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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

NOTIFICATION

Dacca, the 28th May 1976.

No. 481-Pub.—The following order made by the President and Chief Martial Law Administrator of the People's Republic of Bangladesh, on the 28th May, 1976 is hereby published for general information:—

**THE SECOND PROCLAMATION (SEVENTH AMENDMENT) ORDER,
1976**

Second Proclamation Order No. IV of 1976.

WHEREAS it is expedient further to amend the Proclamation of the 8th November, 1975, for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the said Proclamation and in exercise of all powers enabling me in that behalf, I, ABUSADAT MOHAMMAD SAYEM, President of the People's Republic of Bangladesh and Chief Martial Law Administrator, do hereby make the following Order:—

1. **Short title and commencement.**—(1) This Order may be called the Second Proclamation (Seventh Amendment) Order, 1976.

(2) It shall come into force on such day as the President may, by order notified in the official Gazette, appoint.

2. **Amendment of the Second Proclamation.**—In the Proclamation of the 8th November, 1975,—

(1) after clause (gb), the following new clause shall be *inserted*, namely:—

“(gc) other provisions of the Constitution shall be amended in the manner specified in the Schedule”; and

(2) after clause (j), the following Schedule shall be *added*, namely:—

“SCHEDULE

[See clause (gc)]

1. For article 44 the following shall be *substituted*, namely:—

“44. **Enforcement of fundamental rights.**—(1) The right to move the High Court in accordance with clause (2) of article 102, for the enforcement of the rights conferred by this Part is guaranteed.

(2) Without prejudice to the powers of the High Court under article 102, Parliament may by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.”

2. In Part IV, after Chapter V, the following new Chapter shall be *added*, namely:—

“CHAPTER VI—Advocate-General.

64A. **Advocate-General.**—(1) The President may appoint a person who is qualified to be appointed as a judge of the High Court to be Advocate-General for Bangladesh.

(2) The Advocate-General shall perform such functions as may be assigned to him by the President.

(3) In the performance of his duties, the Advocate-General shall have the right of audience in the High Court and all courts and tribunals subordinate thereto:

Provided that this clause shall not be construed as denying the Advocate-General the right to appear and act in or before the Supreme Court if he is otherwise qualified for the purpose.

(4) The Advocate-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.”

3. In article 88,—

(a) in clause (b), in sub-clause (ii), for the words “Supreme Court” the words “Supreme Court and High Court” shall be *substituted*; and

(b) in clause (c), after the words “Supreme Court”, the comma and words “the High Court” shall be *inserted*.

4. In Part VI, for Chapter I the following shall be substituted, namely:—

“CHAPTER I—The Supreme Court.

94. **Establishment of Supreme Court.**—(1) There shall be a Supreme Court of Bangladesh.

(2) The Supreme Court shall consist of a Chief Justice, to be called the Chief Justice of Bangladesh, and such number of other Judges as the President may, from time to time, deem it necessary to appoint.

95. **Appointment of Supreme Court Judges.**—(1) The Chief Justice of the Supreme Court shall be appointed by the President, and the other Judges shall be appointed by the President after consultation with the Chief Justice.

(2) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of Bangladesh and—

(a) has, for not less than five years, been a Judge of the High Court; or

(b) has, for not less than fifteen years, been an advocate of the High Court; or

(c) has such other qualification as may be prescribed by law for appointment as a Judge of the Supreme Court.

Explanation.—In this clause “High Court” includes a Court which at any time before the commencement of the Second Proclamation (Seventh Amendment) Order, 1976, exercised jurisdiction as a High Court or Supreme Court in the territory now forming part of Bangladesh.

96. **Jurisdiction of Supreme Court.**—(1) In addition to the jurisdictions and powers conferred on it by this Constitution, the Supreme Court shall have such other jurisdictions, powers and functions as are or may be conferred by law.

