

# Liberation war affairs secy made OSD

STAFF CORRESPONDENT

Liberation War Affairs Secretary KH Masud Siddiqui was made officer on special duty (OSD) yesterday.

The secretary faces allegations of having obtained a freedom fighters' certificate through false documents to extend his tenure in service. He was also accused by a government probe body of purchasing subpar crests awarded to foreign friends in recognition of their contributions to the 1971 Liberation War.

The Ministry of Public Administration issued a gazette notification in this regard yesterday.

According to the notice, MA Hannan, additional secretary of the environment and forests ministry, has been made acting secretary of the liberation war affairs ministry.

The public administration ministry had sent a proposal regarding Siddiqui to the Prime Minister's Office for approval and PM Sheikh Hasina approved the move on Thursday.

Making someone an OSD is regarded as a punishment posting.

Siddiqui, who was supposed to go on a year's leave preparatory to retirement (LPR) from October 30, used the freedom fighters' certificate through forged documents last year to have his tenure extended.

The Anti-Corruption Commission (ACC) is

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A deserted government jute buying centre in Bera upazila in Pabna. Only three out of 12 jute buying centres are purchasing due to a funds crunch. The photo was taken yesterday.

PHOTO: AHMED HUMAYUN KABIR TOPU

## Jute growers

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breakthroughs in jute genomics opened up new avenues for further growth of the "golden fibre", and jute has been made mandatory in manufacturing many packaging products.

BJMC sources said since December 2012, the corporation had to pay an extra Tk 720 crore to its mill workers in arrears, thanks to a government-announced wage hike last year and that also with retrospective effect from 2009.

"Of the amount, the government provided us with only Tk 400 crore and the rest were borne by us. Otherwise, we wouldn't have walked a tightrope," said another BJMC official.

Besides, the government owes BJMC over Tk 131 crore more in outstanding subsidy expenditures for the reopening of three mills closed since January last year.

Contacted, BJMC Secretary Abdun Noor Muhammad Al Firoz claimed that they were trying their best to persuade the government for early release of fund. Otherwise, he feared, the sluggish jute market would act as a disincentive for the growers.

Firoz's fear is well reflected in the words of seasoned jute broker Shukur Ali.

A trader from Tangail, Shukur buys jute from different markets and supplies it to wholesalers and stockists on a commission.

"I've seen from my 20-year experience that the jute prices increase in markets every year just after the farmers' stocks are exhausted. Wholesalers and stockists make the real profits, not the farmers," he pointed out.

According to the daily monitoring of the BJMC, a quintal of jute sold at Tk 3,800 yesterday, whereas it could have been up to Tk 5,000 had the company not been cash-strapped.

# A plea goes in vain

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the government had formed a parliamentary body three years ago, and asked it to come up with recommendations for amendments to the charter.

At the invitation of the parliamentary body, three former chief justices and some eminent jurists sat with it on April 24, 2011 and gave their opinions.

Justice Mustafa Kamal and Justice Fazlul Karim, two former chief justices, Attorney General Mahbubey Alam and ex-attorney general Mahmudul Islam strongly opposed restoring parliament's power to impeach judges.

They suggested keeping the SJC system, and said reforms could be made in the system, if needed.

Both Mahbubey Alam and Mahmudul Islam informed the parliamentary body about the anxiety and fear of Supreme Court judges over the idea of restoring parliament's power to impeach judges, according to the proceedings of the meeting.

"My friends and juniors, who are now serving as judges, have already expressed their anxiety over it, and many of them are in a state of panic," Mahbubey Alam told the parliament-

tary body.

"If we go back to the previous provision [on impeachment of judges], then I will say, independence of the judiciary will be at stake," feared Mahmudul.

Law Minister Anisul Haq, however, claimed that the proposed amendment would not affect the independence of the judiciary.

"Parliament should have the power to ensure accountability and transparency of the judiciary," he said.

