TOXIC PARACETAMOL SYRUP CASE

Why 2 drug officials won't be removed

HC asks govt to report in 72 hrs

STAFF CORRESPONDENT

The High Court yesterday asked the government to inform it within 72 hours what steps had been taken against two high officials of the drug administration for their inefficiency and incompetence in dealing with the case filed for manufacturing toxic paracetamol syrup that killed at least 28 children in 2009.

The officials are Assistant Director of the Directorate General of Drug Administration Shafiqul Islam and its Deputy Director Altaf Hossain.

Health secretary and director general of the Directorate General of Health Services have also been asked to report to the HC why Shafiqul and Altaf will not be removed from the services for their negligence, incompetence and inefficiency.

The HC bench of Justice Syed Muhammad Dastagir Husain and Justice Md Ataur Rahman Khan passed the order after Supreme Court lawyer Manzill Murshid had filed a petition on behalf of Human Rights and Peace for Bangladesh.

The organisation submitted the petition to the HC yesterday, challenging the legality of the government's action keeping Altaf and Shafiqul in the services despite their negligence, incompetence and inefficiency.

From June to August in 2009, at least 28 children across the country died of renal failures allegedly caused by Rid Pharma's paracetamol syrups and suspensions.

On July 22 that year, the drug administration sealed off Rid Pharma's factory in BSCIC area of Brahmanbaria following wide media coverage of the children's death.

In August the same year, Shafiqul Islam, the then superintendent of drug administration, filed the case with the Dhaka Drug Court and only five prosecution witnesses testified after the court indicted the five accused in March 2011.

The five are Rid Pharma's Managing

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Tigers revert to type

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Even more than the wickets, it was the farcical way in which Bangladesh negotiated the last 20 minutes that should anger and worry their fans. Imrul Kayes, after having been dropped on 25 by Chandimal at deep square leg off Suranga Lakmal in the 52nd over, refused to curb the attacking instinct and paid for it when, in the 57th over, he went for a pull off chinaman bowler Lakshan Sandakan to a ball that was not short enough for the shot and was out leg-before for 34. Taijul Islam, sent in as the nightwatchman, was beaten by a googly and was adjudged out leg-before upon review the next ball. Shakib Al Hasan came in and hit his first ball for a cross-batted four through midwicket, hinting that this was not to be an ordinary passage of play.

In the next over, Sabbir Rahman who batted in one-day style to reach 42 off 53 balls, was oblivious to the ring of leg-side fielders and went ahead with a pull shot off Lakmal to be caught at leg slip. Shakib then tried his best to get out, repeating his hattrick-delivery shot in Sandakan's next over before a pull shot aimed for the stands was dropped by Upul Tharanga at deep midwicket. The last over produced a wild hook shot played above his head which, fortunately for Bangladesh, landed a few feet short of the onrushing deep square leg fielder. Mushfiqur Rahim, who perhaps for the first time in his international career actually seemed to react angrily to a Shakib shot when the latter was dropped in the previous over, then played out the last ball of the day.

Earlier in the last session Soumya became the second Bangladesh opener after Tamim to hit three successive half-centuries, reaching the landmark with a risky glide past first slip for three. Soon he was out for a score between 50 and 100 for the third time in succession as he was bowled by a Lakshan Sandakan googly which the left-hander played around with a big gap between bat and pad for the ball to shoot through.

In the morning, Bangladesh began the second day much in the same vein as they did the first, conceding just 12 runs in the first 7.5 overs. It was Shakib Al Hasan and Mustafizur Rahman who tied things up. Shakib pushed through a quicker one to Herath in the first ball of the 92nd over and the Sri Lanka skipper was late on it, resulting in an edge which was juggled and then held at slip by Soumya Sarkar, and Herath walked back with a 91-ball 25 with Sri Lanka on 250 for eight.