(2) Subject to this article, the Supreme Court may hear and determine appeals from judgment, decrees, orders or sentences of the High Court.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of the High Court shall lie as of right where the High Court—

(a) certifies that the case involves a substantial question of law as to the interpretation of this Constitution; or

(b) has confirmed a sentence of death or sentenced a person to death or to transportation for life; or

(c) has imposed punishment on a person for contempt of that Court;

and in such other cases as may be provided for by Act of Parliament.

(4) An appeal to the Supreme Court from a judgment, decree, order or sentence of the High Court in a case to which clause (3) does not apply shall lie only if the Supreme Court grants leave to appeal.

(5) Parliament may by law declare that the provisions of this article shall apply in relation to any other court or tribunal as they apply in relation to the High Court.

97. **Advisory jurisdiction of Supreme Court.**—If, at any time, it appears to the President that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to the Supreme Court for consideration, and the Supreme Court may, after such hearing as it deems fit, report its opinion thereon to the President.

98. **Issue and execution of processes of Supreme Court.**—The Supreme Court shall have power to issue such directions, orders, decrees or writs as may be necessary for doing complete justice in any cause or matter pending before it, including orders for the purpose of securing the attendance of any person or the discovery or production of any document.

99. **Review of judgments or orders by Supreme Court.**—The Supreme Court shall have power, subject to the provisions of any Act of Parliament and of any rules made by that Court, to review any judgment pronounced or order made by it.

CHAPTER IA—The High Court.

100. **Establishment of High Court.**—(1) There shall be a High Court of Bangladesh.

(2) The High Court shall consist of a Chief Justice and such number of other Judges as the President may, from time to time, deem it necessary to appoint.

101. **Appointment of High Court Judges.**—(1) A Judge of the High Court shall be appointed by the President after consultation with the Chief Justice of the Supreme Court and, except where the appointment is that of Chief Justice, with the Chief Justice of the High Court.

(2) A person shall not be qualified for appointment as a Judge of the High Court unless he is a citizen of Bangladesh and—

(a) has, for not less than ten years, been an advocate of the High Court; or

(b) has, for not less than ten years, held judicial office or been an advocate in any territory now forming part of Bangladesh and has, for not less than three years, exercised the powers of a District Judge; or

(c) has such other qualification as may be prescribed by law for appointment as a Judge of the High Court.

Explanation.—In this clause “High Court” includes a Court which at any time before the commencement of the Second Proclamation (Seventh Amendment) Order, 1976, exercised jurisdiction as a High Court or Supreme Court in the territory now forming part of Bangladesh.

102. **Jurisdiction of High Court.**—(1) The High Court shall have such original, appellate and other jurisdictions, powers and functions as are or may be conferred on it by this Constitution or any other law.

(2) The High Court, on the application of any person aggrieved, may give such directions or orders to any person or authority, including any person performing any function in connection with the affairs of the Republic, as may be appropriate for the enforcement of any of the fundamental rights conferred by Part III of this Constitution.

(3) The High Court may, if satisfied that no other equally efficacious remedy is provided by law—

(a) on the application of any person aggrieved, make an order—

- (i) directing a person performing any functions in connection with the affairs of the Republic or of a local authority to refrain from doing that which he is not permitted by law to do or to do that which he is required by law to do; or
- (ii) declaring that any act done or proceeding taken by a person performing functions in connection with the affairs of the Republic or of a local authority has been done or taken without lawful authority and is of no legal effect; or

(b) on the application of any person, make an order—

- (i) directing that a person in custody be brought before it so that it may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or
- (ii) requiring a person holding or purporting to hold a public office to show under what authority he claims to hold that office.

(4) Notwithstanding anything contained in the foregoing clauses, the High Court shall have no power under this article to pass any interim or other order in relation to any law to which article 47 applies.

(5) In this article, unless the context otherwise requires, "person" includes a statutory public authority and any court or tribunal, other than a court or tribunal established under a law relating to the defence services of Bangladesh or any disciplined force or a tribunal to which article 117 applies.

103. **Superintendence and control over subordinate Courts.**—The High Court shall have superintendence and control over all courts subordinate to it.

