In the International Crimes (Tribunal-1), Dhaka

Old High Court Building, Dhaka, Bangladesh

ICT-BD Misc. Case No. 02 of 2013

Present

Mr. Justice M. Enayetur Rahim, Chairman

Mr. Justice Jahangir Hossain, Member

Mr. Justice Anwarul Haque, Member

In the matter of:

A petition for contempt under section 11(4) of the International Crimes (Tribunals) Act, 1973, read with Rule 45 of the International Crimes (Tribunal-1) Rules of Procedure, 2010

And

In the matter of

Chief Prosecutor

.....petitioner

-Versus-

Human Rights Watch and two others

.....opposite parties

Mr. Zead Al-Malum with

Mr. Sultan Mahmud

Ms. Tureen Afroz and

Mr. Taposh Kanti Baul, prosecutors

.....for the petitioner

Mr. Mohammad Asaduzzaman with

Mr. Md. Anisul Hasan, Advocates

.....for the opposite parties

Order on 04th September, 2014

This miscellaneous case was arisen out of a contempt petition filed by the Chief prosecutor as petitioner for drawing up contempt of court against the opposite parties.

Averments figured in the contempt petition by the petitioner are summarized as under;

The learned Chief Prosecutor of the International Crimes Tribunals [BD] as petitioner presented a contempt petition along with a copy of reporting/article before this Tribunal under section 11(4) of the International Crimes (Tribunals) Act, 1973 [hereinafter referred to as Act, 1973] read with Rule 45 of the International Crimes (Tribunal-1) Rules of Procedure, 2010 [hereinafter referred to as ROP, 2010] against the opposite parties on the allegations that the opposite parties made some contemptuous remarks regarding trial process of the Azam case as well as Judges of the Tribunal in an article published on 16th August, 2013 through opposite party no.1's worldwide official website [http://www.hrw.org] with the following caption "Bangladesh: Azam conviction based on flawed proceedings".

Having gone through the contempt petition along with alleged article annexed by the petitioner and the contentions of the learned prosecutors the Tribunal was initially convinced to issue show cause notice upon the opposite party nos. 1, 2 and 3 to explain within three weeks as to why contempt proceedings under section 11(4) of the

International Crimes (Tribunals) Act, 1973 would not be initiated against them.

On getting show cause notice the opposite parties made appearance in the aforesaid miscellaneous case pending before the Tribunal through their counsels by submitting a written reply to the show cause notice.

During hearing Mr. Zead-Al-Malum, learned Prosecutor in support of the contempt petition contended that this Hon'ble Tribunal has spacious jurisdiction to hear over the instant matter and the parties. As per section 11(4) of the Act of 1973 this Hon'ble Tribunal is empowered to punish 'any person' which includes both natural and legal person, whether living in Bangladesh or abroad, who 'tends to bring it or any of its members into hatred or contempt' and/or 'does anything which constitutes contempt of the Tribunal'. Learned Prosecutor argued that the article in question reveals un-authorised criticism both the judgment and the Hon'ble Judges of the Tribunal which are as follows,

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 proper step to protect defence witnesses of the Azam case;
d. There were changes in the Trial Court Penal during trial of the Azam case ; and

e. There was lack of evidence to establish guilt beyond a reasonable doubt in the Azam case.

At the outset Mr. Malum argued that the Tribunal by observing all provisions of law and its regulated Rules completed the trial of the case against accused Prof. Golam Azam and pronounced its verdict on 15.07.2013 in ICT-BD Case No. 06 of 2011 convicting and sentencing him to suffer imprisonment for 90 [ninety] 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 but the opposite parties most unethically made remarks regarding the trial process of Prof. Golam Azam case in the article dated 16.08.2013 on a sub-judice matter since two appeals against the judgment and order of conviction and sentence are now pending before the Appellate Division of the Hon'ble Supreme Court of Bangladesh and as such the opposite parties illegally intervened in the judicial process of a sovereign and independent State.

The opposite parties neither made an enquiry into the matter to find out the actual scenario nor they personally attended through any of its members or representatives to observe a single trial process of this Hon'ble Tribunal in Azam case or other but they hypothetically made biased, baseless, fabricated and scandalous report in the article in question with intent to create hatred regarding the performance of the judges and thereby making the integral part of trial process questionable in the mind of the people at home and abroad and such comments were not made in good faith by the opposite parties and thereby tantamount to

contempt of this Hon'ble Tribunal. He further submitted that the opposite parties by complete distortion of facts deliberately as well as unethically cast a slur on the dignity and reputation of the judges by their scandalous report published in their official website which entirely tarnished the image, dignity, integrity and honour of the judges of the Tribunal in the estimation of the people at home and abroad.

Mr. Malum further argued that false and unreliable remarks contained in allegation nos. (a) and (b) in the scandalous report of the opposite parties were made long after pronouncement of the judgment of Azam case. Mr. Malum referring to the submitted book, a compilation of worldwide criticism against Human Rights Watch, contended that the opposite parties are in a chronic habit of following unethical, immoral and heavily dependent upon their undisclosed donors [private persons and private organization] driven fund to fulfil the agenda of such undisclosed donors. The opposite parties wrongfully exercised their 'freedom of expression' as guaranteed under Article 19 of the Universal Declaration of Human Rights, 1948 and Article 13 of the American Convention of Human Rights, 1969.

The opposite party no. 1 has also been vehemently criticised worldwide for its motivated activities as a Human Rights Organization such as poor research inaccuracy, selection and ideological bias, unethical fund raising policies, bias for or against particular nations, appointing Nazi policy supporters [such as Mr. Marc Garlasco] as investigator to report on war crimes and crimes against humanity,

appointing terrorists [such as Mr. Shawan Jabrain] to its advisory board and publicly supporting CIA's illegal actions of extraordinary rendition towards suspected [anti-US] terrorists. Even though the insiders like Mr. Robert L. Bernstein, a founder and former chairman of the opposite party no.1 has publicly blamed the opposite party for its unethical and motivated activities.

