

# Mollah's plea for retrial

FROM PAGE 20

Obaidul Hassan with members Justice Md Mozibur Rahman Miah and Judge M Shahinur Islam passed the order after a brief hearing on the petition filed on January 3.

The detained Jamaat assistant secretary general is now facing six charges of crimes against humanity committed during the Liberation War in 1971.

The two tribunals trying the war crimes suspects have so far rejected retrial petitions of five Jamaat leaders.

The defence of Mollah yesterday started placing closing arguments and the tribunal adjourned the proceeding until today.

The tribunal would deliver its verdict after summation of arguments of both the prosecution and the defence. The prosecution have already completed their arguments and may reply to the defence's arguments if they feel the need.

As the proceeding started at 10:45am yesterday, the tribunal asked defence counsel Tajul Islam if they would press the retrial petition, as a similar petition had earlier been rejected.

On January 3, the tribunal rejected retrial petition of Jamaat leader Muhammad Kamaruzzaman as it did not find any merit to consider it.

"We want to press the petition [before the tribunal] for, at least, keeping record," replied Tajul and placed his arguments.

After Tajul's brief arguments, Justice Hassan just uttered, "Similar order; [the petition is] rejected."

On December 3, the Tribunal-1 rejected the retrial petitions of former Jamaat ameer Ghulam Azam, incumbent Ameer Motiur Rahman Nizami and Nayeb-e-Ameer Delawar Hossain Sayedee.

The flurry of retrial petitions began after an alleged Skype conversation between former Tribunal-1 chairman Justice Md Nizamul Huq and expatriate legal expert Ahmed Ziauddin was published by a Bangla daily in December last year.

On December 11, Justice Nizamul stepped down citing personal reasons.

After disposal of Mollah's retrial petition, Abdur Razzaq, chief of the defence of detained Jamaat leaders, started placing arguments in the case.

Razzaq in three and quarter hours placed almost similar arguments, which he placed during charge framing hearing of the case.

Placing documents of parliament proceedings on formulation of the International Crimes (Tribunals) Act, 1973, Razzaq said the "intention" of formulation of the law was to try 195 Pakistani army officials, who were "prisoners of war".

Razzaq said the government has incorporated "any individual or group of individuals" with the ICT Act, 1973 bringing its amendment in 2009, but the then government expunged almost similar words from the ICT Act's bill in 1973 only to try the members of armed and their auxiliary forces.

"The government brought the amendment to try civilians only for political purposes," he added.

There was a separate law - the Collaborator Order, 1972 -- to try the civilians who committed crimes during the war, said Razzaq, adding that there is no scope to try Mollah under the ICT Act, 1973.

But the indictment order says, "It appears that the offences punishable under the Penal Code was scheduled in the Collaborator Order, 1972, while the 1973 Act was enacted to prosecute and try the crimes against humanity, genocide and other system crimes committed in violation of customary international law.

"In the case [Quader Mollah's case] in hand, we have found that there are sufficient grounds to presume prima facie that the accused was associated with the perpetration of the offences enumerated in the 1973 Act," the order further says.

Razzaq said the 195 Pakistani army officials, who were the principal perpetrators, were given clemency through a tripartite agreement among Bangladesh, India and Pakistan in 1974, and after 40 years "their aides and abettors" were being prosecuted.

"Do you think that aides or abettors couldn't be tried unless bringing the principal perpetrators under trial?" asked Judge Shahinur Islam.

Razzaq replied in the affirmative.

The indictment order says, "Such agreement [tripartite] indeed was an executive act that cannot provide any premium to other perpetrators committing offences in breach of customary international law for the reason of forgiveness or immunity shown to those 195 war criminals.

"The Act of 1973 has enumerated abetting and aiding as distinct offence and punishable there under," it adds.

Razzaq said the trial was being held after 40 years, but the prosecution failed to give a reasonable explanation for the delay.

"I wouldn't say that the trial can't be held after such delay, but there should be a reasonable explanation for it. But the prosecution have failed to do it," said Razzaq and gave examples of war crimes trial across the world.

"The purpose of the trial is political and that is why this delay," added Razzaq.

