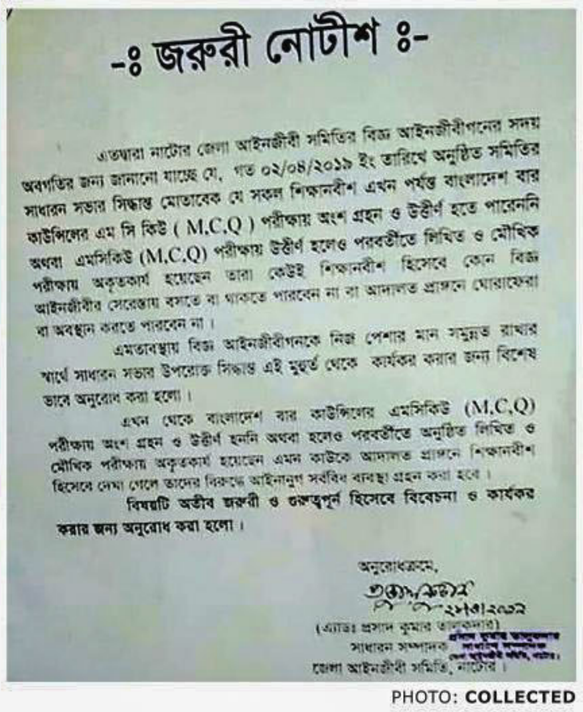

-ঃ জরুরী নোটীশ ঃ-

এতদ্বারা নাটোর জেলা আইনজীবী সমিতির বিজ্ঞ আইনজীবীগনের সদয় অবগতির জন্য জানানো যাচ্ছে যে, গত ০২/০৪/২০১৯ ইং তারিখে অনুষ্ঠিত সমিতির সাধারন সভার সিদ্ধান্ত মোতাবেক যে সকল শিক্ষানবীশ এখন পর্যন্ত বাংলাদেশ বার কাউন্সিলের এম সি কিউ (M.C.Q) পরীক্ষায় অংশ গ্রহন ও উত্তীর্ণ হতে পারেননি অথবা এমসিকিউ (M.C.Q) পরীক্ষায় উত্তীর্ণ হলেও পরবর্তীতে লিখিত ও মৌখিক পরীক্ষায় অকৃতকার্য হয়েছেন তারা কেউই শিক্ষানবীশ হিসেবে কোন বিজ্ঞ আইনজীবীর চেম্বারে বসতে বা থাকতে পারবেন না বা আদালত প্রাঙ্গনে ঘোরাফেরা বা অবস্থান করতে পারবেন না।

এমতাবস্থায় বিজ্ঞ আইনজীবীগনকে নিজ পেশার মান সমুন্নত রাখার স্বার্থে সাধারন সভার উপরোক্ত সিদ্ধান্ত এই মুহুর্ত থেকে কার্যকর করার জন্য বিশেষ ভাবে অনুরোধ করা হলো।

এখন থেকে বাংলাদেশ বার কাউন্সিলের এমসিকিউ (M.C.Q) পরীক্ষায় অংশ গ্রহন ও উত্তীর্ণ হননি অথবা হলেও পরবর্তীতে অনুষ্ঠিত লিখিত ও মৌখিক পরীক্ষায় অকৃতকার্য হয়েছেন এমন কাউকে আদালত প্রাঙ্গনে শিক্ষানবীশ হিসেবে দেখা গেলে তাদের বিরুদ্ধে আইনানুগ সর্ববিধ ব্যবস্থা গ্রহন করা হবে।

বিষয়টি অতীব জরুরী ও গুরুত্বপুর্ন হিসেবে বিবেচনা ও কার্যকর করার জন্য অনুরোধ করা হলো।

অনুরোধক্রমে,
২৯/৩/২০১৯
(এডঃ প্রসাদ কুমার তালুকদার)
সাধারন সম্পাদক
জেলা আইনজীবী সমিতি, নাটোর।