Mr. Malum finally contended that the opposite parties for publishing such article dated 16.08.2013 through its worldwide website should be penalised under section 11(4) of the International Crimes (Tribunals) Act of 1973 read with Rule 45 of the International Crimes (Tribunal-1) Rules of Procedure, 2010.

On the contrary Mr. Mohammad Asaduzzaman, the learned counsel for opposite parties by placing written reply to the show cause notice contended that the opposite party no. 1 is an international human rights organization working for the just and proper cause of human rights in all over the world. The main object of opposite party no. 1 is as follows,

> "*to protect the rights of people around the world in times of peace and war by gathering information on abuses, publicising the findings and using the information to try to bring the abuses to an end and to prevent future abuses*".

Human Rights Watch [opposite party no. 1] by this time earned a worldwide unblemished reputation in performing its activities observing and following the due process of law in general. It had done so with

respect to the Special Court for Sierra Leone, the International Criminal Court, the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for former Yugoslavia, all of which it had both assisted and criticised in an effort to assist these war crimes Tribunals to achieve the highest standards in pursuant of their important mission. The opposite party no. 2 is one of the division and programme directors of opposite party no. 1 looking after the Asia desk and the opposite party no. 3 is an employee as Secretarial Assistant of opposite party no. 1 whose job responsibility includes sending notification to others who does not have any involvement in the preparation of the article in any manner. The report in question has been prepared on the basis of research conducted by the research team.

Mr. Asad further contended that this Hon'ble Tribunal does not have the jurisdiction and authority to initiate such contempt proceeding against the opposite parties, who are American Nationals, as per section 1(2) of the Act, 1973. Section 11(4) of the Act, 1973 in particular does not or cannot be applied beyond the jurisdiction of Bangladesh. Such provision has also been reiterated in section 3(1) of the Act. As per section 6(2A) of the Act the Tribunal shall be independent in the administration of its judicial function and shall ensure fair trial. Opposite party no. 1 being a human rights organization reported certain issues which merely compare the ingredients of fair trial with international instrument and in such reporting there was no malice or mens rea and the right to a fair trial is a norm of international human rights law designed

to protect individuals from the unlawful an arbitrary curtailment or deprivation of other basic right and freedom. Article 14 of the International Covenant on Civil and Political Rights [ICCPR] which provides that,

> *"everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law" [Bangladesh accession in 2000]*

Article 10 of the Universal Declaration of Human Rights [UDHR] which provides that

> *"everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligation and of any criminal charge against him."*

Mr. Asad further argued that it is the mandate of the Human Rights Watch that no offender should be exonerated but at the same time the offenders should be dealt with in accordance with law in general. The instant opposite parties have high respect and regard for all individuals all over the world according to their commitment to protect the respect and dignity of every individual human being, one of the basic core object of these opposite parties. There is no question of showing disrespect and disregard or contumacious acts towards this Hon'ble Tribunal or its Hon'ble Judges by the opposite parties. It is not only misconceived but also a motivated journey taken by its Chief Prosecutor or its team. The inherent object of the reported question was to ensure the highest dignity, prestige, respect and regard of the people towards the Hon'ble Tribunal

and its Hon'ble Judges, not to undermine them in the estimation of constructive legal criticism following the international law.

Mr. Asad in support of opposite parties placed some citations namely (I) Mainul Hosein and others –Vs- Sheikh Hasina Wazed, reported in 53 DLR (2001)-138, (II) P.N. Duda –Vs- P. Shiv Shanker and others, reported in AIR 1988 (SC)-1208, (III) Rama Dayal Markarha –Vs- State of Madhya Pradesh, reported in AIR 1978 (SC)-921 and (IV) Andre Paul Terence Ambard –Vs- the Attorney-General of Trinidad and Tobago reported in AIR 1936 (PC)-141. By drawing attention to the paragraph 14 of written reply to the show cause notice Mr. Asaduzzaman finally submitted that the opposite parties are now aware of following advice from their lawyers that truth is not the defence in a contempt proceeding and their plea is that they [opposite parties] being the non residents of Bangladesh did not have any knowledge regarding the contempt law and proceeding of Bangladesh and lack of the perspective to accurately assess whether their sincerely offered comments on the trial would be perceived in Bangladesh as expressing a disregard, which in no way was intended and therefore they may be exonerated for those lack of knowledge. These opposite parties also earnestly sought repentance from this Hon'ble Tribunal if any inadvertent mistake in its reporting affected the dignity, prestige and respect of this Hon'ble Tribunal and its judges and thus the petition of contempt proceeding is liable to be rejected not only on merit and jurisdiction factor but also to secure ends of justice.

We heard the learned prosecutors and the defence counsels of both the parties at length on several occasions on the proceeding of show cause notice issued by this Tribunal on 2nd September, 2013 and also carefully perused the contempt petition along with article in question published by the opposite parties and written reply to the show cause notice wherefrom it transpires that the comments of the opposite parties reported in the official website [http://www.hrw.org] which generated a debate in the mind of the prosecution as well as people of the country at home and abroad. Such comments regarding judiciary as well as honour and dignity of the judges, if is not otherwise motivated, are the healthy sign for the upholding the justice delivery system and the rule of law. However, whether the opposite parties committed contempt of court proceeding by making such remarks in the article dated 16.08.2013 promoted in the official website is the main issue before us.