104. **Transfer of cases from subordinate courts to High Court.**—If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution, or on a point of general public importance, the determination of which is necessary for the disposal of the case, it shall withdraw the case from that court and may—

- (a) either dispose of the case itself; or
- (b) determine the question of law and return the case to the court from which it has been so withdrawn (or transfer it to another subordinate court) together with a copy of its judgment on such question, and the court to which the case is so returned or transferred shall, on receipt thereof, proceed to dispose of the case in conformity with such judgment.

CHAPTER IB—General provisions as to Supreme Court and High Court.

105. Tenure of office of Judges of Supreme Court and High Court.—

(1) Subject to the provisions of this article,—

(a) a Judge of the Supreme Court shall hold office until he attains the age of sixty-five years;

(b) a Judge of the High Court shall hold office until he attains the age of sixty-two years.

(2) A Judge of the Supreme Court or of the High Court shall not be removed from his office except by an order of the President made pursuant to a resolution of Parliament passed by a majority of not less than two-thirds of the total number of members of Parliament on the ground of proved misbehaviour, or incapacity.

(3) Parliament may by law regulate the procedure in relation to a resolution under clause (2) and for investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of the High Court.

(4) A Judge of the Supreme Court or of the High Court may resign his office by writing under his hand addressed to the President.

106. Temporary appointment of Chief Justice of Supreme Court and High Court.—If the office of the Chief Justice of the Supreme Court or of the High Court becomes vacant, or if the President is satisfied that any such Chief Justice is, on account of absence, illness or any other cause, unable to perform the functions of his office, those functions shall, until some other person has entered upon that office, or until that Chief Justice has resumed his duties, as the case may be, be performed by the next senior Judge of that Court.

107. Additional Judge of Supreme Court and High Court.—(1) If the President is satisfied that the number of Judges of the Supreme Court or of the High Court should be for the time being increased, the President may appoint the required number of persons qualified for appointment as Judge of such Court to be Additional Judges of that Court for such period not exceeding two years as he may specify, or, if he thinks fit, may require a Judge of the High Court to sit in the Supreme Court for any temporary period.

(2) Nothing in this article shall prevent a person appointed as an Additional Judge from being appointed as a Judge under article 95 or under article 101 or as an Additional Judge for a further period under this article.

108. Disabilities of Judges of Supreme Court and High Court.—(1) Except as provided in clause (2), a person who has held office as a Judge of the Supreme Court or of the High Court, otherwise than as an Additional Judge of such Court, shall not, after his retirement or removal therefrom, plead or act before any court or authority or hold any office of profit in the service of the Republic not being a judicial or quasi-judicial office.

(2) A person who has held office as a Judge of the High Court may, after his retirement or removal therefrom, plead or act before the Supreme Court.

109. **Seats of Supreme Court and High Court.**—The permanent seat of the Supreme Court and of the High Court shall be in the capital, but sessions of the Supreme Court or of the High Court may be held at such other place or places as the Chief Justice of the Court may, with the approval of the President, from time to time, appoint.

110. **Rules of Procedure.**—Subject to this Constitution and any law made by Parliament,—

- (a) the Supreme Court may, with the approval of the President, make rules for regulating the practice and procedure of the Court;
- (b) the High Court may, with the approval of the President, make rules for regulating the practice and procedure of the Court or of any other court subordinate to it.

111. **Supreme Court and High Court to be Courts of record.**—The Supreme Court and the High Court shall be Courts of record and shall have all the powers of such a Court, including the power, subject to law, to make an order for the investigation of, or punishment for, any contempt of itself.

112. **Binding effect of Supreme Court and High Court decisions.**—(1) The law declared by the Supreme Court shall be binding on the High Court and on all other courts subordinate to the High Court.

(2) Subject to clause (1), the law declared by the High Court shall be binding on all courts subordinate to it.

(3) All authorities, executive and judicial, in the Republic shall act in aid of the Supreme Court and the High Court.

113. **Staff of Supreme Court and High Court.**—(1) Subject to the provision of any Act of Parliament, the Supreme Court and the High Court may, with the approval of the President, make rules for the appointment of officers and servants of that Court and for their terms and conditions of employment.