The tribunal asked

Mohammad Ali, conducting prosecutor of the case, to give their reply in this regard.

Razzaq is set to resume his arguments today.

Meanwhile, the tribunal yesterday modified its earlier order fining Mollah Tk 10,000 apparently for "obstructing expeditious disposal of the case".

The tribunal asked Mollah's counsel Farid Uddin Khan, instead of his client, to pay Tk 5,000 to Anjuman Mofidul Islam, a voluntary organisation providing humanitarian services, as he had admitted his faults.

On January 3, the tribunal fined Mollah as he filed four almost similar petitions for more defence witnesses and asked his counsels to give a compliance report yesterday.

But Farid Uddin yesterday said his client was not responsible for the fault and as a counsel he was responsible and sought exoneration from the fine.

The tribunal modified its order and asked Farid to give compliance report tomorrow.

ICT-1 The defence of war crimes accused Ghulam Azam yesterday prayed to the International Crimes Tribunal-1 to adjourn the day's proceeding but could not show any strong reasons for that.

The tribunal however accepted the petition and adjourned the proceeding for the 'ends of justice' until today.

Justice Jahangir Hossain Selim and Justice Anwarul Haque conducted the proceedings.

Yesterday was fixed for the prosecution's argument in the case.

The defence prayed to the tribunal that they had filed a petition to allow them produce their witness before the argument, though they could not produce any of their witnesses yesterday.

Prosecutor Zead Al Malum opposed their petition saying the defence had been allowed adjournment four times earlier and prayed the tribunal to allow him to begin his argument.

The tribunal directed the defence to produce their witness today without failure.

War crimes accused Delawar Hossain Sayedee's counsel had filed two petitions with the tribunal to bring contempt of court proceedings against a journalist of private television channel ATN Bangla and the director general and a reporter of Bangladesh Television (BTV) for interfering with the administration of justice and prejudicing the case.

The tribunal fixed January 10 for hearing of the petitions.

## Messi wins

FROM PAGE 1

Ronaldo and Barcelona teammate Andres Iniesta for the prize.

Messi received a vote share of 41.60 percent to 23.68 for Ronaldo and 10.91 for Iniesta.

Messi and former French star, UEFA president Michel Platini, had before yesterday been the only players to win three straight Ballon d'Or awards while Dutch greats Johan Cruyff and Marco Van Basten both won the accolade on three occasions.

Spain's Vicente del Bosque was named coach of the year for 2012, seeing off competition from Real Madrid's Jose Mourinho and former Barcelona coach Josep Guardiola.

Messi's success crowned another landmark year for the Argentine who is already the top scorer in La Liga for the ongoing season with 25 goals, having also broken Gerd Mueller's 40-year record for the most goals in a calendar year.

He finished 2012 with an astonishing 91 goals in all competitions.

But Messi has insisted his scoring records will mean nothing if Barcelona do not go on to take the La Liga title off Real or fail to win the Champions League.

"It is incredible to receive this prize once again and it's impressive it makes it four in a row. I would like to share this with my Barca teammates - particularly with Andres, who is here with me," said the ever unassuming Messi.

"I am proud to be able to train alongside him every day. I am also thinking of my teammates in the Argentina squad," he went on.

"Thank you to all those who voted for me, skippers, coaches and national coaches.

"Thank you too to my family, my friends and of course my wife and son, who is the best thing that ever happened to me," said the 25-year-old from Rosario, who in November became a father to son Thiago.

Beforehand he had said winning for Barcelona outweighed any personal glory.

"It's nice to beat records but the win for the team is what is important. My goals are to win titles with the team, the Spanish league, Spanish Cup or Champions League is more important than any personal records."

Barca coach Tito Vilanova had already eulogised his player in advance of Messi's win.

"Leo's great quality is that he plays as if he is still a child," Vilanova opined.

"He was always good as a youngster and you didn't need to be a coach to say that. It was a joy to see him play as a 15-year-old and that continues now."

Portugal captain Ronaldo at least has the consolation of having won in 2008 before Messi's hegemony began while Iniesta can for his part bask in the knowledge that he has won a World Cup and two Euros - including Euro 2012 - whereas Messi still has to replicate such achievements at international level.