Now let us understand what contempt of court is;

Contempt of court is defined as any act which is calculated to embarrass, hinder, or obstruct a court in the administration of justice, or which is calculated to lessen the authority or dignity of a court [black's law dictionary 288, (5th ed. 1979)]. It has been reported that the late [no pun intended] federal judge William Daniel Murray once held himself in contempt of court and self imposed a fine following his failure to arrive on time for court [Deaths Elsewhere, Chi. Daily L. Bull, Oct. 4, 1994, at 1.]. Going a step further, one federal bankruptcy judge even held a

Nations Bank computer in contempt of court [In re Vivian, 150 Bankr. 832 (Bankr. S.D. Fla. 1992].

"Contempt of court is wilful act, omission, or statement that tends to impair the authority or impede the functioning of a court." [In re Contempt of Robertson (Davilla V Fischer Corp), 209 Mich App 433, 436 (1995)]. It includes disrupted court room behaviour, failure to appear in court when required, failure to testify when required, and failure to obey a court order.

Oswald defines contempt,

"to be constituted by any conduct that tends to bring the authority and administration of law into disrespect or disregard or to interfere with or prejudice parties or their witness during litigation."

It has been described by KJ Aiyar in his treaties, "Law of Contempt of Courts" 7th Edition as under:

> *"A contempt can assume any form, any act, any slander, any contemptuous utterance, or can be the subject matter of any news, report or article, or it may be an act of disobedience of Court's order. Consequently, the Courts dealing with contempt cases, have, in the peculiar circumstances associated with the nature and range of the delinquency in question, not been able to define the said words exhaustively."*

Judicial authority to cite an individual for contempt of court is as old as the courts themselves [EX parte Robinson, 86 U.S. (19 Wall) 505,

510 (1873)] [“The moment the courts of the United States were called into existence and invested with jurisdiction over any subject, they became possessed of this power i.e., the contempt power].

Moreover, the power to punish acts of contempt has been recognized as inherent in all courts [Chambers V. NASCO, Inc., 501 U.S. 32 (1991); accord Roadway Express, Inc. V. Piper, 447 U.S. 752, 764 (1980); Green V. United States 356 U.S. 165 (1958); Gompers V. Buck’s Stove & Range Co., 221 U.S. 418 (1991); United States V. Ship, 203 U.S. 563 (1906); In re Terry, 128 U.S. 289 (1888); Ex parte Robinson, 86 U.S. (19 Wall.) 505(1873); Anderson V. Dunn, 19 U.S. (6 Wheat) 204 (1821)].

This inherent authority originates from the necessity for enforcing court orders and judgments, as well as maintaining basic order in the court room. “For this reason, ‘courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum, in their present, and submission to their lawful mandates [Chambers v. NASCO, INC., 501 U.S. 32, 43 (1991) (quoting Anderson V. Dunn, 19 U.S. (6 Wheat) 204, 227 (1821)].

Regardless of the inherent nature of the contempt power, the U.S. Supreme Court has suggested that the exercise of the power be limited to the ‘least possible power adequate to the end proposed’ [United States V. Wilson, 421 U.S. 309, 319 (1975) (quoting Anderson V. Dunn, 19 U.S. (6 Wheat) 204, 231 (1821)].

The distinction between criminal and civil contempt has been one of the most confusing and problematic areas of contempt jurisprudence. Some of this confusion results from the fact that criminal contempt can occur in either a criminal or civil proceeding, just as civil contempt can occur in either a criminal or civil proceeding. Moreover, single acts of contempt can result in both criminal and civil contempt sanctions in some cases. Despite the difficulty in categorizing acts of contempt, the ability to distinguish between civil and criminal contempt is of vital importance. This importance originates from the fact that different rules, procedures, and constitutional safeguards apply to the two types of contempt. The U.S Supreme Court struggled with the distinction between civil and criminal contempt as early as 1911. Although Gompers V. Buck's Stove & Range Co. continues to be most influential case, the court has revisited this complex issue on several occasions.

Halsbury's Laws of England, Volume VII, paragraph 603 divides contempt of Court into two categories,

1. *"Criminal contempt; consisting in words or acts obstructing or tending to obstruct, the administration of justice, or*
2. *Contempt in procedure, consisting in disobedience, of orders or other process of the Court, and involving a private injury."*

Criminal contempt is again subdivided into several categories;

a. “contempt in the face of the court which includes the act of resulting a judge actually sitting in Court or Chambers to administer justice,
b. speeches or writing tending to defeat the ends of justice,
c. obstructing persons officially connected with court or proceedings,
d. obstructing the parties to pending proceeding,
e. abusing the process of the court, and
f. breach of duty by persons officially connected with court or proceeding.”

It is also understood by perusing several legislations including decisions of higher judiciary from home and abroad that a contempt proceeding which is quasi criminal in nature. The contemnor is entitled to benefit of doubt, and since the Court is both prosecutor and judge, rule as to proof of guilt of the contemnor must be strictly observed.

It may be borne in mind that though a contempt proceeding is quasi-criminal in nature; the contemnor is not like an accused in a criminal case since he may file affidavit or make statements on oath in refutation of the allegation against him. The charge must be proved up to the hilt otherwise the contemnor is entitled to benefit of doubt. [Moazzem Hossain -Vs- State, 35 DLR (AD) 290 and Mahbubur Rahman Sikder -Vs-Majibur Rahman Sikder, 35 DLR (AD) 203].