(2) Subject to any rules made under clause (1), appointments of the officers and servants of the Supreme Court or of High Court shall be made by the Chief Justice or by such other Judge or officer of that Court as he may direct.”.

5. In article 114, *after* the words “Supreme Court”, the words “and the High Court” shall be *inserted*.

6. In article 117, in clause (1), *for* sub-clause (c) the following shall be *substituted*, namely:—

“(c) any law to which clause (4) of article 102 applies.”.

7. In article 147, in clause (4), *after* sub-clause (e), the following new sub-clause shall be *inserted*, namely:—

“(ee) Judge of the High Court.”.

8. In article 152, in clause (1), the definitions of the expressions "the Appellate Division", "the Chief Justice", "the High Court Division", "Judge" and "the Supreme Court" shall be *omitted*.

9. In the Third Schedule,—

(a) in form I, for the word "Speaker" the words "Chief Justice of the Supreme Court" shall be *substituted*;

(b) for form 6 the following shall be *substituted*, namely:—

"6. **Chief Justice or Judge of Supreme Court and High Court.**—An oath (or affirmation) in the following form shall be administered, in the case of the Chief Justice of the Supreme Court and of the High Court by the President, and in the case of a Judge of the Supreme Court, by the Chief Justice of that Court, and in the case of a Judge of the High Court, by the Chief Justice of that Court:—

"I,.....having been appointed Chief Justice of the Supreme Court/High Court (or Judge of the Supreme Court/High Court) do solemnly swear (or affirm) that I will faithfully discharge the duties of my office according to law:

That I will bear true faith and allegiance to Bangladesh:

That I will preserve, protect and defend the Constitution and the laws of Bangladesh:

And that I will do right to all manner of people according to law, without fear or favour, affection or ill-will."; and

(c) in forms 7, 8 and 9, for the words "Chief Justice" the words "Chief Justice of the High Court" shall be *substituted*.

10. In the Fourth Schedule, after paragraph 6, the following new paragraph shall be *inserted*, namely:—

"6A. **Provisions as to existing Judges and pending proceedings.**—(1) The person holding office of Chief Justice of Bangladesh immediately before the commencement of the Second Proclamation (Seventh Amendment) Order, 1976 (hereinafter referred to as the said Order), and every person who then held office as Judge or Additional Judge of the Appellate Division of the Supreme Court shall as from such commencement hold office as Chief Justice, Judge or Additional Judge of the Supreme Court, as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(2) A person holding office as Judge or Additional Judge of the High Court Division of the Supreme Court immediately before the Commencement of the said Order shall as from such commencement hold office as Judge or Additional Judge of the High Court as the case may be, on the same terms and conditions as to remuneration and other privileges as were applicable to him immediately before such commencement.

(3) All legal proceedings pending before the Appellate Division of the Supreme Court immediately before the commencement of the said Order shall on such commencement stand transferred to, and be deemed to be pending before, the Supreme Court for determination; and any judgment, or order of the Appellate Division of the Supreme Court delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the Supreme Court.

(4) All legal proceedings pending before the High Court Division of the Supreme Court immediately before the commencement of the said Order shall on such commencement stand transferred to, and be deemed to be pending before, the High Court for determination; and any judgment or order of the High Court Division delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the High Court.

(5) Subject to the other provisions of this Constitution, the Supreme Court shall have the same functions, jurisdiction and powers as were, immediately before the commencement of the said Order, exercisable by the Appellate Division of the Supreme Court, and references in any law, legal instrument or other document to the Appellate Division of the Supreme Court shall, unless the context otherwise requires, be construed as references to the Supreme Court.

(6) Subject to the other provisions of this Constitution, the High Court shall have the same functions, jurisdiction and powers as were, immediately before the commencement of the said Order, exercisable by the High Court Division of the Supreme Court, and references in any law, legal instrument or other document to the High Court Division of the Supreme Court shall, unless the context otherwise requires, be construed as references to the High Court."

DACCA;
The 28th May, 1976.