Justice ABM Khairul Haque, chairman of the Bangladesh Law Commission and a former chief justice, also spoke in favour of the proposed constitutional amendment.

"There is no reason for Supreme Court judges to panic if parliament gets the authority..." Justice Haque said at a press briefing at his office hours after the cabinet approved the proposal.

Interestingly, when Justice Khairul was a High Court judge in 2005, he declared the fifth amendment to the constitution illegal and void, but condoned the introduction of the SJC.

In its report to the parliamentary standing committee on the law ministry in June, the law commission recommended restoring parliament's powers.

"Parliament represents people. So, all people, including judges, should be accountable to parliament," he argued.

Talking to reporters after the cabinet meeting, Cabinet Secretary M Musharraf Hossain Bhuiyan said the law ministry's proposal mentioned that the existing SJC system was in conflict with Article 7 of the constitution, which says all power of the state belongs to the people.

He said the 1972 constitution had given this power to parliament. But the power was transferred to the SJC by an amendment to the constitution through a martial law proclamation during the rule of Gen Ziaur Rahman in 1978.

The secretary, however, skirted around the fact that it was the then AL-led government that had curtailed parliament's power to impeach judges in early 1975 through the fourth amendment to the constitution.

At the time, the president was given the authority to impeach judges.

Gen Zia curtailed the president's powers and introduced the SJC, which was ratified and validated by the fifth amendment to the constitution in 1979.

In February 2010, the Supreme Court upheld the 2005 HC verdict declaring the fifth amendment illegal and void, and said the SJC system would be valid till December 31, 2011.

Around six months before the provision on the SJC was to expire, the AL-led government included it in the 15th amendment to the constitution, allowing the SJC to continue.

According to the provision, the SJC comprising the chief justice and two senior judges of the Appellate Division investigates allegations of misconduct against any SC judge, and makes necessary recommendations to the president for the next course of action.

In defence of scrapping the provision, the law minister told the cabinet yesterday that parliaments in India, New Zealand, Germany, Australia, South Africa, Canada and the US had

the power to impeach judges of the apex court.

In a statement attached to the amendment proposal, the law ministry said parliament's authority to impeach judges should be restored as part of the process of a return to the original constitution of 1972.

According to the proposal, parliament could impeach an SC judge on grounds of misconduct or incapacity by passing a resolution with at least a two-thirds majority. The president will then issue an order to this effect.

By enacting a law, parliament may regulate the impeachment procedure and investigation into the misconduct and incapacity of a judge, it said.

The law minister told reporters that the 16th constitution amendment bill would be placed in the upcoming parliament session, and a law would be enacted on the impeachment process within three months of the constitution being amended.

At yesterday's cabinet meeting, Commerce Minister Tofail Ahmed referred to Dr Kamal Hossain's comment that restoring parliament's power to impeach judges was a very

serious issue, and the government should take experts' opinions before deciding on it, said a meeting source.

Posing a question why the eminent jurist made such comment, Tofail said the provision was first included in the 1972 constitution, and Dr Kamal Hossain was the architect of that constitution, according to the source present at the meeting chaired by the prime minister.

Taking part in discussion, Fisheries and Livestock Minister Saidul Haque said this provision was very important and time befitting, and the government should have restored it long ago.

With the scrapping of the SJC system, parliament will have the power to impeach those holding constitutional posts, such as chief election commissioner and election commissioners, public service commission chairman and its members and comptroller and auditor general.

Currently, parliament enjoys the authority to impeach the president, the speaker and the deputy speaker. It can also dissolve the cabinet by passing a no-confidence motion.

## Justice M Kamal

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dignity of lawmakers.

"It is defamatory and frustrating for you [MPs], if you are to impeach a judge after being elected to parliament on people's vote. You will certainly not enjoy doing this work. And certainly, you will not want to take this work on your hands," said the former chief justice.