In the aforesaid reported decision Mr. Justice Shahabuddin Ahmed, former Chief Justice of Bangladesh, also opined about the contempt of court in the following manner,

> *"Contempt of Court has nowhere been defined in statutes. It has been conveniently described by referring to its ingredients and citing examples. 'Contempt' may be constituted by any conduct that brings authority of the court into disrespect or disregard or undermines its dignity and prestige. Scandalising the court is a worst kind of contempt. Making imputations touching the impartiality and integrity of a Judge or making sarcastic remarks about his judicial competence is also contempt. Conduct or action causing obstruction or interfering with the course of justice is contempt. To prejudice the general public against a party to an action before it is heard in another form of contempt."*

Mr. Justice Badrul Haider Chowdhury opined in the case of Mahbubur Rahman Sikder Vs. Mojibur Rahman reported in 35 DLR (AD) 203 as under,

> *"Contempt of Court means civil contempt or criminal contempt and civil contempt is defined as wilful disobedience to any judgment, decree, direction, order, writ or other process of Court or wilful breach of an undertaking given to the Court.*
>
> *If our order and direction are disobeyed wilfully certainly that would amount to contempt.*
>
> *The distinction between criminal contempt and civil contempt is narrow and it will be profitless to embark upon*

> *such an inquiry. It was held in Catmur Vs. Knatchbull that non-performance of an award was a contempt of the court and might be regarded technically an offence. But as it related simply to a civil matter, and was rather in the nature of process to compel the performance of a specific act, the matter was in substance not criminal but civil.*
>
> *The object of the contempt proceeding is to protect the dignity of the court and not to satisfy the grudge of any private individuals."*

Lord Justice Lindley in O'shea vs O'shea and Parnell made opinion upon the contempt of Court as under:

> *"Of course there are many contempt's of court that are not of a criminal nature, for instance, when a man does not obey an order of the court made in some civil proceeding to do or abstain from doing something as where an injunction is granted in an action against a defendant, and he does not perform what he is ordered to perform, and then a motion is made to commit him for contempt, that is really only a procedure to get something done in the action, and has nothing of a criminal nature in it."*

In the case of PC Sen, reported in AIR 1970 (SC) took the view that technical contempt should not give rise to any initiation of proceeding. The well established principle is that the court shall not impose a sentence for contempt of court unless it is satisfied that the contempt is of such a nature that it interferes or tends substantially to interfere with the due course of justice.

The Privy Council repeatedly emphasized that this summary power of punishing for contempt should be used sparingly and only in serious cases [Parashura Debaran Vs. King-Sup reported in 45 CWN 733]. The same caution echoed in Adam Ali Vs. Emp. Reported in AIR 1945 PC 147.

Our Appellate Division considered several decisions of home and abroad in the decisions as referred to above. Ratio decidendi of those decisions is that to bring home an action within the mischief of contempt in the absence of any definition available in the Contempt of Court Act itself, it can be inferred that only the Wilful and deliberate disobedience of the Court's order can be considered to be the main ingredient to constitute a contempt of court in a given situation.

In the case of SAM Iqbal Vs. State and another reported in 3 BLC (AD) 125, Mr. Justice Latifur Rahman observed as follows:

> *"The jurisdiction of contempt must be taken with utmost care that it is not used on occasions or in a case to which it is not appropriate. In the case of Md. Samiulla Khan and another Vs. State, 15 DLR 150 it has been held that the power of contempt should be used sparingly and only in serious cases and the court should not be either unduly touchy and on the wisdom and restraint with which it is exercised."*

As the object of the proceedings for contempt is not the vindication of the character or conduct of a Judge but to protect the Court from attack and to maintain in it the confidence of the people, particularly the

litigants, the true ground for initiating such proceedings is the public interest. It is for this reason that the jurisdiction to punish for contempt is envisaged to be a special jurisdiction governed by its own rules even where they come in conflict with some general principles of law.

Secondly, the prestige and the dignity of the Courts of law must be preserved. The confidence of the litigant should not be shaken by the use of contemptuous and scandalous expression toward Court for its judgments and attempting thereby to belittle them. Stream of justice is not to be polluted by shaking the confidence in the administration of justice by conduct exhibited and words used.

It is stated in Halsbury's Laws of England, 3rd edition, 9 that,

> *"Scandalous attacks upon judges are punished upon the principle that they are, as against the public, not the judge, and obstruction to public justice; and a libel on a judge, in order to constitute a contempt of court, must have been calculated to cause such obstruction. Temperate criticism in good faith is immune. The punishment is inflicted, not for the purpose of the protecting either the court as a whole or the individual judges of the court from a repetition of the attack, but of protecting the public, and especially those who either voluntarily or by compulsion are subject to the jurisdiction of the court, from the mischief they will incur if the authority of the tribunal is undermined or impaired."*

In Morris –Vs-Crown Office [1970] 2 QB 114, 129 Salmon LJ observed:

> *"The sole purpose of proceedings for contempt is to give our courts the power effectively to protect the rights of the public by ensuring that the administration of justice shall not be obstructed or prevented."*

In India in 1971 the contempt of courts Act, (Act 70 of 1971) 1971 was adopted as a comprehensive law. The High Courts in India have also adopted their own rules to exercise their powers to carry out the object of the Act. The definition of the contempt of court has been defined in the said Act.

In Pakistan following the article 204 of the Constitution, the Contempt of Court Act, 1976 (Act no. LXIV of 1976) was enacted in 1976. In the said Act the definition of contempt has been defined like India and the Act has also laid down the procedure to deal with the contempt proceeding.

Many years ago Lord Diplock in Attorney-General –Vs- Leveller Magazine Ltd [1979] AC 440, 449F thus summarized the position:

> *"although criminal contempt's of court may take a variety of forms they all share a common characteristic; they involve an interference with the due administration of justice either in a particular case or more generally as a continuing process. It is justice itself that is flouted by contempt of court....."*

It may be cited here to know what Holmes Alexander inked in a frontal attack upon the function of the Supreme Court of U.S.A in his column,

"Men Terror Squad"

> *"Now can you tell what that black-robed elite are going to do next. Spring more criminals, abolish more protections. Throw down more ultras. Rewrite more laws. Chew more clauses out of the Constitution. May be, as a former Vice-President once said, the American people are too dumb to understand, but I would be that the outcropping of evidence at the top in testimony before the US Senate says something about the swelling concern among the people themselves."*

For such scurrilous remarks against the judges, no contempt proceeding was initiated either by the Supreme Court of USA or the American Bar Association against Mr. Holmes Alexander.