ABUSADAT MOHAMMAD SAYEM
President
and
Chief Martial Law Administrator.

A. K. TALUKDAR
Deputy Secretary.

MINISTRY OF HOME AFFAIRS

Police Wing II

NOTIFICATION

Dacca, the 27th May, 1976.

No. S.R.O. 177-L/76/257/PL.(II).—In exercise of the powers conferred by sub-section (3) of section 46 of the Police Act, 1861 (V of 1861), the Government is pleased to make the following amendments in the Police Regulations, Bengal, 1943, Volume I, namely—

Amendments

1. In the said Regulations,—

(a) for regulation 651A, the following shall be *substituted*, namely;—

“651A. Two Sub-Inspectors in handwriting and one Sub-Inspector each in ballistics, photography, footprints, micro-analysis and forged notes and counterfeit coins shall be trained each year for the period noted below against each of the subjects:—

(i) handwriting	..	One year including three months' practical training;
(ii) ballistics	..	Ditto.
(iii) photography	..	Ditto.
(iv) footprint	..	Six months' including three months' practical training;
(v) micro-analysis	..	Ditto.
(vi) forged notes and counterfeit coins.	..	Six months' including three months' practical training;

651B Two Sub-Inspectors from each of Dacca, Chittagong and Khulna Ranges and one Sub-Inspector from Rajshahi Range shall be deputed every year for training in the subjects mentioned in regulation 651A, but no acting arrangement shall be admissible in places of those officers during the period of their training in the Criminal Investigation Department as they will be returning to districts on completion of training. For training in handwriting, foot print, forged notes and counterfeit coins any directly recruited graduate Sub-Inspector and for ballistics, micro-analysis and photography directly recruited Science Graduate Sub-Inspectors shall be selected.”; and

(b) in regulation 652, for paragraph (C), the following shall be *substituted*, namely,—

“(c) In the case of handwriting, ballistics, photography, footprint, micro-analysis and forged notes and counterfeit coins, certificate of efficiency shall be granted by the Deputy Inspector-General of Police, Criminal Investigation Department, to officers who have passed in the final test in those subjects. Certificate so granted shall remain in force for three years only from the date of issue and can be renewed if only the officers holding them return to the handwriting, ballistics, photography, footprint, micro-analysis, forged

notes and counterfeit coins sections for a period of one week and satisfy the Deputy Inspector-General of Police, Criminal Investigation Department that they have retained their expertise and are fit to hold the certificate. This shall, however, not apply to officers who are attached to these sections."

By order of the President

MANZOOR-UL-KARIM

Joint Secretary.

MINISTRY OF JUTE

CORRIGENDUM

Dacca, the 26th May, 1976.

No. JM/W/76-282.—The following corrections shall be made in the notification No. JM/W/76-282, dated the 26th April, 1976:

- (1) On page No. 1306, item No 22 read Tk. 180.00 *after* Grade No. III *instead of* Tk. 18.00.
- (2) On page No. 1306, item No. 31 read oblique *after* Sacking in the 2nd line.
- (3) On page No. 1307, item No. 35 read picks/minute-168 standard R. S. 57" *instead of* 5-7".

By order of the Government

P. K. SARKER

Deputy Secretary.

ভূমি প্রশাসন, স্থানীয় সরকার, পল্লী উন্নয়ন ও সমবায় মন্ত্রণালয়

(স্থানীয় সরকার, পল্লী উন্নয়ন ও সমবায় বিভাগে)