PHOTO: COLLECTED

LAW OPINION

A preposterous directive on the apprentice lawyers

MD. RIZWANUL ISLAM

THE delay in the advocate enrolment examination has already fermented deep frustration among many aspiring lawyers rightfully feeling betrayed by a pathetically slow system where even the order of the Appellate Division to "complete the enrolment process of the applicants to be enrolled as advocates in the district courts each calendar year" is not always complied with. A recent directive signed by the General Secretary of Natore Bar Association would not only be hurting them but also shows a deplorable lack of respect to the aspiring lawyers from those who are already in the profession. The directive states that in a general meeting of Natore Bar Association held on 2 April 2019, it had been decided that an apprentice lawyer who has not sit for or has sit for but failed to pass the MCQ part of the lawyer's enrolment examination or passed the MCQ, but yet to pass the written or viva-voce part of the examination, would not be allowed to sit in the court chamber of lawyers or roam around the court premises as apprentice lawyers. The directive warns that anyone violating this would be subject to all lawful measures.

It is high time that the leadership of Bangladesh Bar Council plays its role in dealing with this kind of a preposterous directive which does nothing to uphold the dignity of the bar and undermines the dignity of aspiring lawyers and also in turn, that of the legal profession.

The directive appears to be misconceived from a legal point of view. While the *Bangladesh Bar Council Canons of Professional Conduct and Etiquette* (Canons) does not provide anything on the treatment of apprentice lawyers, Rule 10 of Chapter I states that "[j]unior and younger members should always be respectful to senior and older members. The latter are expected to be not only courteous but also helpful to their junior and younger brethren at the Bar". While the Rule only spells out the duty to be helpful and courteous to the junior colleagues, i.e. enrolled lawyers, the message of mutual respect is unmistakably palpable. It may be argued that the same philosophy should apply to the apprentice lawyers and thus, it runs counter to the spirit of the Canons, if not its letters. By being in the court chamber of lawyers or roaming around the court premises as apprentice lawyers, the aspiring lawyers do not violate any law of the land. Thus, it would have been interesting if the directive specified under what legal authority and what kind of legal action the Bar Association envisages to take measures against any apprentice lawyer violating its dictate.

Indeed, it is dubious that the Bar Association even possesses the power to make any directive as to who would be roaming in the court premises as the court is a public place. The Association has a role in upholding the standard of the legal profession, not to decide who stays in the court premises as apprentice lawyers. The Bangladesh Legal Practitioners and Bar Council Rules, 1972 requires that before being admitted as an advocate, a person must take training regularly for a continuous period of six months as a pupil in the Chamber of an Advocate who has a practising experience of at least 10 years. Indeed, preparing notes on the cases on which an apprentice has assisted the senior lawyer is a part of the lawyer's enrolment examination. So, it is not understandable when apprentice lawyers are prevented from sitting in the court chamber of lawyers or roam around the court premises as apprentice lawyers, how they can comply with these prerequisites for entering the legal profession. By this token, it would appear that the directive squarely contradicts the Bangladesh Legal Practitioners and Bar Council Rules, 1972 for which the office-bears of the Association should be legally answerable.

Beyond the question of the legal infirmity of the directive, its moral vapidity and undesirability are patent too. It shows an utter disrespect to the apprentice lawyers who would be junior colleagues in days to come. While an apprentice is not yet a lawyer, she/he is working to be one. There is a widespread perception held by many in the legal community in Bangladesh that many apprentice lawyers do not pay enough attention to the court practice. Observing the court proceeding as an apprentice lawyer is an integral part of the grooming of these would be lawyers and the Bar Association should have no business in preventing this. This is not just an issue of rights and dignity of the apprentice lawyers, but also an issue of not giving them enough space to hone their professional skill which may contribute to the deterioration of the standard of the profession.

To give the directive the benefit of the doubt, one may perceive it intended to prevent touts masquerading as apprentice lawyers cheating unsuspecting litigants which have sometimes been an issue. However, the unequivocal wording of the directive leaves little room to take this line of reasoning, as it targets 'apprentice lawyers'. If touts are targeted, then they would have been targeted categorically. If for the sake of argument, we assume that the directive is actually not intended to target bona fide apprentice lawyers, then it is sad that the Bar Association has been so sloppy in conveying its message. It is high time that the leadership of Bangladesh Bar Council plays its role in dealing with this kind of a preposterous directive which does nothing to uphold the dignity of the bar and undermines the dignity of aspiring lawyers and also in turn, that of the legal profession.

