

ISSN 1991-8976

RAJSHAHI UNIVERSITY LAW JOURNAL



FACULTY OF LAW
RAJSHAHI UNIVERSITY
2009

Articles

The Role of Election Commission in Strengthening Democracy: Reforms and Constitutional Obligation

Justice under Judicial Review Power of the Court: A Comparative Study on Selected Countries

Different Provisions Relating to Aboriginal People's of the Sub-Continental Constitutional Laws: A Study

Parliamentary Election 1991 under First Caretaker Government: An Evaluation

The Unholy Delay of the Last Caretaker Government: Bangladesh is on the Verge of a Constitutional Crisis

Jurisdiction of the Supreme Court of Bangladesh in Terms of Writ: An Appraisal

Right against Trafficking of Women under the Constitution of Bangladesh

বাংলাদেশের সংবিধানে নির্দেশিত ভাষা এবং উচ্চতর আদালতে এর ব্যবহার : একটি আইনগত পর্যালোচনা

বাংলাদেশ সংবিধানের ৫ম সংশোধনী বাতিলের রায় ও প্রভাব : সংবাদপত্রের আলোকে একটি বিশ্লেষণ

ISSN 1991-8976

Rajshahi University Law Journal

Volume 06 2009

**Published by
Dean
Faculty of Law
University of Rajshahi
Rajshahi-6205
Bangladesh**



**Faculty of Law
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Rajshahi University Law Journal 2009

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Rajshahi University Law Journal
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Published by
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Faculty of Law
University of Rajshahi
Rajshahi-6205
Bangladesh

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Cover Design & Printed by
Md. Ariful Islam
Text Dot Com (TDC)
Farmgate, Motihar, Rajshahi-6212
Cell: 01711-951377

Printed At
Limon Offset Printing Press & Publication
Kadirgonj, Rajshahi.

Subscription Rates
For Individuals: TK 100.00 US\$ 20 (without postage)
For Organisation: TK 150.00 US\$ 30 (without postage)

[Published in August 2010]

Rajshahi University Law Journal 2009

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Parliamentary Election 1991 under First Caretaker

Government: An Evaluation

Dr M Anisur Rahman*

1 INTRODUCTION

In the Constitutional history of Bangladesh the fifth parliamentary election is a milestone to re-affirm the democracy. The election was a distinctive one for a special reason for the first time in Bangladesh as held under a neutral caretaker Government. In democratic systems around the world the state bureaucracy and the Election Commission conduct general election, which operates under political parties in power. In Bangladesh, however, the system of election under the Government run by a political party miserably failed to achieve the trust of the people, particularly the opposition parties. In view of these experiences a mechanism of holding general election under a non-party caretaker Government has been evolved in Bangladesh. The caretaker Government was first introduced after the fall of H. M. Ershad by the end of 1990 through a mass revolution.¹

In December 1990, based on an agreed formula of the major political alliances, the neutral caretaker Government headed by the then Chief Justice Shahabuddin Ahmed was formed to ensure a free, fair and peaceful parliamentary election. On assuming the office of the head of Government, Justice Shahabuddin took some important steps so as to create favourable environment for a free, fair and peaceful election. Firstly, the Election Commission was re-organised with three judges of the Supreme Court and in order to make the Commission independent and effective it was strengthened by giving power to take any legal action against any Returning Officer or

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¹ Fakruddin Ahmed, *The Caretakers: A First Hand Account of the Interim Government of Bangladesh (1990-1991)* (The University Press Ltd., Dhaka, 1998), p. 13.

Presiding Officer in case of any alleged election misconduct.² Secondly, with a view 'to regulate the conduct of the candidates, to limit the election expenditure of the candidates and to impose rigid punishment for election crime, necessary amendments were made to the *Representation of the people order*, 1972.³ Thirdly, special responsibility was imposed on the Union Council and *Pourasobhas* (Municipalities) to maintain law and order within their respective areas and it was warned that in case of deterioration of law and order in any area the concerned Union Council or *Pourasobha* would be dissolved.⁴

Under these arrangements, the Election Commission conducted the fifth parliamentary election, which was held on 27 February 1991. This paper seeks to concentrate on the role played by the Election Commission in conducting the election of 1991. For the better understanding of the issues that are addressed in this paper the whole discussion is divided into the following subheadings:

- (1) Electoral rolls;
- (2) Declaration of election schedule;
- (3) Code of Conduct;
- (4) Voting and counting;
- (5) Declaration of Election Result;
- (6) Comments of the Politicians, Press and Election Observers.