In our country [Bangladesh] there is a law under title 'the Contempt of Courts Act, 1926' in which no definition has been given regarding the contempt of court. But in Article 108 of our Constitution it has been stated that,

> *"The Supreme Court shall be a court of record and shall have all the powers of such a court including the powers subject to law to make an order for the investigation of or punishment for any contempt of itself."*

There are two types of contempt of court broadly practised in Bangladesh namely, criminal contempt and civil contempt based on common law. Civil contempt is defined as disobedience to any judgment, degree, direction order, writ or other process of law or wilful breach of an undertaking given to the court as stated in M. Rahman -Vs- Mujibur Rahman, 35 DLR (AD) 203. Where the conduct is an attempt to obstruct the administration of justice or to lower or undermine the dignity or authority of the Court either by writing or publishing or by words spoken or action taken contemptuous in the face of the Court or to bring the Court in contempt is called criminal.

Freedom of Speech vis-a-vis Contempt

Article 39 of the Constitution has ordained,

39(1) Freedom of thought and conscience is guaranteed.

(2) Subject to any reasonable restrictions imposed by law in the interests of the security of State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.

(a) the right of every citizen of freedom of speech and expression; and

(b) freedom of the press, are guaranteed.

On plain reading of the said Article of the Constitution it is apparently clear the right to freedom of speech and expression is

guaranteed subject to the limitation as imposed by the Constitution and such limitation is also found necessary in the interest of fair adjudication of justice.

The court must fetch the Constitutional values of free speech and expression of the commentators. The balance should be struck between such values vis-a-vis the rights of the people in their lives and properties as guaranteed by the constitution for strengthening the confidence in respect, dignity and honor of the judiciary.

The above view was aptly stated in Rezina –Vs- Metropolitan Police Commissioner, Ex parte Blackburn, [1968] 2 All ER 319 [1968] CA 150 by Lord Denning as follows;

> *"All we would ask is that those who criticise us will remember that, from the nature of our office, we cannot reply to their criticisms. We cannot enter into public controversy. Still less into political controversy. We must rely on our conduct itself to be its own vindication."*

In respect of accountability we must enjoy an opportunity to place the main line of thought of the judiciary on the subject that Mr. Justice Mostafa Kamal, former Chief Justice of Bangladesh, in his reply to the felicitation organized on 1st June, 1999 by the Supreme Court Bar Association, Dhaka expressed views as under:

> *"The legal profession and the judiciary now stand at a cross-road of history. So long the judiciary functioned almost beyond the gaze of public eyes, but with the concept of accountability growing currency by the day, the legal*

profession and the judiciary can no longer function behind and beyond public scrutiny-The people of this country are alert and watchful of every movement of ours."

[Fulfill the People's expectation" 51 DLR Journal 42]

Mr. Justice Latifur Rahman, former Chief Justice of Bangladesh, in reply to his felicitation, also in the same vein opined,

"wePviKMY ‡Kej wb‡R‡`i we‡e‡Ki Kv‡QB bb, msweavb Ges m‡ev©cwi msweavb c«‡bZv RbM‡bi Kv‡Q `vqeÏ," [Judges are not only responsible to their own conscience but they are also responsible to the constitution and above all its makers, the people of the country]

Having respect to these observations made by the two Hon'ble former Chief Justices we may supplement that the judiciary is always quite alive with the highest expectations of the people. The conscience of a judge creates conditions by the oath he takes to defend and protect the constitution and the laws of the land. A great trust and confidence of the people are reposed in the office we hold. Every day we are discharging our constitutional duties within the public gaze. Our judgments are the acid test of our accountability. More so, it is not correct for anybody to think that the judges are above law or, there is no accountability of the judges under the law of the land. The sooner it is understood by all civilized citizens and sundry the better for the whole nation. It is suggested by practice and law for the judges to take defensive measures

in any adjudication when they find unwarranted and unethical comments presented by any stranger regarding judicial functions of the judges.

Now the moot issue is whether the opposite parties deliberately criticized the trial process of the case of accused Prof. Golam Azam knowing fully well that the matter was sub-judice one and seisin in the Appellate Division of the Supreme Court of Bangladesh and without knowing about complete trial process of the case most unethically tried to give a message to the people at large that accused Prof. Golam Azam had been deprived of getting fair justice and whether they had deliberately tried to make the trial process of the Tribunal questionable with intent to undermine confidence and also to create hatred in the minds of the people about the functions of the Tribunal and whether the opposite parties in co- operation with each other, had facilitated and contributed in reporting the article in their official website giving untrue statements on the sub- judice matter with intent to lower down the image of the Tribunal as well as judiciary in the estimation of the people at large.

It is needed to mention here that judges are always obliged to deal with the litigations of litigants and they [Judges] try to dissolve the disputes fairly in the dispensation of justice which brings the peace and tranquillity in the society and makes the law and order situation stable for the nation as a whole. The strains and mortification of litigation cannot be allowed to lead litigants to tarnish, terrorize and destroy the system of administration of justice by vilification of judges. It is the right and

interest of the public in the due administration of justice that has to be preserved and protected.