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FOR YOUR INFORMATION

Bridging the standardisation gap

THE World Telecommunication Day (WTD), celebrated annually on 17 May, marks the anniversary of the founding of International Telecommunication Union (ITU) on 17 May 1865. On the day, the International Telegraph Convention was signed. Later, the growing importance, information technology also demanded attention alongside telecommunications. In 2005, the World Summit on the Information Society (WSIS) called upon the United Nations General Assembly to declare 17 May as World Information Society Day (WISD) with the aim of focusing on the importance of technology and its social and economic implications. In 2006, the UN General Assembly declared the day as World Information Society Day (WISD). Later that year, the ITU Plenipotentiary Conference in Antalya, Turkey, decided to combine both celebrations as World Telecommunication and Information Society Day (WTISD).

World Telecommunication and Information Society Day (WTISD) aims to raise awareness about the social and economic possibilities that the use of the Internet and other information and communication technologies (ICT) can bring about. It also works to bridge the digital divide between the developed, developing and underdeveloped countries. Every year, World Telecommunication and Information Society Day (WTISD) is celebrated around a particular theme. The 2019 theme is "Bridging the Standardisation Gap".

Bridging the Standardisation Gap (BSG) is a fundamental part of ITU's mission to connect the world. It is also one of the 5 strategic objectives of ITU's standardisation sector (ITU-T). The BSG programme mainly addresses the disparities in the ability of developing countries to access, implement and influence ITU's international standards in comparison to that of the developed countries. The programme aims to ensure proper participation of developing countries in ITU's standards-making process. It also works to disseminate information about existing standards and assist developing countries in the implementation of standards.

ITU is the specialised agency of the United Nations for information and communication technologies (ICTs). Setting standards is a fundamental pillar of its work. ITU standards help accelerate ICTs for all Sustainable Development Goals. The 2019 theme will allow ITU Membership and other key stakeholders to focus on the participation of developing countries in ITU's standards-making process; empowering local experts in the standardisation process at the national, regional and international levels; and promoting the implementation of international standards in developing countries.

In observance of the Day, Bangladesh Submarine Cable Company Limited (BSCCL) under the Ministry of Posts, Telecommunications and Information Technology hosted an online essay competition centered around this year's theme. The topics are "Safe Internet for Everyone" and "Challenges and Opportunities of 5G Mobile Technology" for school level and college/university level students respectively.

COMPILED BY LAW DESK (SOURCE: UN.ORG & ITU.INT).

COURT CORRIDOR

Compensating transboundary environmental harm

MUZAHIDUL ISLAM

ON February 2, 2018, the International Court of Justice (ICJ) awarded compensatory damages to Costa Rica for internationally wrongful activities of Nicaragua. Nicaragua carried out certain dredging activities on the San Juan River and excavated several canals across Costa Rican territory from the River to Laguna los Portillos (or "Harbor Head Lagoon") which caused harm to the rich biodiversity of the disputed area in Costa Rica.

One of the great significances of this dispute lies in the fact that this is the first time the ICJ ventured into the path of awarding compensation to the affected State in case of transboundary environmental damage. Furthermore, the ICJ discussed several methodologies for calculating compensation in this dispute and strived to determine the nature of claims that can be upheld for damages if they fulfill certain criteria.

Referring to the jurisprudence of reparation developed in *Chorzow Factory* case, the ICJ declared that "damage to the environment and consequent impairment or loss of the ability of environment to provide goods and services is compensable under international law". Furthermore, the Court found compensation to be payable under two categories- 'indemnification of the impairment or loss of environmental goods and services in the period prior to the recovery' and 'payment for restoration or recovery of the damaged environment'.

Although several issues regarding the calculation of damages for causing transboundary environmental harm is unsettled in this case, this judgment is a definite starting point. It can pave way for holding States accountable and can deter States from causing transboundary harm. The ICJ declared compensation of US$ 120,000 for impairment or loss of environmental goods and services in the impacted area prior to recovery and US$2,708.39 for restoration costs and US$236,032.16 for associated monitoring costs and other expenses. This development is rather significant since it covers a broad range of environmental harm. This might warrant the attention of States involved in activities which may contribute to environmental degradation.