2 ELECTORAL ROLLS

One of the conditions for ensuring free and fair election is the transparency of voter list or electoral roll, which is essential to make sure that all genuine voters can elect the candidates of their own choice. In fact, an unambiguous

² *Election Officer (Special rule) Ordinance*, 1990.

³ *Representation of the People (Amendment) Ordinance*, No. 4, 1991.

⁴ *Union Council and Municipal (Special Responsibility) Ordinance*, 1991, s 4.

and publicly known voter list or electoral roll is very crucial for the election system. The fifth parliamentary election was held on the basis of the electoral rolls or voter lists prepared in 1990, which contained the name of 6,22,89,556 voters.⁵ A few weeks before the general election in 1991 this electoral rolls was scrutinised by the Co-ordination Council for Human Rights in Bangladesh (CCHRB), a non-Governmental organisation. By physical verification of the electoral rolls of some urban and rural areas CCHRB identified numerous faults and irregularities in the rolls. It was seen that a large number of genuine voters' name was not included in the voter list. Moreover, names of many dead people remained in the voter list, many voters were enlisted in more than one place, and many were not included in the voter list for an unknown reason though they had been voters in the fourth parliamentary election.⁶ This sort of faults and irregularities as identified by CCHRB may be better explained by some specific examples as follows:

1. In the Postal Training Station area under Ward No 71 of Dhaka Metropolitan Corporation it was found that the total number of voters was 2007 and among them 334 voters left this area owing to their marriage, changes of job or profession and many other reasons, but their names were not deleted from the electoral roll. In the same area 10 voters died, 10 were enlisted in more than one places, 8 were enlisted twice in the same voter list. One female voter's name was enlisted in the male voter list and there was also mistake in writing the name of 30 voters as well as their guardians' name. For the omission of 1000 worthy voters names and for the inclusion of 362 unwanted peoples name the fair voting process in that related area could have been disturbed in many ways.⁷

⁵ *Observation Report on 5th National Parliamentary Election 1991* (Coordination Council for Human Rights in Bangladesh, Dhaka, 1991), p. 61.

⁶ *Ibid.*, p. 55.

⁷ *Observation Report on 5th National Parliamentary Election 1991*, p. 56.

2. Another observation was made on the electoral rolls of 30 villages of two unions under the Tala Thana of Satkhira District. In this area where the number of voters was 20522, it was found that among these voters 119 were dead, 154 were under aged, 110 left the area, 9 were imprisoned and 55 were not inhabitant of that area but their names were still in the voter list. Moreover, 61 people were enlisted in more than one place and 143 were plankton voters who were enlisted after the announcement of the election, but the name of 202 genuine voters were not enlisted. Similar type of faults and irregularities were also found by the physical verification of the electoral rolls in Ward No 65 of Dhaka, Metropolitan Corporation and Ward No 2 of Rasti Union and Ward No 3 of Ghatonaji Union under Madaripur District.⁸

In fact, this type of faults and irregularities occurred in many areas throughout the country but the Election Commission took initiative in eliminating them only at the eleventh hour and initiative was not at all adequate. In order to correct the voter list, January 31, 1991 was fixed for the registration of voters. Accordingly, 1,00,525 people applied for registration, but all the applications were cancelled excepting 392. According to the Election Commission, for registering fake voters many unfair means were taken, particularly in most of the applications the seal used and the attestation of signatures were counterfeited.⁹

3 DECLARATION OF ELECTION SCHEDULE

In order to hold the 5th parliamentary election the Election Commission, on December 15, 1990, declared the following schedule:

⁸ *Ibid*, pp. 59-60.

⁹ *Observation Report on 5th National Parliamentary Election 1991* (Coordination Council for Human Rights in Bangladesh, Dhaka, 1991), p. 62.

