election should be held within ninety days from the date of its dissolution.¹⁴⁴ This provision gave emphasis on the non-party caretaker government for holding of Parliamentary polls within ninety days from its dissolution.

Caretaker Government and Members of *Janatar Mancha*

On March 29, 1996 PM requested President to form caretaker government under the constitution.¹⁴⁵ Accordingly on March 30, 1996 PM Khaleda Zia resigned and former Chief Justice Habibur Rahman was sworn in as Chief Adviser.¹⁴⁶ On April 3, 1996 10-member Advisory Council was appointed with the following persons:-¹⁴⁷

- 1) Barrister Istiaque Ahmed;
- 2) Prof. Mohammad Yunus;
- 3) Prof. Md. Shamsul Huq;
- 4) Mr. Shagufta Bakht Chowdhury,
- 5) Mr. A. Z. M Nasiruddin;
- 6) Major General(Retd) Abdur Rahman Khan;
- 7) Dr. Wahiduddin Mahmud;
- 8) Mr. Manjur Elahi;
- 9) Dr. Nazma Chowdhury; and
- 10) Mr. Zamilur Reza Chowdhury.

On April 1, 1996 BNP Chairperson Khaleda stressed the need for purging the administration to ensure a free and fair election.¹⁴⁸ BNP General Secretary Barrister Abdus Salam Talukder on April 3, 1996 said that for fair election neutral administration was a must. But Chief Adviser put the pro-AL government officials who had directly taken part in “*Janatar Mancha*” during non-cooperation movement of the opposition to responsible government post.¹⁴⁹ On April 17, 1996 Khaleda Zia uttered a strong warning against the inaction of the caretaker government to take punitive measures against bureaucrats who had joined the AL sponsored movement. She said that these officials should be punished for the sake of neutral approach of the caretaker government. If caretaker government failed to deal with these identified partisan officers her party would launch movement against the government.¹⁵⁰ In spite of BNP threat CA did not take any action against the law trespasser pro-AL government officials. Rather on April 25, 1996 he just asked the government officials to act neutrally.¹⁵¹

Watching the cool response of CA towards law defiant pro-AL government officials Mr. Asaduzzaman Ripon, Editor of weekly “the Janatar Dak” and president of National Democratic Foundation on May 7, 1996 filed a writ petition demanding punitive action

¹⁴⁴ *Ibid*

¹⁴⁵ *Ibid*, March 30, 1996, *the Janakantha*, March 30, 1996

¹⁴⁶ *Ibid*, March 31, 1996, *the Ajker Kako*, March 31, 1996

¹⁴⁷ *Ibid*, April 4, 1996, *the Independent*, April 4, 1996

¹⁴⁸ *Ibid*, April 2, 1996, *the Ittefaq*, April 2, 1996

¹⁴⁹ *Ibid*, April 4, 1996, *the Daily Star*, April 4, 1996

¹⁵⁰ *Ibid*, April 18, 1996, *the Inqilab*, April 18, 1996

¹⁵¹ *Ibid*, April 26, 1996, *the New Age*, April 26, 1996s

against bureaucrats who took part in non-cooperation movement. He said Dr. Mohiuddin Khan Alamgir, Saifur Rahman, Faruq Sobhan, Syed Ahmed, Waliul Islam, Alamgir Faruq Chowdhury, Azizur Rahman, Sirajuddin Saiful Alam, Shahjahan Siddiqui (Bir-Bikram), Shah Alam, Abdul Mannan, Serajul Huq, Abdul Hye, Enamul Kabir, Khan Mohammad Nurul Huda, Abdus Sattar Khan, B. Karim and Abu Alam Shahid Khan violated the provisions of Rules 25 and 29 of the Government Servants (Conduct) Rules 1979 by attending meeting on March 25, 1996 in the Secretariat premises and by joining the political podium called “*Janatar Mancha*” created by Bangladesh AL in front of National Press Club from March 20 to 30, 1996 and making speeches and expressing solidarity with the non-cooperation movement of the opposition political parties. The High Court issued rule restraining the Principal Secretary to the CA and eight DCs from performing their functions for next ten days and called upon the government, 19 high government officials and EC to show cause within one week as to why a direction should not be issued upon the Secretary of Establishment Division to initiate disciplinary proceeding against them under Government Servant (Appeal and Discipline) Rules, 1985 on charge of misconduct.

The court also wanted to know why a direction should not be issued to cancel the posting of Syed Ahmed, Principal Secretary to the CA, Saiful Alam, DC and Returning officer of Faridpur, Shahjahan Siddiqui, DC and Returning Officer of Nilphamari, Shah Alam, DC and Returning Officer of Rangamati, Serajul Huq, DC and Returning Officer of Kushtia, Khan Mohammad Nurul Huda, DC and Returning Officer of Comilla, Abdus Sattar Khan, DC and Returning Officer of Tangail, Abdul Mannan, DC and Returning Officer of Bhola, and Enamul Kabir, DC and Returning Officer of Mymensingh for their involvement in anti-government movement.¹⁵² Defying the court order Chief Adviser kept these known faced partisan government personnel in important government’s posts and Election Commission, and on May 8, 1996 he asserted government firm commitment to hold fair polls.¹⁵³ Here one can easily construe the soft allegiance of CA Habibur Rahman to AL. However, on May 12, 1996 Appellate Division suspended the application of High Court Order.¹⁵⁴