"You can do nothing if parliament is empowered with this authority. The Indian parliament has the power. But how many judges have been impeached by the Indian parliament over the past

60-70 years?" Justice Kamal said.

In defence of continuing with the Supreme Judicial Council, he said the principle of jurisprudence is that no one should be judged other than one's own peers.

"For this, if an individual in the civil service commits any misconduct, we hold his trial by his senior officers. Similarly, if a district judge commits any offence, he is investigated by a senior district judge from another place and then he is punished," he continued.

He said, "Now you [MPs] can ques-

tion the outcome of the Supreme Judicial Council. How many judges were expelled or punished?"

Justice Kamal, who was first a member and later chairman of the council, spoke about the weaknesses in the existing system.

"I could not catch [anybody]. The council has not been given any sort of investigative agency or power. It does not have any mechanism to investigate," he said. "Please, strengthen the Supreme Judicial Council. Try to provide it with investigative mechanisms," he added.

## Ajmalul

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parliament's authority to impeach judges.

"In my view, it will be more effective of a check and balance if the authority goes to parliament ... then there will be a pressure on them [judges]," he said.

He said the Indian parliament had the authority but it could not use its powers effectively.

"But the problem is, India could never do it. It has also never happened here. I don't know whether it will happen now, maybe not," he mused.

"The question of impeachment will not arise if we can appoint good judges. This [impeachment system] will exist just as a check," he added.

## BNP rally

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first ever rally in the capital in the seven months since January 20.

Dhaka Metropolitan Police on at least three occasions earlier denied the BNP and Jatityatabadi Ainjibi Forum permission to hold rallies in the city where the BNP chief was scheduled to speak.

Contacted, Rizvi Ahmed said the party had obtained verbal permission from the DMP to hold today's rally and it had made all-out preparations to make the rally a success.

On Aug 16, the DMP gave verbal permission to the BNP-led alliance for a silent procession on city streets to protest the Israeli offensive in Gaza. It was the first street programme of the 20-party after the January 5 election.

The DMP, however, set the condition that provocative words must not be used, sticks must not be carried, and the procession must end before sunset, said party insiders.

The new convening committee of Dhaka city BNP and Jamaat-e-Islami have made huge preparations to make the programme a success. It means to send out a message to the government about the ability of the alliance to wage a strong movement, insiders added.

According to party sources, leaders of all units of the party and its associate bodies have been asked to work hard for a big showdown in the city centring on the rally.

## Careless driving

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As a dejected Rifat started crying, he got hit by a Pajero sports utility van (SUV) and died around 8:30am while he was being rushed to a city hospital.

"If only he checked into the bathroom where I was, his pulpy limbs would not be crushed and his soft head would not be hit like this," cried Shah Alam, 35, Rifat's father. A tailor by profession, Alam lives in Mirpur-2.

Rekha Begum, Rifat's mother, could hardly talk and fainted every few minutes.

"I want my son back. I want those culprits to bring my son back. If it was not for the driver's reckless driving, my son would never die," said a wailing Rekha.

Locals said Rifat got hit when the driver was turning his car around. The car came there to drop a student at the Savdar Ali school, they added.

"It was a narrow street. If the driver was careful, this accident would not happen," said Matiur Rahman, sub-inspector of Mirpur Police Station.

Alam and his family members, however, did not file any case as they reached a negotiation with Shahjahan Bhuiyan, the car owner. As per the negotiation, Alam received Tk 2.50 lakh from Shahjahan.

"The victim's family and the car owner worked out a negotiation. That's why we handed over the body to Alam without conducting an autopsy," said Matiur.

## 'Missing' documents

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to the matter, particularly in response to requests made in 2011 under the Right to Information Act by The Daily Star for access to the record.

The development has revived hopes of justice being done in the case. The pharmaceutical company was sued in 1992 over the deaths of 76 children from consumption of adulterated paracetamol syrup. The trial had opened in the same year, but stopped two years later as the DGDA failed to produce evidence before the court.