(1) Date for Submission of the nomination papers	:	January 10, 1991
(2) Date for scrutiny of the nomination papers	:	January 12, 1991
(3) Last date for withdrawal of candidature	:	January 21, 1991
(4) Date of election	:	March 2, 1991 ¹⁰

All preparations concerning the election was arranged in accordance with the above schedule, but due to the possibility of holding the holy *shob-e-borat* on March 2, 1991, Election Commission through a Gazette Notification of December 19, 1990 shifted the date of election and fixed it on February 27, 1991 instead of March 2, 1991. The date for submission, scrutiny and withdrawal of the nomination papers remained unchanged, but, with a view to ensure the maximum participation of candidates, the major political parties and alliances urged upon the Commission to change the date for submission of nomination papers. Consequently, on January 7, 1991 the Election Commission revised the election schedule as follows:

(1) Date for Submission of the nomination papers	:	January 13, 1991
(2) Date for scrutiny of the nomination papers	:	January 14, 1999
(3) Last date for withdrawal of candidature	:	January 21, 1991
(4) Date of election	:	February 27, 1991 ¹¹

A total of 3,855 candidates submitted nomination papers for 300 seats: of them 56 were rejected, 1,043 withdrew their candidature and finally 2,787 candidates contested the election race.¹²

¹⁰ *Nirbachani Karjakram Protibedon* (Report on Election Programme), Jatiya Sangsad Election 1991. (Bangladesh Election Commission, Dhaka, 1991), p. 46.

¹¹ *Nirbachani Karjakram Protibedon*, p. 46.

¹² A.S.M. Shamsur Arefeen, *Bangladesher Nirbachan 1971-2001* (Election of Bangladesh 1971-2001) (Bangladesh Research and Publication, Dhaka, 2003), p. 40.

4 CODE OF CONDUCT AND ITS VIOLATION

In conducting the fifth parliamentary election the Election Commission did a great job by prescribing a *Code of Conduct*, which was the first of its kind in the country. After a joint meeting with the representatives of 67 political parties, the Commission prescribed this instrument on January 24, 1991.¹³ The salient features of the *Code of Conduct* were as follows:¹⁴

1. All political parties and candidates would assist the law enforcing agencies in tackling any untoward situation. Everybody would remain conscious of their own rights vis-à-vis the rights of others.
2. A combined effort would be taken up by everybody to maintain the law and order situation and to ensure the security of the personnel employed in conducting the election.
3. Everybody would restrain himself or herself in issuing statements and making comments during the election campaigns to make sure that the campaign would not turn into mud-slinging.
4. If anybody is apprehended with arms by the police near the polling stations, nobody would try to free him or her.
5. All candidates would restrain themselves to acquire votes by alluring people with money.

It was also agreed upon that in order to settle any dispute among the contesting candidates, the representatives of the concerned political parties would constitute an election co-ordination committee for tackling the situation.

After prescribing the *Code of Conduct* a large number of allegations regarding its violation had been publicly raised by rival political parties. The reports of

¹³ *The Holiday* (English Weekly Newsmagazine, Dhaka, 1991), 15 February 1991, pp.1, 7.

¹⁴ *Nirbachani Karjakram Protibedon* (Report on Election Programme), Jatiya Sangsad Election 1991 (Bangladesh Election Commission, Dhaka, 1991), pp. 214-225.

violence during election campaign were being published everyday in the newspapers. On the other hand, there was no report that any coordination committee was formed in any part of the country. Although for prescribing the *Code of Conduct* the Election Commission constituted a coordinating body in collaboration with the political parties, it was never decided as to how and by whom the Code shall be enforced. Thus the Election Commission was apparently helpless to tackle the situation.

It is to be noted that the *Representation of the People Order* [RPO] 1972 lays down provisions for tackling the untoward situations during the elections and resolving the post-poll disputes.¹⁵ In accordance with the provisions of RPO 1972 as amended in 1991, to give transport facilities to voters, to give money to them or to use inelegant and indecent language attack and terrorism was strictly prohibited. The amendment had a good impact over the election and all the candidates, campaigners and supporters were aware about their activities. In course of implementation of the provisions of RPO, the Officer-in-charge of the Sadar Police Station of Vola District was temporally suspended and Officer-in-charge of Poulatkhan and Borhan Uddin Police Stations were transferred on the alleged negligence in performing his duties.¹⁶ Moreover, in order to ensure free and fair election, five Union Councils were dissolved due to the failure of maintenance of law and order within their respective area. The Chairman of the Sadar Upazila of Rangpur District was dismissed on the ground of his involvement in outlaw activities and non-cooperation with election officials and the Chairman of an Upazila of Patuakhali District was arrested and sent to jail as he made election campaign in favour of an independent candidate.¹⁷

¹⁵ *Representation of the People Order* 1972, Art 91.