শাখা ৩

ঢাকা, ২০শে মে, ১৯৭৬।

নং শা-৩/অ-২/৭৬/৩০৯—সরকার উদ্বেগের সহিত লক্ষ্য করিয়া আসিতেছেন যে, দেশের পৌরসভাসমূহ স্বাধীনতা যুদ্ধের ফলে উদ্ভূত ক্ষয়ক্ষতি, পরবর্তী পর্যায়ে জনসাধারণের দুঃখ লাঘবে পৌর কর আংশিকভাবে ক্ষেত্র, কর্মচারীদের জাতীয় বেতনের স্কেল প্রবর্তন এবং নির্মাণ সামগ্রীর মূল্য বৃদ্ধির কারণে মারাত্মকভাবে আর্থিক বিপর্যয়ের সম্মুখীন হইয়াছে। অথচ সরকারী, বেসরকারী বিভিন্ন সংস্থা ও জনসাধারণের নিকট উহাদের বিপুল পরিমাণ পৌর কর পাওনা রহিয়াছে। ফলে পৌরসভাসমূহ অত্যাবশ্যকীয় ও উন্নয়নমূলক কাজেতো দূরের কথা নিজেদের সংস্থাপন খরচ মিটাতেই অপারগ হইয়া পড়িয়াছে।

পৌরসভাগুলিকে এই সংকট হইতে উদ্ধারকল্পে সরকার সিদ্ধান্ত নিয়াছেন যে, অত্র বিজ্ঞপ্তি প্রকাশের তারিখ হইতে এক মাসের মধ্যে সকল সরকারী, বেসরকারী প্রতিষ্ঠান ও জনসাধারণ তাহাদের সকল বকেয়া পৌর কর পরিশোধ করিবেন। নতুবা ১৯৭৫ সালের মার্শাল 'ল'-এর ৬ নং রেগুলেশন (পঞ্চম সংশোধনী) মোতাবেক সংশ্লিষ্ট পৌরসভা, অনাদায়ী সংস্থা বা ব্যক্তির নামে মার্শাল 'ল' কোর্টে বকেয়া কর অনাদায়জনিত কারণে মামলা দায়ের করিতে পারিবে।

রাষ্ট্রপতি ও প্রধান সামরিক আইন প্রশাসকের
আদেশক্রমে

খোরশেদ আলম

অতিরিক্ত সচিব।

সংক্ষিপ্ত সামরিক আদালত, বরিশাল

পলাতক আসামীদের আদালতে হাজির হওয়ার নির্দেশ

আসামীদের নাম ও ঠিকানা—

- (১) সূর্যশিল কুমার মন্ডল, পিতা অনন্ত কুমার মন্ডল,
- (২) গৌরঙ্গ হাওলাদার, পিতা মৃত মহেন্দ্র হাওলাদার, সর্বসাকিন বিশাল চেলাবুনিয়া, থানা স্বরূপকাঠী, জেলা বাকেরগঞ্জ।

এতদ্বারা আপনাদিগকে জানান যাইতেছে যে, বেআইনী অস্ত্র রাখার দায় অভিযুক্ত হওয়ার বরিশাল জেলার স্বরূপকাঠী থানায় আপনাদের বিরুদ্ধে অস্ত্র আইনের ১৯(এ) ও ১৯(এক) ধারা মোতাবেক ৩(১২)৭৫ মোকদ্দমা আনিত হয়। ঐ মোকদ্দমা বর্তমান পর্যায় সামরিক আইনের ১৯ নং বিধির আওতাভুক্ত হওয়ায় এই আদালতের বিচারের জন্য বদলী হইয়াছে এবং উহা এস, এম, এল, সি, কেস্ নং ১৫/৭৬ হিসাবে পরিগণিত হইতেছে। আপনাদের বিরুদ্ধে ঘোষণাপত্র ও ক্রোকী পরওয়ানা জারী হওয়া সত্ত্বেও আপনারা আদালতে হাজির হইতেছেন না কাজেই সামরিক আইনের ৬(৭)/৭৫ নং বিধি অনুযায়ী আমার উপর প্রদত্ত ক্ষমতাবলে আপনাদিগকে জানান যাইতেছে যে, আগামী ২৯শে মে ১৯৭৬ তারিখের মধ্যে আপনারা আদালতে হাজির না হইলে এই মোকদ্দমের বিচার কার্য আপনাদের অনুপস্থিতিতে সম্পন্ন হইবে এবং আপনাদের সম্পত্তি বাজেয়াপ্ত হইতে পারে।

এম, এ, আজিজ

মেম্বর,

সংক্ষিপ্ত সামরিক আদালত, বরিশাল।