Chandimal showed technical proficiency in dealing with the good balls while punishing anything that was slightly off point. Boundaries in successive overs after Herath's departure -- a majestic pull off Subashis Roy and a canon-fired reverse sweep off Shakib -- took him to 99. It was off a leading edge through cover that Chandimal reached his eighth Test ton, and his fourth against Bangladesh in six matches.

With the score nearing his coach's expressed minimum of 300 and Mushfiqur becoming more defensive, Chandimal gave notice of his intent to dominate with an imperious pick-up six off Mustafizur -- who had kept things quiet until then -- in the 103rd over. Around that time, Chandimal had begun to farm the strike, seemingly not with the intent of protecting his partner as Lakmal was coping well, but to maximise the deliveries he faced in order to score runs faster.

Chandimal finally toe-ended a slog-sweep off Miraz in the 106th over to be caught for 138 by Mosaddek, who was positioned in front of square to save singles.

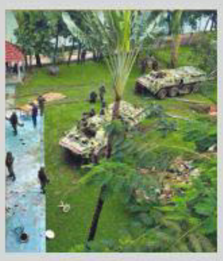
Mustafizur at short midwicket then dropped a hard catch to give Sandakan a life off Miraz in the 110th over, but perhaps one of Bangladesh's weaker fielders should not have been in a catching position. Lakmal then hit two fours and a six over square leg in Miraz's next over, before Subashis Roy's reintroduction in the 114th over saw Lakmal top-edge a pull into the hands of third man to be out for his Test best of 35 and bring an end to Sri Lanka's innings on 338 as lunch was taken 15 minutes after the scheduled time.

After lunch, Bangladesh's opening pair of Tamim Iqbal and Soumya Sarkar put on their third successive 50-plus opening stand of the series after putting on 118 and 67 in Galle. Tamim was a little fortunate on two and 43 when Herath chose not to review two leg-before decisions turned down off Lakmal and Sandakan in the third and 19th overs respectively. Both would have been out if reviewed as replays showed a majority of the ball hitting the stumps.

Once he crossed 40, Tamim seemed intent on attacking every delivery outside off stump that spinner Lakshan and Herath bowled, perhaps in an attempt to get to his fifty or damage the bowlers' confidence. But it was his tendency to play across his front pad, with around six minutes to go for tea, that cost him as a Herath delivery rapped him on the pads in front of middle stump, and this time the Sri Lanka skipper decided to go for the review. Aleem Dar's decision was overturned and Tamim was out for 49 after a 95-run opening stand to signal the tea interval.

ANTI-MILITANCY OPERATIONS

DATE: **JULY 1, 2016**
NAME: **OPERATION THUNDERBOLT**
PLACE: **HOLEY ARTISAN (GULSHAN)**



THOSE KILLED: **5 MILITANTS, 1 CHEF, 20 HOSTAGES**
COPS HURT/KILLED: **2 KILLED**
ARRESTED: **0**

DATE: **JULY 26, 2016**
NAME: **OPERATION STORM 26**
PLACE: **KALYANPUR**

THOSE KILLED: **9 MILITANTS**
COPS HURT/KILLED: **1 INJURED**
ARRESTED: **1**

DATE: **AUG 27, 2016**
NAME: **OPERATION HIT STRONG 27**
PLACE: **NARAYANGANJ**

THOSE KILLED: **3 MILITANTS**
COPS HURT/KILLED: **0**
ARRESTED: **0**

DATE: **OCT 8, 2016**
NAME: **OPERATION SPATE 8**
PLACE: **GAZIPUR**

THOSE KILLED: **9 MILITANTS**
COPS HURT/KILLED: **2 HURT**
ARRESTED: **0**

DATE: **DEC 24, 2016**
NAME: **OPERATION RIPPLE 24**
PLACE: **ASHKONA, UTTARA**

THOSE KILLED: **2 MILITANTS**
COPS HURT/KILLED: **1 HURT**
ARRESTED: **2**

DATE: **MARCH 15, 2017**
NAME: **ASSAULT 14**
PLACE: **SITAKUNDA, CTG**

THOSE KILLED: **4 MILITANTS**
COPS HURT/KILLED: **4 HURT**
ARRESTED: **2**

* 16 militants were killed, 10 cops injured and nine people were arrested in different raids from July 1, 2016 to this March 16.
Two policemen were killed in the Sholakia attack in Kishoreganj on July 7, last year.