¹⁶ *Observation Report on 5th National Parliamentary Election, 1991* (Coordination Council for Human Rights in Bangladesh, Dhaka, 1991), p. 26.

¹⁷ *Ibid.*

However, *RPO* did not provide for any measures for dealing with the pre-election situation created by the candidates.

In the 5th National Parliamentary Election under the caretaker Government 1991 the Election Commission enacted the *Code of Conduct* for the 1st time on the basis of the consent of 67 political parties as a part of the process to make the election free, fair and impartial, the Election Commission could not take any effective remedial measure, though it was violated.

5 VOTING ON THE POLLING DAY

On the day before the election the President of Bangladesh and the Chief Election Commissioner addressed the nation regarding election. In their speeches they asked the candidates, political parties or alliances and their supporters to make the 5th parliamentary election successful having inspired by the patriotism and democratic ideology. They mentioned that it is the sacred duty of every citizen to make full utilization of the opportunity for the free, fair and impartial national election. They warned all persons employed in election duties that any kind of hesitations, indecision or favouritism in the election activities must not be tolerated.¹⁸

A total of 24,154 polling stations and 1,12,277 polling booths were established for the purpose of holding the election. The Government deployed the army along with a huge number of police, ansar and BDR forces.¹⁹

In accordance with the election schedule declared by the Election Commission, as stated above, on February 27, 1991, polling in 298 parliamentary constituencies began at 8.00am and continued until 5.00 pm.²⁰

In most of the polling stations persons employed in election duties expressed their satisfaction at the question of security during the voting period to the

¹⁸ *Ibid.*

¹⁹ Abdul Mannan, *Democracy and Election in Bangladesh* (Aacademic Pres and Publishiers Library, Dhaka, 2005), p. 170.

²⁰ *Nirbachani Karjakram Protibedon*, 1991, p. 38.

election observers. The incident of creating pressure upon them was negligible and they showed courage to challenge any awkward incident inside the polling booth. The workers of CCHRB reported that some people were apprehended because of the allegation of casting or trying to cast fake votes in some stations. They also gathered information about the dishonest conduct of election personnel in some stations.

Another report of CCHRB discloses that the Presiding Officer of the polling station of Bakerganj-6 constituency was accused of influencing the voters to caste vote for a particular election symbol of a political party with the help of others. Another complaint was lodged against the Presiding Officer of Gachhabari station of Madhupur Thana with the allegation that he compelled the voters to go out of the polling booth No 3 and to set seal on a certain symbol to admit the voters of his own choice.²¹ The Presiding Officer of Faridpur Sadar upazila was arrested on the allegation that he influenced voters to caste vote for a particular candidate. The transport provided included rickshaws, vans, scooters, motor boats etc.²²

CCHRB observers recorded that there were a few underaged voters standing in the lines of the polling stations. Such allegations came from 785 stations out of 1436 stations observed. This finding from stations strongly supports their findings about the defects in the voter list and, obviously, one of the defects was registration of underaged voters. The total number of underaged voters counted in 785 stations was 24570 with an average of 17.11 in each station.

Allegations of false votes were recorded in a good percentage of stations. In 581 polling stations out of 1,436 stations, false votes were recorded. The total number of false votes recorded was 6,257 with an average of 4.36 in each

²¹ *Observation Report on 5th National Parliamentary Election 1991*, p. 51.

²² *Observation Report on 5th National Parliamentary Election 1991* (Coordination Council for Human Rights in Bangladesh, Dhaka, 1991), p. 58.

station. CCHRB's observation is that serious defects in the voter's list paved the way for false voting.²³

As to the defect in the voter lists, a report was published in the *Daily Morning Sun* on the day after the election. It was reported that in Roy Saheb Bazar area 230 Hindu voters' name were omitted from the list. A voter of that area informed that discrimination was not only made in the case of Hindu community, even many Muslims did not find their names in the voter lists.²⁴ Similarly, the *Daily Sambad* reported that 500 voters of Barguna District could not exercise their right to franchise.²⁵

A press release of Shamsunnahar Hall Students' Union of Dhaka University alleged that out of 800 resident students of the Hall only 365 were made voters.²⁶

Thus it is apparent that in order to ensure the correctness of the electoral rolls for the 5th parliamentary election, the Election Commission did not perform its functions properly. The Voter list prepared in the regime of Lt. 'General Hossain Mohammed Ershad in 1990 was used in 5th parliamentary election. A verification of the said voter list by CCIIRB in 1991 disclosed that many genuine voters were not enlisted in it though the names of the dead persons were enlisted and in some cases, although the addresses of some voters were changed but their names were unchanged in the previous place.