Until he can lift top honours with Argentina, some observers will insist he cannot be classed as the greatest player ever, moving ahead of Pele and Diego Maradona.

## 3 killed in oil depot blaze in India

AFP, Ahmedabad

Three people were killed by a fire at an oil depot in the western Indian state of Gujarat, officials said on Sunday.

One of the nine storage units of state-run Indian Oil Corporation (IOC) caught fire in Surat city on Saturday, said police officials, in a blaze which took firefighters 21 hours to bring under control.

"The three victims were welders who were trapped in the inferno," a police official said by telephone from Surat, some 270 kilometres (167 miles) from Ahmedabad, Gujarat's main city.

The cause of the fire was not immediately known and Indian Petroleum Minister Veerappa Moily, who visited the smouldering site, said an enquiry has been ordered.

# BNP likely to join

FROM PAGE 1

formal decision in this regard," Moudud Ahmed, a member of the national standing committee of BNP, told The Daily Star yesterday.

The opposition lawmakers will demand discussions on a number of issues including law and order, pervasive corruption, price hike of essentials, share market crash, Padma bridge scam and foreign policy, he said.

"We will also speak for the opposition's core demand for installation of a non-partisan election-time government," Moudud added.

Even if the Speaker does not accept any of the opposition MPs' motions for discussion, they will have uninterrupted time to speak and criticise the government by participating on the thanksgiving motion on the president's address.

The opposition MPs may need joining the House proceedings at least for a day during the upcoming session to avert the risk of losing membership on grounds of absence.

They last joined the House sitting on March 20 last year and started another round of parliament boycott.

Sources in the parliament secretariat said the opposition lawmakers belonging to BNP, Jamaat-e-Islami and Bangladesh Jatiya Party have been absent from parliament proceedings for 50 consecutive sittings.

If the New Year session has 40 more sittings, the opposition MPs including Leader of the Opposition Khaleda Zia will lose membership for absence from the House for 90 consecutive sittings.

And the treasury bench, if it wants, can continue the session for more than 40 sittings as the New Year session usually witnesses more than 30 sittings on an average, parliament officials mentioned.

"BNP was thinking of joining the New Year session a few days back. But some recent political developments complicated the situation. So, now I am not sure if the opposition MPs will effectively participate in the House proceedings," a BNP policymaker said, wishing anonymity.

Earlier, keeping off the House for around a Year, Khaleda Zia and other opposition MPs joined its sitting on March 18 last year and

participated in the thanksgiving motion on the president's address.

On March 20, Khaleda Zia, also BNP chief, spoke for one hour and 53 minutes, and urged the government to resolve the crisis developing over the caretaker government issue.

The opposition MPs then started boycotting the House from its next sitting on March 29.

The opposition lawmakers, who had joined the inaugural sitting of the present parliament, opted for boycotting the House in phases.

First, they started keeping away from the House proceedings in June 2009 and continued the boycott till February 2010.

They returned to parliament on February 10, 2010, following absence from 64 consecutive sittings.

A fresh boycott began in June 2010 and continued until March 16, 2011. By that time the opposition lawmakers were away from the House for 74 consecutive sittings. Then they stormed out of parliament on March 24, 2011 and returned on March 18, last year, ending their boycott of 77 sittings.

# Hearing to be held

FROM PAGE 20

Delhi on December 16. She died two weeks later in a Singapore hospital.

The attack on the student has ignited protests against the government and anger towards the police for their perceived failure to protect women. It has also provoked a rare national debate about rising violence against women.

A police guard said the men had their faces covered when they entered the courtroom, which had been closed to the public minutes earlier.

The five had already been charged with murder, rape and abduction along with other offences and the magistrate gave them copies of the charges, a prosecutor in the case told Reuters.

The court has yet to assign them defence lawyers or legal aid, said public prosecutor Rajiv Mohan. Most lawyers are unwilling to defend them because of the brutality of the crime.

Reuters video images showed the men stepping out of a blue police van that brought them from Tihar jail, and walking through a metal detector into the South Delhi court, across the street from the cinema where the victim watched a film before boarding the bus with a male friend on December 16.