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LAW ANALYSIS

The legal regime on food safety and human health

THE High Court Division (HCD) had issued a suo motu rule asking the respective authorities regarding adulteration of dairy products and cattle food, as evidenced by government report. During the hearing on the said rule, on May 8, the HCD ordered the Bangladesh Food Safety Authority to report on those found responsible for the said adulteration before May 15. The concerns regarding food safety in Bangladesh have again come to the forefront.

In light of Article 15 of the Bangladesh Constitution, a fundamental duty of the State is to secure provision of the basic necessities of life including food. Article 18 of the Constitution states that the State shall raise the level of nutrition and improve public health as its primary responsibility. These provisions, even though they appear in the Constitution as fundamental policies and not as fundamental rights, certainly cannot be taken as flowery aspirations. There have been quite a few decisions on constitutional law emphasising on the significance of these policies and on how the State is under an obligation to strive for achieving the standard of lives.

The Penal Code of 1860 made food adulteration punishable under sections 272-276. However, those provisions could not effectively control the manufacture and sale of adulterated food articles. With a view to protecting consumers from the effect of widespread adulteration of very many kinds of foodstuff, the Pure Food Ordinance was promulgated in 1959. Repealing the Pure Food Ordinance of 1959, the Food Safety Act of 2013 came up.

In order to carry out the purposes of the Act of 2013, the Bangladesh Good Safety Authority has been established. The main duties and functions of the Authority, as enshrined in the Act, are to regulate and monitor the activities related to manufacture, import, processing, storage, distribution and sale of food so as to ensure access to safe food through exercise of appropriate scientific methods, and to coordinate the activities of all the organisations concerned with food safety management.

The Act has also envisaged the formation of a Committee (Central Food Safety Management Coordination Committee) to coordinate among the authorities or organisations involved directly or indirectly in food safety management system. The entire edifice of food safety authority under the auspices of the Act does not consist of decentralised bodies. Both the Committee and the Authority (head office) are based in Dhaka.

Besides individual duties for any person producing food, the Act has laid down special duties for food business operators. For individuals, the use of poisonous elements, radioactive, heavy metals in excess of acceptable limit, food additives or processing aids, growth promoters, insecticides, pesticides or drug residues, microbes, among others, is prohibited. Production, import or marketing of adulterated article of food or food ingredient as well as production of sub-standard food is also prohibited under the Act. The Act has separately imposed certain special liabilities upon producers, packers, distributors and sellers of food.

One of the major drawbacks of the Pure Food Ordinance 1959 was that it provided for minor penalties for different kinds of offences. The Law Commission convincingly argued in its report and recommendation for amendment to the now repealed Ordinance that '[...] taking advantage of [the] minor penalties the unscrupulous traders started mixing injurious materials with almost every food articles like fruits, vegetables, fish, meat, flour'. One of the ideas behind enacting the new piece of legislation was therefore to enhance punishment. The Schedule of the new Act provides for a plethora of penalties for offences committed under the Act. For instance, the imposable punishment for using or including any chemical or other such ingredients or substance (such as calcium carbide, formalin, sodium cyclamate), is imprisonment for a period not exceeding five years but not less than four years, or a fine not exceeding Taka ten lac but not less than Taka five lac, or with both. This penalty is imposable for the commission of the above-mentioned offence for the first time. For repetition, imposable penalty is imprisonment for five years or a fine of Taka twenty lac, or both.

A comparison with the previous Ordinance will make us decipher the fact that penalties have certainly been increased. However, it is interesting to note that the penal and monetary punishments have been laid down as alternatives to each other which suggests that it is possible for the business operators to get away with paying the monetary fine only. An important change however is that minimum penalty has been prescribed for each and every offence. This limits the discretion of the Authority and also the civil court (when civil remedies are sought for) to a certain extent upon finding fault on part of the accused.

The rule that has been issued by the HCD has reignited discussion on a significant issue. The observations made by the HCD can certainly bring about important changes to the discourse on food safety management in the country as well as to the status quo.

FROM LAW DESK, THE DAILY STAR.