Hence, despite the neutrality of the administration and the law enforcing agencies, some basic defects remained within the electoral system. In order to remove the defects, the Election Commission took some steps but it was insignificant in comparison to the necessities.

²³ *Ibid*, p. 58.

²⁴ *The Morning Sun*, February 28, 1991.

²⁵ *The Daily Sanbad*, January 21, 1991.

²⁶ *The Bangladesh Observer*, February 28, 1991.

6 COUNTING OF VOTES

Given the importance of counting the votes, the Election Commission, on 14 February 1991, directed the concerned authorities that the counting of votes must not be done in any other place except the polling stations. In accordance with the prior direction of the Election Commission, with the completion of the polling, all the Presiding Officers throughout the country counted the ballot papers in the presence of contesting candidates or their representatives and polling agents and so long as the ballot counting was not completed they were given available opportunity to observe the counting.²⁷ It was the greatest success of Election Commission that there was no controversy about the counting of votes.

7 DECLARATION OF ELECTION RESULT

In order to avoid any confusion in the process of announcing the results, the high officials of the Election Commission Secretariat arranged a meeting with Ministry of Information as well as electronic and print media.²⁸ It was decided in the meeting that the Election Commission Secretariat should be considered the sole source of collection and announcement of election results. It was also decided not to announce any results received from any other sources except the Election Commission Secretariat. All electronic and print media continued their activities having regard to the aforesaid decisions. Collection and announcement of primary results of election continued until 12.00 noon of February 28, 1991. By this time primary results of election of all constituencies reached to the 'central results collection and distribution centre' of the Election Commission Secretariat.²⁹

²⁷ *Observation Report on 5th National Parliamentary Election 1991* (Coordination Council for Human Rights in Bangladesh, Dhaka, 1991), p. 26.

²⁸ *Election Commission's Report on the Parliamentary Election 1991*, p. 46.

²⁹ *Election Commission's Report on the Parliamentary Election 1991*, p. 52.

After the completion of polling, the announcement of unofficial results of the Parliamentary Election of 1991 began at 7.00 pm on the same day simultaneously through radio and television. The Election Commission gave special emphasis upon the collection and announcement of primary results of the election. Election Commissioners, and Secretary of the Election Commission Secretariat were present at the Election Commission Secretariat from the beginning of vote until the completion of declaration of primary results and they actively observed and supervised the collection and announcement of primary results.³⁰

The official result of 5th parliamentary election was published by gazette notification of March 6, 1991.³¹ In this election the Bangladesh Nationalist Party (BNP) had emerged as the single largest party in Parliament. The BNP secured a total of 141 seats out of 298 seats. The Awami League (AL) got 88 seats. Jatiya Party became the third largest party in the country's fifth Parliament winning 35 seats. Jamaat-e-Islami Bangladesh won 18 seats becoming the forth-largest party in the Parliament.³²

8 COMMENTS OF POLITICIANS, PRESS AND ELECTION OBSERVERS

Awami League described the atmosphere of the 5th parliamentary election as peaceful but termed the manner of the election as improper. The party alleged that the polling was featured by way of fake voting, irregularities in the voter lists, change of addresses of the voters and mysterious disappearances of the names of real voters from the lists.³³ The leader of 8-party alliance Sheikh Hasina alleged minute tricky devices in the election and mentioned that in Dhaka City evil spirit succeeded to alter the result of election by gross violation of the *Conduct of conduct* in different places of the country which

³⁰ *Ibid.*

³¹ Notification no. 5(125)/91 Election -I/National Parliament.

³² *Nirbachani Karjakram Protibedon*, 1991, pp. 48-50.