Following shouting and angry scenes in the packed court, the magistrate, Namrita Aggarwal, closed the hearing to the media and the public. The court was cleared and police were posted at its doors before the accused were brought in.

"Keeping in view the sensitivity of this case that has risen, the proceedings including the inquiry and trial are to be held in camera," Aggarwal said, before ordering people not connected with the case out of the courtroom.

Aggarwal said the next hearing would be on January 10. She did not say when the case would go to trial in a separate, fast-track court, set up after the attack on the woman.

Two of the accused, Vinay Sharma and Pawan Gupta, moved an application on Saturday requesting they be made "approvers", or informers, against the other accused, Mukesh Kumar, Ram Singh and Akshay Thakura, prosecutor Mohan said.

Mohan said he was seeking the death sentence given the "heinous" crime.

"The five accused persons deserve not less than the death penalty," he said, echoing public sentiment and calls from the victim's family.

But yesterday, lawyers Manohar Lal Sharma and V K Anand stood up to offer representation to the men. They were heckled by other lawyers who said the accused did not deserve representation.

"We are living in a modern society. We all are educated. Every accused, including those in brutal offences like this, has the legal right to represent his or her case to defend themselves," Lal Sharma said.

The court asked Anand to get the approval of the accused to represent them. If the men, most of them from a slum neighbourhood, can not arrange their own lawyers, the court will offer them legal aid before the trial begins.

Police have conducted extensive interrogations and say they have recorded confessions, even though the five have no lawyers.

Legal experts say their lack of representation

could give grounds for appeal should they be found guilty. Similar cases have resulted in acquittals years after convictions.

Last week, chief justice Altamas Kabir inaugurated six fast-track courts to help reduce a backlog of sex crime cases in Delhi.

But some legal experts have warned that previous attempts to fast-track justice in India in some cases led to imperfect convictions that were later challenged.

The sixth member of the gang that lured the student and a male friend into the private bus is under 18 and will be tried in a separate juvenile court.

The government is aiming to lower the age teenagers can be tried as an adult, given widespread public anger that the boy will face a maximum three-year sentence.

The victim, who died on December 29 in hospital in Singapore, where she had been taken for treatment, was identified by a British newspaper on the weekend but Reuters has opted not to name her.

Indian law generally prohibits the identification of victims of sex crimes. The law is intended to protect victims' privacy and keep them from the media glare in a country where the social stigma associated with rape can be devastating.

But her father repeated yesterday his wish that she be identified and said he would be happy to release a photograph of her.

"We don't want to hide her identity, there is no reason for that. The only condition is it should not be misused," he told Reuters.

He said he was confident the trial would be quick and reiterated a call that those responsible be hanged.

## Feud over

FROM PAGE 20

councillor of Ward-56 BNP unit, disappeared on June 25, 2010 from the capital's Indira Road and Wazi Ullah on July 14, 2011 from Phulbaria of Dhaka.

Rafiqul was among those who were thought to have links with the disappearance of Wazi Ullah. The six other suspects are Meer Al Mamun, Abdur Rahman alias Rahman Hujur, Jalal Ahammad, Kala Rafiq, Kibria Hossain and Jahangir - all members of the markets' management committee.

According to sources, the name of hawkers' rehabilitation, two markets -- Dhaka Super Market and Bangladesh Super Market -- were constructed in 1999 on railway's land taken in lease for 99 years. Later, the two pieces of land were shown as Waqf estates. During the last army-led caretaker government, the markets were brought under a single project, Dhaka Mohanagar Complex. Rahman Hujur and Rafiqul gained control over it in 2009.

Chowdhury Alam was not in the market's management committee but used to play a key role in shop distribution in both markets. Wazi Ullah and Bablu were his main aides.

The following year Chowdhury Alam disappeared as he was trying to get back his control. And then Wazi Ulla went missing in 2011.

Chowdhury Alam's younger brother Khurshid Alam Mintu told The Daily Star yesterday, "We suspect my brother might have been disappeared over a feud related to the market. We also think that law enforcers were responsible for his going missing."

According to sources, another feud developed when Rafiqul wanted to be the president of the market management committee.