Our Appellate Division in the case of A. Karim-Vs- State reported in 38 DLR (AD), 188 observed that,

> *"So we approach the question not from the point of view of the judge whose honour and dignity require to be vindicated, but from the point of view of the public who have entrusted to us the task of due administration of justice."*

It is pertinent to mention here that the proceedings of the Tribunals shall be guided by the International Crimes (Tribunals) Act of 1973 enacted with a protection under Article 47 (3) of our Constitution with a view to try and punish the perpetrators who committed offences of atrocious acts during the War of Liberation in 1971. As per section 22 of the said Act of 1973 it has subsequently formulated the rules of procedure as ICT (Tribunal-1) Rules of Procedure, 2010 and section 23 of the said Act prohibits the applicability of the Code of Criminal Procedure, 1898 and the Evidence Act, 1872. Though the definition of contempt of court has not been defined in any other law of the country but it has been defined in section 11(4) of the said Act with a view to try and punish the perpetrators without having any obstruction or abuses its process or disobeys any of its orders or directions or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred. So it should be borne in mind that it is an exceptional law enacted in 1973 by the legislators in Parliament.

Let us see now what procedure to be followed for disposal of the present issue and what provision is provided in the very Act. It has been defined in section 11(4) of the Act, 1973 which is as follows:

> *"A Tribunal may punish any person, who obstructs or abuses its process or disobeys any of its orders or directions or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred or contempt or does anything which constitutes contempt of the Tribunal, with simple imprisonment which may extend to one year, or with fine which may extend to taka five thousand, or with both."*

Moreover, the Tribunal has formulated rules to deal with contempt proceedings under Rule 45 of the ROP, 2010 which is quoted beneath:

> *"In pursuance of section 11(4) of the Act, the Tribunal may draw a proceeding against any person who obstructs or abuses the process of the Tribunal, or disobeys any of its order or direction of the Tribunal, or who does anything which tends to prejudice the case of a party before the Tribunal, or tends to bring the Tribunal or any of its members into hatred or contempt, or does anything which constitutes contempt of the Tribunal."*

The backdrop about the formation of the Tribunal, in brief is that as per section 2 of the Act this Tribunal was constituted as a judicial forum on 25th March, 2010 by the Government consisting of three members including a Chairman who are the judges of the Supreme Court of Bangladesh, the highest court of the country.

Section 13 of the Act states that

> *"No trial before a Tribunal shall be adjourned for any purpose unless the Tribunal is of the opinion that the adjournment is in the interest of justice".*

We have already discussed earlier that this is purely a special legislation enacted by the legislators in parliament which discourages the Tribunal not to give any adjournment before it unless the adjournment is in the interest of justice but the fact remains that in the case of Golam Azam the Tribunal has given ample opportunities to both the parties especially the defence to produce or defend their respective cases properly in order to ensure fair trial so that none of the parties can be deprived of getting redress or justice.

In the case of prof. Golam Azam, all the prosecution witnesses were cross-examined at length by the defence with full satisfaction. More so, the Tribunal, for ensuring fair justice, allowed 12 defence witnesses [DWS] to depose in favour of accused prof. Golam Azam on the basis of defence prayer but the defence willingly tendered only one witness [son of the accused as DW] out of 12 defence witnesses despite granted sufficient times as evident on records. To defend himself the accused had availed all procedural benefits as per section 10 of the Act of 1973. So, practically it is not correct to say by anyone that the trial of Azam's case was not ended in accordance with law.

As per section 19(1) of the Act the Tribunal shall not be bound by technical rules of evidence rather it shall adopt and apply to the greatest

possible extent expeditious and non technical procedure and may admit any evidence including reports and photographs published in the newspapers, periodicals and magazines, films and tape recordings and other materials as may be tendered before it. Section 19(3) of the Act defines that a Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof while section 19(4) says that a Tribunal shall take judicial notice of official governmental documents and reports of the United Nations and its subsidiary agencies or other international bodies including non-governmental organizations. From the said provisions of law as stated above it is crystal clear that the Tribunal has extensive power to scrutinise any reports, newspapers, photographs, magazines, films and also tape recordings and also to take judicial notice of facts of common knowledge. So it is not correct to say that judges of the Tribunal in Bangladesh are only empowered to examine the evidence placed in front of them by the parties. It is not worthy to forget that this Tribunal was established in the year 2010. This was completely a new dimension in the history of judiciary in Bangladesh. So at the beginning of its journey it may have confronted with some difficulties relating to procedural events but subsequent development of the trial proceedings in the administration of justice enlightened the whole process of the Tribunal as a model one at home and abroad.

Judicial bias is not a petty thing or event. To establish this there must have a lot of ingredients and materials presented. It is not a drop of

water that when it falls from the bottle it becomes out of order to exercise. To justify disqualification or recusal, the judge's bias usually must be personal or based on some extra judicial reason. If judges reasonably accept an opinion made at large by the very opposite parties [HRW] during adjudication of any commission of offence against any person like Prof. Golam Azam, would it be an offence of judicial biasness? Surely conscience/reasonable man shall answer in the negative manner.