³³ *The Bangladesh Observer*, March 4, 1991.

resulted in the alteration of the election results.³⁴ However, Awami League presidium member Dr Kamal Hossain, as he then was, mentioned that the election was fair. This contradictory statement created serious reaction among the supporters of Awami League.³⁵

The then General Secretary of Awami League Begum Sajeda Chowdhury commented that 5th parliamentary election was peaceful and free, but not fair and neutral. Minute conspiracy, false vote, tricky device in voter lists and influence of black money have altered the election result. If election were fair, Awami League would have gotten absolute majority.³⁶

Referring to the irregularities in the enlistment of names of the voter's list, BNP Chief Begum Khaleda Zia remarked her party could have secured more votes if all the voters were enlisted in the electoral rolls.³⁷

Presidium member of BAKSAL and the Chairman of election management committee, Syad Ahmed mentioned that in autocracy free Bangladesh 5th parliamentary election was the first parliamentary election under a Neutral caretaker Government. Excluding some trivial accidents the election was free, fair and neutral by the effective and spontaneous participation of the people and for this he congratulated the caretaker Government, Election Commission and the administration.³⁸

Jamait-e-Islami Bangladesh expressed satisfaction at the holding of election as free, fair and peaceful and mentioned that 5th parliamentary election proved that if the parliamentary election is held under a caretaker Government that

³⁴ *The Bangladesh Observer*, March 1, 1991.

³⁵ Abdul Wahed Talukder, *Gonotontre Annesayai Bangladesh* (Pandulipi, Dhaka, 1993), p. 115.

³⁶ *The Dainik Bangla*, March 6, 1991.

³⁷ *The Dainik Bangla*, March 1, 1991.

³⁸ *The Dainik Khabor*, March 2, 1991.

should be neutral and there should not be any express or implied pressure upon election management.³⁹

Former foreign secretary Foqruddin Ahmed said that the nation was proud of having a free and fair election. For the transparency in the election people of Bangladesh deserve more credit than government. They are determined to establish mass people's ruling than the military intervention.⁴⁰

Bangladesh Mamobadhiker Bastobyon Sanstha employed some trained human rights activists in 40 constituencies for election observation. They inspected 400 polling stations and took interview of 4,000 peoples and finally came to the conclusion that everywhere in the country the election was free, fair and neutral.⁴¹

The observers of the Commonwealth, British Parliament, Japan, SAARC and National Institute of USA commented, after inspection of polling stations of several districts, that election was free, fair and neutral.⁴²

The Chief of Commonwealth observers group, Dato Pepotananavan expressed that 5th parliamentary election was free and fair. He added that successful 5th Parliamentary election was not only the greatest achievement of interim President and the Election Commission, but also the greatest victory of the people of Bangladesh.⁴³ On the day of election commonwealth group inspected 300 polling stations of 60 constituencies; British Parliamentary delegate consisting of 4 members inspected 59 polling stations of Dhaka and Sylhet Division; Japanese delegate of 6 members inspected 21 polling stations of 3 constituencies and all of them opined that recently held parliamentary

³⁹ The *Dainik Bangla*, March 5, 1991.

⁴⁰ Fakhruddin Ahmed, *op.cit.*, p. 92.

⁴¹ *Nirbachani Karjakram Protibedon*, 1991, p. 5.

⁴² *Ibid.*

⁴³ The *Dainik Bangla*, March 1, 1991.

election would strengthen the political process and would establish a new democratic system in Bangladesh.⁴⁴

The Chief of Japanese Parliamentary delegate group Herojichi Fudul expressed that on the election day while inspecting 21 polling stations of 7 constituencies of Dhaka, Mymansingh and Narayaongonj observed dutiful and disciplined attitude among the concerned agencies and co-operative mode among the election agents. Members of the delegate group opined that the people of Bangladesh desired a free and fair election and recently held parliamentary election has fulfilled their desire. They added that though there were some irregularities in voter lists, but it bore no effect on the result of election.⁴⁵

The member of British Parliamentary observer group Piter Shoer expressed that his group visited 69 polling stations in Dhaka city (Lalbag, Kotawali and Motijheel); they observed some irregularities in voter lists; some villages of Sylhet district; some voters of that area came to the polling station but their names were not found in the voter list. The observer group put emphasis on an accurate voter list, but at the same time they also mentioned that since the caretaker Government arranged the 5th Parliamentary election within a short time, it was not possible to provide an accurate vote list. One of the members of observer group previously came to Bangladesh to observe the parliamentary election of 1986. He expressed that as regards fairness and neutrality, 5th Parliamentary Election was unparallel to any parliamentary election held ever before. The observer group expressed their satisfaction about free and fair election process and opined that it would be helpful to flourish the democratic system and to open a new democratic era in Bangladesh.⁴⁶

⁴⁴ Fakhruddin Ahmed, *op.cit.*, p. 91.

