

# **International Crimes Tribunal-1**

## **Old High Court Building, Dhaka, Bangladesh**

**ICT-BD Misc. Case No. 02 of 2013**

**Chief Prosecutor Versus Human Rights Watch and 2 others**

**Present**

**Mr. Justice A.T.M. Fazle Kabir, Chairman**

**Mr. Justice Jahangir Hossain, Member**

**Mr. Justice Anwarul Haque, Member**

**Order No. 3**

**Dated 02.09.2013.**

Today is fixed for passing an order on the application for Contempt under Section 11(4) of the International Crimes (Tribunals) Act, 1973 filed by the Chief Prosecutor praying for drawing up proceedings against Human Rights Watch and its two officials who have been cited as opposite party Nos. 1 to 3 in the application.

The Chairman and two members of the Tribunal are the Judges of the Supreme Court of Bangladesh. This Tribunal was lawfully constituted as a judicial forum on 25<sup>th</sup> March 2010 by the government to try offences of Crimes against humanity genocide, War Crimes and other class International Crimes as specified in section 3(2) of the International Crimes (Tribunals) Act, 1973.

Mr. Golam Arif Tipu, the learned Chief Prosecutor with Mr. Zead-Al-Malum, Mr. Sultan Mahmud, Ms. Tureen Afroze and Mr. Taposh Kanti Boul, the learned prosecutors moved the application for contempt in the open court. The learned prosecutors have submitted that the Tribunal by observing provisions of laws as provided in the Act as well as its Rules of Procedures, completed the trial of accused Professor Ghulam Azam and delivered its judgment on 15.07.2013 in ICT-BD Case No. 06 of 2011 convicting and sentencing him to suffer imprisonment for 90 years under section 20(2) of the Act for the commission of offences as specified in section 3(2) read with section 4(2) of the Act.

It is submitted that two Appeals have been preferred against the order of conviction and sentences of Professor Ghulam Azam which are now pending in the Hon'ble Appellate Division of the Supreme Court of Bangladesh, despite of the fact, opposite party Nos. 1 to 3 willfully made illegal comments on the subjudice matter which is extremely unethical too.

It is further submitted that opposite party No.3 wrote an Article under the direct supervision of opposite party No. 2 and the said Article was published on 16.08.2013 in the official website of the opposite party No. 1 namely (<http://www.hrw.org>) with the following caption. “ Bangladesh: Azam Conviction Based on flawed proceedings”.

In the said Article dated 16.08.2013, the opposite party Nos. 1-3 have unauthorisedly criticised both the judgment and the Hon'ble Judges of the Tribunal in the following manners:-

(a) Judges of the Hon'ble Tribunal improperly conducted an investigation on behalf of the prosecution in the Azam case.

(b) There was collusion and biasness among prosecutors and Judges in the Azam Case.

(c) The Tribunal failed to take steps to protect defence witnesses of the Azam case.

(d) There were changes in the Judicial Panel during trial of Azam Case and

(e) There was lack of evidence to establish guilt beyond reasonable doubt in the Azam Case.

Therefore, it is prayed for drawing up contempt proceedings against opposite party Nos. 1-3 for publishing a biased, baseless, false, fabricated and malafide Article dated 16.08.2013 (Annexure-A) for scandalising the Hon'ble Judges of the Tribunal.

On perusal of the application for contempt and the alleged Article dated 16.08.2013 (Annexure –A) and having considered the submissions of the

learned prosecutors, we are of the opinion that there are sufficient grounds before us to draw up contempt proceedings against the following opposite parties:-

1) Human Rights Watch, represented by its Board of Directors, 350 Fifth Avenue, 34<sup>th</sup> Floor, New York, NY 10118-3299 USA.

2) Mr. Brad Adams, Executive Director, Asia Division, Human Rights Watch, 100 Bush Street, Suit 925, San Francisco, CA 94104, USA.

3) Mr. Storm Tiv, Associate, Asia Division, Human Rights Watch, 1630 Connecticut Avenue, N.W., Suite 500, Washington, D.C. 20009.

### **Allegations of the proposed contempt proceedings**

(1) That the opposite parties most unethically made five illegal comments mentioned above about the trial process of Professor Ghulam Azam in the Article dated 16.08.2013 on a subjudice matter knowing fully well that two Appeals against the order of conviction and Sentence are now pending before the Hon'ble Appellate Division of the Supreme Court of Bangladesh. Thus, they have illegally intervened in the judicial process of an independent country.

(2) That the opposite parties neither made an enquiry into the matter to find out truth nor they attended the Tribunal to observe trial process of Azam Case, but they hypothetically made biased, baseless, fabricated and scandalous report in the Article dated 16.08.2013 with intent to create hatred about the performances of the Judges and thereby making the whole trial process questionable.

(3) That they, the opposite parties have deliberately as well as unethically cast a slur on the dignity and reputation of the Judges by their scandalous report published on 16.08.2013 in their official website which have tarnished the image and honour of the Judges of the Tribunal in the estimation of the people at home and abroad.

Therefore, for the reasons stated above, notices be issued upon opposite party Nos. 1-3 to give reply within 3 weeks as to why contempt proceedings

under section 11(4) of the International Crimes (Tribunals) Act, 1973 shall not be initiated against them.

Let a copy of the order containing notice be served upon opposite party Nos. 1 to 3 through the Ministry of Foreign Affairs, Dhaka.

The Registrar shall take necessary measure to get the notices served as directed by the Tribunal.

Let the matter be placed on 30 September, 2013 for further order.

**(A.T.M. Fazle Kabir, Chairman)**

**(Jahangir Hossain, Member)**

**( Anwarul Haque, Member)**