Everyone should remember that the atrocious activities of the perpetrators took place in the year 1971 and the trial process of the cases has been launched long after 40 years of the occurrence and thereby the victim family members [survivors] as well as witnesses and the alleged perpetrators became very old. As the crimes occurred during war time the very Act directly suggests ignoring technical rules of evidence which might have been applied in other normal cases. It is to be noted here that during trial of the case the relatives of the victims and the accused are always allowed by the Tribunal to observe the proceedings of the trial. A numerous journalists of both print and electronic media are also present everyday to observe and report the trial proceedings of the Tribunal without having any embargo. Even then, many observers of foreign countries appreciated Tribunal's proceedings as well as courage and patience of the judges after having observation on its proceedings so there is no question about the fair trial in the administration of justice. Very recently Mr. Stephen J Rapp, the visiting US Honourable

ambassador-at-large for war crimes issues, on a three days visit to Bangladesh praised the judges for being able to discharge their jobs neutrally "without pressure, without politics, without threats". Mr. Rapp further made comments which are as follows,

> *"...the best way in the world to find the truth is the judicial process where the evidence is presented, where witnesses are cross-examined, where both sides have an opportunity to be heard and that is what is being done here [Bangladesh]. It is the process that the American government strongly supports."*
>
> *"In the course of the trial some of the judges had been threatened and even their houses had been attacked but they continued serving," Rapp said, adding 'I very much salute their service and their courage.'*

The above comments made by Mr. Stephen J Rapp had been reported in all daily national news papers including 'The Daily Star' on 05th August, 2014 and also electronic media in Bangladesh. It is pertinent to mention here that Mr. Stephen J Rapp made such remarks at a press briefing after gathering appropriate knowledge and observing the trial process of the Tribunals. Therefore, it reminds our credibility about the implication on the trial proceeding by Article 14 of the ICCPR and Article 10 of the UDHR that every one shall be entitled to a fair and public hearing by a competent, independent and impartial Tribunal.

The contention of the learned counsel of the opposite parties is that since the opposite parties are not Bangladeshi Nationals and the reporting

in question was not published in Bangladesh the Tribunal does not have jurisdiction to adjudicate such allegations brought by the Chief Prosecutor as petitioner in a misconceived manner.

Perhaps learned counsel forgets that the reporting in question was not kept confined within the country from which it was published. It is evident that the petitioner procured the article in question from the website in Bangladesh which means the article in question was circulated all over the world including Bangladesh where the trial of Azam case was held. As per submission of the learned counsel sections 1(2) and 3(1)(2) of the Act of 1973 are not applicable in the instant issue because the opposite parties are not allegedly perpetrators of the occurrence took place during the War of Liberation in 1971 in Bangladesh. Only section 11(4) is applicable in the case of opposite parties as there is a direct specification in the section that a Tribunal may punish 'any person' which includes not only perpetrators but also natural and legal person whether living in Bangladesh or abroad who obstructs or abuses its process or disobeys any of its order or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members into hatred or contempt or does anything which constitutes contempt of the Tribunal.

Petitioner claimed while arguing by placing a book that the opposite parties had been vehemently criticised in the past for their unethical and motivated activities by worldwide many persons including even the founder and former chairman of the opposite party no. 1. Such

blames might have been true as per book, a compilation of worldwide criticism against HRW, submitted by the petitioner but we are justifiably reluctant to take cognizance of those blames as the same are not related to the effect of the instant issue brought before us.

Case record of Prof. Golam Azam shows that the Tribunal pronounced verdict in his [Prof. Golam Azam] case on 15th July, 2013 whereas it emerges from article in question that on 16.08.2013 the article was reported at the behest of the opposite parties in their official website, just one month long after pronouncement of its verdict. Naturally suspect may hit in the mind of the people at large why a long delay has been occurred to make such comments/remarks/statements in the name of freedom of speech and expression while the judgment of Azam case was published in the print and electronic medias all over the world the following day of its pronouncement. Nothing will have to have in the hands of the law abiding people of the world, if justice delivery system is collapsed in the name of random criticism. Referring to the Articles 39, 111 & 152 of Bangladesh Constitution read with section 2 of the Contempt of Court Act (XII of 1926), 1926 our Appellate Division of the Supreme Court very recently has observed in the case of Advocate, Riaz Uddin Khan –Versus- Mahmudur Rahman reported in 63 DLR[AD] [2011] 29 that,

a. "No person has any right to flout the mandate of law or authority of the court for alleged establishment of law under the cloak of freedom of thought and conscience or

freedom of speech and expression or the freedom of the press guaranteed by Article 39. Such freedom is subject to reasonable restrictions imposed by the law."

b. "the expression 'law' is to be understood from the definition given in Article 152 read with Article 111 of the Constitution. One should know that the law of the land has also been regarded to be that which is declared by the Appellate Division to be the law. Thus, where a provision in law, relating to contempt imposes reasonable restriction as, no person can take the liberty of scandalising the authority of the Court of law."

c."Freedom of express does not mean that the journalists are free from not only scandalising the authority of the highest court of the country but also challenging its authority".

In the article in question claimed by the opposite party no. 2 regarding fair trial as well as international standards questionable. The Tribunal has carefully perused the said article in which no definition or description given by the opposite party no. 2 about the fair trial and international standards. Perhaps he [opposite party no. 2] failed to go through the very Act of 1973 before preparing the article in question. The Act of 1973 is a domestic legislation; it does not require getting any help from other international laws in the administration of justice. During adjudication if it faces any problem which is not met by the Act itself and the concerned state agrees to accept in that case it requires help from other international law. In this context Mr. Justice S.K Sinha and Mr.