4 militants killed in Ctg raid

FROM PAGE 1

Police also claimed to have recovered explosive substances at one of the rooms of the building. They said it was possible to make 40 to 50 powerful bombs with the substances.

Deputy Inspector General (DIG) of Chittagong Range Shafiqul Islam while briefing reporters on the spot around 10:30am, however, gave a slightly different version.

Two male militants tried to walk up the staircase, shouting "Allahu Akbar". They tried to come close to the SWAT team members and detonated their suicide vests, he said.

"Seeing this, the SWAT members fired on them. One of them fell on the ground, but the other vest exploded," he added.

Police entered the building after the explosion and found four dead bodies lying there. "We have seen four dead bodies. Two of them were in very poor shape," he said.

Asked how the other two suspected militants were killed, he said, "I assume they were killed in the blast. They were perhaps behind the other two militants who were in the front.

"Of the four, one was gunned down. The other three were killed in the explosion," he said.

Shafiqul also said they were assuming that the militants were planning to target foreigners who are in Bangladesh and assisting in various development projects of the government.

After the SWAT operation, which was aided by the bomb disposal unit of CTTC and CMP and Chittagong district police, 20 tenants, stuck inside the two-storey building, were rescued unharmed.

They were taken to hospitals afterwards.

Police tracked down the hideout hours after they busted another "Neo JMB" den only a kilometre away around 3:00pm on Wednesday, and arrested two suspected militants who claimed to be a couple.

THE OPERATION

Around 3:30pm on Wednesday, police tried to start the operation at the Premtala hideout but their attempt failed as several families were inside the building. Police then kept the building – Chhayaneer -- cordoned off.

Around 6:00am yesterday, the SWAT members started their operation. As they made it to the rooftop, a large explosion was heard. Police then started firing incessantly. Five minutes later, everything became quiet, police and witnesses said.

Police fired sporadic gunshots with regular intervals until 6:15am. At that time, another small explosion was heard. Two minutes later, police resumed firing. Then again, everything became quiet.

Finally around 6:28am, a large explosion was heard with a fire ball erupting from the centre of the building, they said. The explosion jolted the entire area.

DIG'S BRIEFING

When asked whether Maynul Islam Musa, co-coordinator of "Neo JMB" in Chittagong, was among the dead, DIG Shafiqul Islam, during his briefing said, they were yet to identify the bodies.

He also said the man and the woman caught from the other den on Wednesday were not giving any information to the law enforcers.

Meanwhile, Rehena Begum, owner of the building, told our staff correspondent in Chittagong that two men, identifying themselves as brothers-in-law, rented the building two months ago.

Rehena's elder son Mohiuddin said the two men claimed that they were rubber traders and were from Cox's Bazar's Ramu upazila. They also submitted photocopies of the national ID cards to the landlord.

The Daily Star correspondent saw the photocopies but could not verify whether the NIDs were genuine.

Man forcibly cuts students' hair in school

OUR CORRESPONDENT, *Faridpur*

The man who went to a Faridpur school, claiming to be the "assistant personal secretary to the state minister for expatriate welfare", and cut the hair of at least five students on Wednesday was apparently troubled.

There is no state minister for expatriate welfare.

Pranab Kumar Ghosh, upazila nirbahi officer of Bhanga upazila in Faridpur, told The Daily Star yesterday that a three-member investigation committee, led by the upazila secondary education officer Abdur Rahim, visited Bhanga Pilot High School to investigate the matter.