⁴⁵ *The Dainik Khabor*, March 2, 1991.

⁴⁶ *The Dainik Khabor*, March 2, 1991.

SAARC delegate group observed the election management. They visited 288 vote centers of 77 constituencies and expressed that election was free, fair and in accordance with law. The highest attendance of voters and activities of various local organizations proved the effective participation of people in election. Democratic system was re-introduced by the effective participation of women and minority community. On the basis of direct observation report and collected information they came to the conclusion that the election was such that it revealed the desires of the voters accurately. They praised the steps taken by the Election Commission to present the election process transparently to the concerned political parties, local and foreign observer groups. Though the people were afraid of illegal arms, the group opined that there was not of much terrorism before and on the day of election. Out of 20000 polling stations only 24 stations were suspended. They mentioned that they had received allegation about voter lists and election expenses. Lastly, they commented that determination and fascination of Bangladeshi people and its administration towards free and neutral election had established a higher standard which might be followed by other countries of the SAARC. The arrangement and completion of such election was not any casual matter. It was the indispensable part of construction of political structure and establishment of democracy in Bangladesh.⁴⁷

Mr. Nikhil Chakroborti the famous journalist and editor of the weekly "Mainstream" published from New Delhi opined that the election of 1991 was so fair and neutral that it might be an example for other countries of SAARC. He added that the Government and news media of his own country might take necessary lesson from Bangladesh to hold election under Neutral caretaker Government.⁴⁸

⁴⁷ Fakhruddin Ahmed, *op.cit.*, pp. 90-91.

⁴⁸ *Ibid*, pp. 91-91.

Chief Justice of Indian Supreme Court Mr. V.R. Krishna Iyer commented that actually the election was the election of people, by the people and for the people; it was not the election of any authority.⁴⁹

On March 3, 1991 famous Indian daily newspaper, *The Statesmen* in its editorial titled 'Vote Instability', mentioned that in the 5th parliamentary election as BNP has not obtained absolute majority it has to depend on other parties to form the Government and it will bar the effective participation of AL in parliament. In this editorial it was commented that in future Government 'will not dispose of the cases brought against Ershad easily. The reason is that if Ershad is released he will try his best to make the government unstable.'⁵⁰

In fact, the daily newspapers and people of all classes opined that election was free and fair and therefore it was praised in home and abroad.

9 CONCLUSION

Based on the foregoing discussion it can be said that in spite of some irregularities throughout the process of election, the 5th parliamentary election was free, fair and neutral. The impartiality and sincerity of Justice Sahabuddin Ahmed and of the Election Commission have played the key role in holding transparent election. In evaluating as a whole it may be said that in the 5th parliamentary election although not much problems were seen in the measures taken by the Election Commission in respect of declaration of election schedule, counting of votes and declaration of the results, some irregularities in the preparation of the voter list, *Code of Conduct* and casting of votes were seen. Nevertheless, in the 5th Parliamentary election the role of the Election Commission was laudable in home and abroad and was deemed to be acceptable to all. In this context side by side of the Election Commission, the

⁴⁹ *Ibid*, p. 92..

⁵⁰ Fakhruddin Ahmed, *op.cit.* p. 95.

role of the caretaker Government, political parties and personalities, media and the general public was of paramount importance. At last we can say that the Election Commission succeeded to ensure a free and fair election by maintaining its neutrality and after many years the voters cast their votes without having any intimidation. However, for more free fair and impartial election the following steps are recommended for implementation by the Election Commission:

- a) The registration of voters to be completed by giving enough time to make it public and to make necessary corrections thereof and the real voters identity card should be issued as soon as practicable.
- b) There should have a consensus among the political parties that they would not engage any musclemen. If any candidate or political party acts in contrary to such consensus his candidature or the candidature of that political party's candidate should be cancelled.
- c) Election expenses can be kept down by putting restrictions on the number of camp, size and quality of posters, election of arches and subsequently to be properly examined.
- d) The independence of the Election Commission is to be effectively ensured by giving it powers to recruit its own personnel and to exercise administrative control over its staffs and should have power to cancel or hold fresh election in case of irregularities.
- e) The Representation of People Order (existing Laws relating to elections) should be amended with a view to elect best candidates.