Attempt of Military Coup and AL

On May 18, 1996 President gave two high ranked army officers forced retirement and on May 20, 1996 Army Chief of Staff Lieutenant General Abu Saleh Mohammad Nasim was removed from the Army because of arranging coup against the government. It is alleged that Colonel (Retd) Tajul Islam, a diehard AL leader, was behind this plot. It was also claimed that AL wanted to form national government under the leadership of Sheikh Hasina if the coup would have been succeeded.¹⁵⁵ Since AL’s plot to attain power by coup was foiled by President Abdur Rahman Biswas, Sheikh Hasina on May 23, 1996 demanded the transfer of Ministry of Defense from President to CA during caretaker government. Admiring the role of expelled coup leaders she said on May 25, 1996 the removed army officers were trying to protect democracy and fair election. She accused President of conspiring against democracy by removing Army Chief Mohammad Nasim and other high ranking army officers who

¹⁵² See the writ petition filed by Mr. Asaduzzaman Ripon, Editor of the weekly “*Janatar Dak*” on May 7, 1996. See *the Bangladesh Observer* of May 8, 1996

¹⁵³ *The Bangladesh Observer*, May 9, 1996

¹⁵⁴ See the order of Appellate Division on Janatar Mancha case published in *the Bangladesh Observer* on May 13, 1996

¹⁵⁵ Major General(Ret) M. A. Matin, Beer Pratik, PSC, *Amar Dekha Bartha Sena Avvurthan 96*, First edition, 2001, Dhaka, pp- 55, 69, 108,

marched from Bogra and Mynmensingh cantonment with their forces on May 20, 1996.¹⁵⁶ Such type of plan of AL top leadership diminished the object of their long cherished caretaker government movement. Critics upheld that AL was not for free and fair election rather it was interested in attaining power through creating chaos and anarchic situation in the country with the aid of JP and Jamaat which had their own goals in the movement. Jamaat achieved its goal in protecting its Ameer Golam Azam from the clutches of and anguishes of AL. And JP demanded their leader's release at any cost. Perhaps for that reason BNP Chairperson Khaleda Zia on May 25, 1996 accused AL of attaining power through other means except polls.¹⁵⁷

Seventh Parliamentary Polls June 12, 1996 and Chief Adviser

CEC Abu Hena in order to avoid controversy regarding the publication of election results declared that polls result would be announced from EC not from polling centres.¹⁵⁸ However, on June 8, 1996 a survey conducted by the New Nation published that BNP would get 113 seats, AL 80, JP 24 and Jamaat 22 in June 12, 1996 polls.¹⁵⁹ On June 9, 1996 CEC asserting his pride of power said, "None can even the President be able to hijack election result."¹⁶⁰ On June 12, 1996 seventh parliamentary polls was held amid rigging. Jamaat leaders accused AL and Khan Mohammad Nurul Huda, DC of Comilla of vote rigging in Comilla district.¹⁶¹ BBC reported that vote rigging was rampant in 60 polling centres in Rangpur District. The leaders of National Democratic Institute, association of foreign observers said polls was free and fair.¹⁶² BNP accused AL and the administration of vote rigging in 111 constituencies. BNP officially brought charges of voting irregularities on June 16, 1996.¹⁶³ It is necessary to mention that most complaints of voting irregularities were made against election officials who had taken part in "*Janatar Mancha*." Ignoring BNP allegation EC published results of 273 seats by gazette notification.¹⁶⁴ Not only that EC violating its own election code of conduct for unknown reason on June 17, 1996 abolished Election Enquiry Bodies without taking any step for pacifying the allegation of voting irregularities by government officials.¹⁶⁵ Re-polling was held in 27 seats on June 19, 1996 and after the result AL bagged 146 seats, BNP 116, JP 31, Jamaat 3, Islami Oikkyo Jote 1, JSD 1, and Independent 1.¹⁶⁶

Election Victory and Release of Ershad

JP supported AL in forming government in return of the release of their president H.M. Ershad on June 23, 1996.¹⁶⁷ Thus AL attained state power in the name of non-party caretaker government movement.

¹⁵⁶ *The New Nation*, May 26, 1996

¹⁵⁷ *Ibid*.

¹⁵⁸ *Ibid*, June 3, 1996

¹⁵⁹ *Ibid*, June 9, 1996

¹⁶⁰ *Ibid*, June 10, 1996

¹⁶¹ *Ibid*, June 13, 1996

¹⁶² *Ibid*

¹⁶³ *Ibid*, June 17, 1996

¹⁶⁴ *Ibid*

¹⁶⁵ *Ibid*, June 18, 1996

¹⁶⁶ The result of seventh Parliamentary polls supplied by EC without date

¹⁶⁷ *The Bangladesh Observer*, June 24, 1996

CONCLUSION

Desired goal of democracy depends on the practice of secularised political culture by the government and opposition. But opposition AL tainted the sacred role of democratic opposition in Bangladesh. In the name of movement it maligned Bangladesh judiciary by staging war crime trial in public against the chairman of Jamaat-e-Islam. It hampered normalcy in public life by orchestrating movement on government's corruption. At the end violating all norms and values of democratic movement, it in coordination with its arch enemy Jatia Party and Jamaat-e-Islam raised non-party caretaker government movement in the plea of guaranteeing voting right of the people. It suffocated the life of common masses and blocked the socio-economic and political development of the country for realizing this demand. In spite of accommodating opposition demand in the constitution opposition AL did not stop playing negative match in politics. In democracy such type of ugly role of opposition is not pleasant for a stable socio-economic and political development of the country. It is a bad sign for Bangladesh democracy no doubt.