Quoting Rahim, UNO Pranab said Sheikh Bappy Elahi entered the school around 1:30pm introducing himself as the APS of the non-existent

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It was illegal

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Talking to The Daily Star, Ahsanul Karim, counsel for nine of the 17 companies, said that when and how the government would refund the money would be known after the apex court releases the full verdict.

Replying to a question, he said it is unclear whether the other companies that were also forced to deposit money the same way would get a refund.

If they decide to file petitions, it would be up to the court whether to accept those or not, he added.

Talking to reporters after the SC verdict, counsel for the central bank Barrister M Amir-Ul Islam said it was a matter to ponder how the government would give back so much money to the companies.

He said the government would decide whether it would seek review of the SC judgment.

Contacted, S Alam Group Chairman Saiful Alam said businesses were victims of circumstances and forced to pay the money during the last caretaker government's rule.

He said seven firms owned by his group had to deposit Tk 60 crore with the BB at that time.

If the money had been deposited with a bank, it would have doubled in 10 years, Saiful pointed out.

"If I could invest the money in setting up new industries, many new jobs would have been created, and the country could have got tax from import of raw materials and increased industrial output," he said.

During the 2007-08 tenure of the army-backed caretaker government, an unprecedented anti-corruption crackdown was launched by army-led taskforces under the National Coordination Committee.

The joint forces investigating high-profile financial crimes had interrogated a number of corruption suspects and businesspeople.

At least 40 companies and individuals had to deposit more than Tk 1,200 crore with the central bank following the drive.

After an elected government took office in January 2009, the companies approached it on several occasions to get back their money. But the government didn't entertain their requests.

Later, the 17 companies filed writ petitions with the HC, seeking a refund with interest.

In their petitions to the HC, the companies alleged that they were threatened with serious consequences and asked to pay the government the amounts fixed by the then DGFI officials.

However, in its letters to the BB and the ministries concerned, the DGFI claimed that the companies willingly agreed to deposit the money as out-of-court settlement for not prosecuting them for their hidden money, according to the HC verdict.

During the hearing of the case, the BB informed the court that it had never demanded the said amount from the petitioners. Even the petitioners didn't submit any proof regarding the demand from the central bank.

The petitioners willingly issued pay orders of different banks and handed over those to the DGFI for depositing the proceeds in the government account, argued the BB counsel.

The HC delivered 11 verdicts on different dates between 2010 and 2015 and directed the government to return the money to the companies, declaring the money collection illegal.

In one of its judgments on August 24, 2010, the HC also asked the government to return the money and take legal action against those who forced the companies to deposit the money through abuse of power.

The HC, however, didn't entertain the petitioners' prayers for ordering the government to give them interest against the deposited money.

According to a rough estimate, interest on Tk 615 crore could be more than Tk 430 crore at an annual interest rate of seven percent for 10 years.

"If this court passed any order directing the authority to pay interest, in that case the same is to be made either only from the public fund or from the Consolidated Fund which is not permissible in the eye of law," said the HC judgement.

"For the wrong of some individual persons, the government namely the public fund cannot be subjected to any loss or injury."

"There is no scope to allow any interest or excess money either from the consolidated fund or from the public fund as because the state is not responsible for such type of deposition of money as because the same is not in accordance with law," it noted.

"The petitioners, in no circumstances, can claim any such interest or additional amount as because the same is not permitted by the Parliament," the HC said in the verdict following the writ petition filed by the Consolidated Tea and Land (Bangladesh) Ltd.

Analysing the related constitutional provision, the HC said a person cannot be subjected to pay a single penny without the sanction of parliament.

The HC declared unlawful the action of forcing the companies to deposit the money.

Separation that never ends

FROM PAGE 1

judiciary. Here is the reason for his frustration:

The constitution of 1972 made a provision for separation of the judiciary from the executive. But none of the successive governments did anything on their own to fulfill this constitutional obligation.

Twenty-five years after the enactment of the constitution, the High Court in May 1997 in a landmark verdict asked the government to separate the judiciary in line with the constitutional provision.