The trial in the case was subsequently stayed by a High Court order in 1994 until the stay order was vacated in 2011.

The Drug Court on August 6 sent complainant Abul Khair Chowdhury, assistant director of the DGDA, to prison for ignoring its orders 18 times since 2011 about testifying in the case. He was released four days later upon a written pledge by the DGDA that it would produce the records before the court.

The set of documents submitted to the court yesterday included a test report of the BCI-produced adulter-

ated Paraceton syrup. The test was carried out at Mohakhali government laboratory.

Judge Abdur Rashid exhibited the documents as evidence in the case and fixed August 28 for the next hearing in the case.

BCI (Bangladesh) Ltd was one of the four pharmaceuticals whose paracetamol syrup, meant for consumption by children, was tested positive for containing diethylene glycol, which is believed to have caused fatal renal failure in children suffering from fever.

Court records showed that two accused from one of the companies, Rex Pharma, secured acquittal in 2003 as the prosecution never produced any evidence. The trial court verdict was never challenged in the higher courts.

On July 22, an owner and two staff members of another company, Adflame Pharmaceuticals, were sentenced to jail for 10 years each for tainting paracetamol syrup the same way.

The case against Polychem has been stayed since 1994 due to the same reason, namely, non-availability of evidence.

## Justice Fazlul Karim

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"But many [MPs] may not perceive which offence happens in which context in court. So, there lies a concern about misjudgement," he feared.

He said the original constitution (of 1972) had empowered parliament with the authority to impeach. The council was introduced later and nobody had raised any voice against it for a long time, he said.

"I think it will be better for all if this [the council system] can be imple-

mented in a suitable way."

Justice Karim, who too was first a member and then chairman of the Supreme Judicial Council, said, "I have noticed that there is no problem in the way we can investigate [into allegations] properly through evidence and witnesses. Therefore, it is better to leave the court's matter to the court."

He said it was important to have accountability of judges. Judges were accountable to their conscience but in this day and age "I think it is not true".

## Mahmudul Islam

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impeach judges.

He said the systems in other countries need to be followed. In many countries, parliaments enjoy the power to impeach judges.

"Pardon me, we are panicking about leaving the fate of judges and others to parliament in the present situation. If we go back to the past provision, then I will say, independence of the judiciary will be at stake," said Mahmudul Islam, who is a senior advocate of the Supreme Court.

He asked if it was possible to enact any law to establish some fundamental rules and to set some criteria and transparency so that none of the judges could be made victims.

"I give [you] an example. The day before yesterday some judges came to me. They told me that if the Supreme Judicial Council was abolished and the present parliament got back its earlier authority, it might take action against some judges. If the government changes and another party comes [to power], it will take action against some others

[judges]. Such a situation cannot be expected. You should consider what to do so that the independence of judges is maintained."

He also spoke about the stringent restrictions imposed on MPs by Article 70 of the constitution.

The restrictions imposed by the article do not allow MPs to vote independently. They must abide by the party decision, whether right or wrong, since an MP will lose his or her membership of parliament if he or she goes against the party decision in the House.

## Mahbubey Alam

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been moved to the Supreme Judicial Council.

"All of my friends and my juniors who have become judges have already expressed their concern over the matter and many of them are in panic," he said.

He said the Awami League-led government formed in 1996 had appointed 16 judges to the High Court.

"You know how cruelly they were not confirmed [not made permanent by the BNP-led government]."

He said this government might not do anything after getting the necessary powers, but what will happen if a future government removes and appoints judges wholesale?

The attorney general suggested reforms to the Supreme Judicial Council.

He said the council had the chief justice and two other senior most judges of the Appellate Division of the Supreme Court. He proposed including three other members -- the attorney general, a senior member of the Bar Council and an MP nominated by the Speaker.

"The Supreme Judicial Council will consist of the six and not everyone a judge. In case of a tie on any decision, the matter will go to parliament," he proposed.