"Though Rafiqul was a BNP leader, he was running his activities and businesses in association with those Awami League leaders, who are also in the market committee," said a source in the committee.

At least three Awami League lawmakers have been included in the market committee soon after the AL came to power.

Contacted over the phone, Rafiqul's brother Mazfuz Rahman said they were not yet ready to make any comment.

Zahid Hossain Nawab, convenor of the Ward-56 unit BNP, said Rafiqul was a vice-president of the market committee and the member secretary of the convening committee of Ward-56 unit BNP.

Besides, he was a general secretary candidate for Ward-56 unit BNP and also a councillor aspirant for the upcoming election to Dhaka South City Corporation.

Zahid said the new ward committee was scheduled to be formed within a month.

Contacted, Lt Col Ziaul Ahsan yesterday said Rab had not picked up Rafiqul and that they were trying to find out those who had and killed him later.

Meanwhile, traders and employees of Mohanagar Complex vandalised at least 50 vehicles yesterday, during a demonstration protesting the killing of Rafiqul.

They also kept the market closed yesterday.

Our Correspondent in Kushtia reports: No case has been filed in connection with the murder and none has been arrested as of yesterday.

## Karzai leaves Afghanistan for US talks

AFP, Kabul

President Hamid Karzai yesterday left Afghanistan for talks with Barack Obama in Washington to focus on security in his war-torn country after Nato combat troops withdraw in 2014, his office said.

During his three-day official visit, a decision could be made on how many US troops will stay in Afghanistan after 2014, officials have said.

"President Karzai will hold separate meetings with President Barack Obama and other high-ranking US officials to discuss various key issues," Karzai's office said after his departure.

# River commission

FROM PAGE 1

"Nobody consulted me about the law," said Syeda Rizwana Hasan, the chief executive of Bangladesh Environment Lawyers Association.

It was her petition following which the High Court directed the government to form the commission.

"If the commission is just another recommending body without any statutory power, it would not be able to take any action if any decision is not implemented," she said.

Rizwana called for an open discussion before the placing of the draft in parliament.

Columnist Syed Abul Maksud said this commission will just work as a government office, not an independent institution. "It will fail to work properly because it got no statutory power."

The government already has 14 authorities and agencies involved in different aspects of river management.

These bodies, lacking coordination, have failed to agree even on the number of rivers crisscrossing the country.

As per Bangladesh Water Development Board the number is 259 while a publi-

cation of Bangladesh River Institute puts it at 312. According to the 2010 chart of Bangladesh Centre for Environment and Geographic Information System, there are 405 rivers in the country.

In reply of a question, Water Resources Minister Ramesh Chandra Sen told parliament a few months ago that at least 97 rivers were dying due to the lack of water flow during the dry season.

Shipping Minister Shajahan Khan at a programme on Sunday said the country has lost over 20,000 kilometre of river transport route out of 24,000km because of loss of navigation over the years.

Talking to the BBC Bangla Service yesterday on the proposed commission, Tohidul Anwar Khan, former member of India-Bangladesh Joint Rivers Commission, said many positive recommendations were not implemented in the past.

"Still," he observed, "the initiative to form the commission will help create awareness to some extent."

Back in 2009, the High Court also directed the government to demarcate river banks, set pillars along the

river areas and stop pollutions.

It also ordered immediate steps to dredge the Buriganga, Turag, Balu and Shitalakkhya rivers around the capital and remove the dirty materials deposited in the riverbeds within the next two years.

The court also asked the authorities to dredge Jamuna-Dhaleshwari, Dhaleshwari-Buriganga, Old Brahmaputra-Bangshi, Bangshi-Turag, Jamuna-Punglikhal, Turag and Tongi canals within five years.

The government on several occasions pledged to stop river grabbing and pollutions.

Interestingly, during the implementations of the decisions, public officials have virtually encouraged encroachment along the shorelines of the river Buriganga and Turag through conducting "controversial and improper" surveys.

Bangladesh Paribesh Andolon (Bapa) and Green Voice last year urged the prime minister for taking necessary steps to stop the setting up of demarcation pillars in an unfair manner along the four Dhaka rivers, and to remove the encroachments.