The HC delivered the judgement in response to a writ petition filed by 441 judicial officers who were judges in different civil courts.

They had challenged the legality of the creation of BCS (Judicial) Cadre along with other BCS executive and administrative cadres by Bangladesh Civil Service (Reorganisation) Order 1980.

The then AL-government challenged the judgement. It filed an appeal with the Appellate Division of the Supreme Court.

Upholding the HC verdict, the Appellate Division in its milestone ruling in December 1999 issued 12-point directives to the government to separate the judiciary.

The directives included formation of a separate judicial service commission to take care of the appointment, promotion and transfer of members of the judiciary in consultation with the SC and a separate judicial service pay commission, amendment of the criminal procedure and new rules for the selection and discipline of members of the judiciary.

Being defeated, the government opted for buying time to take necessary measures like formulation of rules and regulations to implement the judgement until the tenure of the AL-led government ended in October 2001.

After the changeover in power, the BNP-led government in its five-year tenure did the same.

Both AL and BNP-led governments from 1999 to 2006 took more than two dozen time extensions to complete the necessary work.

This expediency of seeking time extension by the previous governments shows their unwillingness to implement the apex court verdict to separate the judiciary.

Finally, it was the caretaker government of 2007-08 period that took effective steps to separate the judiciary.

In November 2007, it officially separated the judiciary from the executive based on the constitutional directive principles and the SC judgment in the Masder Hossain case. Some rules were also made.

The separation, however, irked the admin officials who lost their judicial clout following the separation. They went on to stage demonstrations against the move in October 2007.

The process was not completed however. Complications prevailed over issuing the gazette notification on the rules determining the discipline and code of conducts for lower court judges.

The government sent the draft rules to the SC for its opinion last year. The court revised the draft by curtailing the law ministry's control over lower judiciary and sent it back to the government for approval.

But the government was in no hurry to do so. It has already taken several time extensions. On Tuesday, it again applied for time extension resulting in an expression of dissatisfaction by the SC at the government's failure to issue the gazette notification within the specified timeframe.

On November 7 last year, the SC expressed disappointment that the government did not finalise the rules outlining the job disciplines for lower court judges.

On Tuesday, the government was again granted two weeks time to do the work.

DREAM FOR AN INDEPENDENT JUDICIARY

Framers of the constitution had envisioned an independent judiciary free from the control of the executive branch of the government.

Considered a result of the Liberation War, the constitution, in article 22, unambiguously says: "The State shall ensure the separation of the judiciary from the executive organs of the State."

Separation of the judiciary is one of the fundamental principles of the state policy and independence of the judiciary is one of the basic tenets of the constitution enacted in 1972.

Independence of the judiciary has been undermined on several occasions since 1975 through constitutional amendments. During the two martial law regimes, independence of the judiciary has been compromised even more.

The SC on several occasions also urged the government to restore the provisions of the original constitution of 1972 for effective separation of the judiciary from the executive. But nothing happened.

ITS IMPORTANCE

"Judicial independence does not exist to serve the judiciary; nor to serve the interests of the other two branches of the government. It exists to serve and protect not the governors but the governed," Sir Gerard Brennan, former chief justice of Australia, said in November 1996 in a judicial conference.

An independent judiciary is regarded as the hallmark of good governance, rule of law and exemplifies the sought-after goal of separation of powers of the state.

"It is the judiciary which is entrusted with the task of keeping every organs of the State within the limits of the law and thereby making the rule of law meaningful and effective," observed the Supreme Court of India in a judgment.

World Justice Project in its report on rule of law index of 2016 said effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small.

"It is the foundation for communities of peace, opportunity, and equity -- underpinning development, accountable government, and respect for fundamental rights," it adds.

In the index Bangladesh ranked 103 out of 113 countries. The poor ranking shows the sorry state of rule of law in Bangladesh and the deficiency in the independence of judiciary.