Justice A. H. M. Shamsuddin Chowdhury of our Apex Court respectively observed in the case of Quader Mollah, reported in 22 BLT(AD)(2014)08 which are as follows,

As per Mr. Justice S.K. Sinha

> "*CIL has two elements, first, there is an objective element consisting of sufficient state practice. Second, there is a subjective element, known as opinio juris which requires that the practice be accepted as law or followed from a sense of legal obligation. The standard formulation of 'opinio juris' is that a practice must be accepted as law. It is generally acceptable principle that international law cannot bind states without their consent, and notions of consent are often said to be the basis for CIL. It follows that CIL binds a state only if that particular state accepts that rule of CIL is a binding obligation. So, CIL cannot be applied by a domestic tribunal if those are inconsistent with an Act of Parliament or prior judicial decisions of final authority. The domestic courts have to make sure that what they are doing is consonant with the conditions of internal competence under which they must work. Thus the rule of international law shall not be applied if it is contrary to a statute."*

As per Mr. Justice A. H. M. Shamsuddin Chowdhury

> a. "*While the state remains bound to honour a treaty it is party to and an undisputed provisions of International Customs that applies to it, a question that remains topical is whether the judicial functionaries of a given State would follow and act in accordance with (I) treaty stipulations (II) Customary International Law, in the absence of statutory*

command to that effect in the State concerned. I am of the view that provisions of the Act under which the Appellant has been indicted, as most of the amici curiae expressed, are quite fulsome comprehensive and unambiguous and hence question of infusion of provisions of International Law does not arise at all. It is not correct to say, as I would elaborate below, the offences invoked, have not been defined by our domestic law- Instances of trials for crimes against humanity by domestic courts under municipal law are by no means doubtful. Most glaring recent examples are to be found in the trial of Klaus Berbie under the French domestic law, Erich Priebke under the Italian domestic law and that of Adolf Eichman and so on. Even the Rome statutes by its Article 17 expressly endorses state parties domestic Jurisdiction to try offence, having semblances of international crimes."

b. "The Constitution is the supreme law of the land and when the Constitution has given blanket protection to the Act, 1973 and any provision thereof, its provisions have to be adhered to. It is to be mentioned that the Act, 1973 is the first codified legislation in the world which gave jurisdiction to the Tribunal to be set up under section 6 thereof to try and punish any person irrespective of his nationality who, being a member of any armed, defence or auxiliary forces commits or has committed in the territory of Bangladesh, whether before or after the commencement of the Act any of the crimes as mentioned in sub-section (2) of section 3. The People's Republic of Bangladesh being an independent and sovereign State, its Parliament had/has every right to enact law, such as the Act, 1973 for the trial of the person(s) who commits or has committed the crimes as mentioned in the Act. So, when

> *we have a codified law, we need not travel to seek assistance from the other trials held or being held by the Tribunals/Courts either under the charter of agreements of the nations or under other arrangements under the mandate of the United Nations or other international body, such as Nuremberg trial and the Balkan trials."*

So, according to our constitution the decisions and observations of the Supreme Court of Bangladesh are binding upon its sub-ordinate courts including the Tribunals. Nevertheless, this Tribunal always tries to make sure of fair trial with the help of procuring different decisions from the international courts including Special Court for Sierra Leone, International Criminal Court, and the International Criminal Court for Rwanda and the International Criminal Tribunal for former Yugoslavia. The opposite parties will find such achievement of the Tribunal if they go through the judgments already delivered by both the Tribunals in Bangladesh. But insulting or undermining the court by any remarks is not struck only on the judiciary it is on the civilization. It is the sacred duty of the Court to protect and preserve the dignity in the interest of public in due administration of justice failing which the acts of civilization shall be hampered in all respect. It is not desirable by the civilized society to hear derogatory remarks made by highly civilized person expressing after a month long thought [by pre-planned manner] without having adequate knowledge on the fact in issue. In the case of Advocate, Riaz Uddin Khan -Versus- Mahmudur Rahman reported in 63 DLR (AD) 29 our Appellate Division also made observation that Duty of Court-

> *"This Court has a duty of protecting the interest of public in due administration of justice and to protect the dignity of the court against insult and injury. This court did not hesitate to use its arm of contempt of court when the use of such arm is necessary in order to protect and vindicate the right of the public."*

It is very unfortunate and undesirable for the nations at large that such an organization [opposite party] along with its two other persons [opposite party nos. 2 and 3] having no adequate knowledge over the proceeding of the case passed such remarks in their official website on 16.08.2013. However, their subsequent repentance [apology] through their counsel as well as written reply makes the view weaker in the core scrutiny of the issue brought by the petitioner.

Now the question is as to how and in what manner the apology is being sought by the opposite parties in the instant case. Unless the contempt is of a very gross nature, the court is inclined to accept apology from the contemnors. An apology usually mitigates the offence of contempt of court but it must come from the heart of the contemnor not from the pen under compelling circumstances. It is not a simple event, it has proper dictionary meaning which cannot be exercised in insignificant way. In this context our Appellate Division observed in the case of Md. Riaz Uddin Khan and another -Vs- Mahmudur Rahman and others reported in 63 DLR [AD] [2011] 29 which is quoted below,

> *"Apology or repentance in the facts of the given case came from the pen and not from his heart. Apology must have*

> *been tendered at the earliest opportunity. The Apex Courts of this subcontinent held that the delay in tendering unqualified apology is not an apology in the eye of law."*

It appears from the written reply to the show cause notice that the opposite parties sought apology at the early opportunity through their counsels fingering at the paragraph 14 of their written reply although they have been advised by their counsel to mention that the truth is not the defence in a contempt proceeding.

The fairness, factual accuracy and logical criticism are to be important considerations on the allegations how the language in which it was made by the opposite parties. In this regard our Appellate Division of the Supreme Court opined in the case of Advocate, Riaz Uddin Khan –Versus- Mahmudur Rahman reported in 63 DLR[AD] [2011] 29 that,

> *"The language in which it is made, the fairness, the factual accuracy, the logical soundness of it, the care taken in justly and properly analyzing the materials before the maker of it are important consideration. The Court is not concerned more which reasonable and probable effects of what is said or written than with the motives lying behind what is done."*

On a plain reading of the remarks made by the opposite parties we find both the comments on sub-judice matter to be contemptuous as per provision of section 11(4) of the Act, 1973 as quoted earlier and the advice of the learned counsels such as truth is not the defence in a contempt proceeding is also contemptuous but at the same time their plea as having no knowledge regarding the contempt law and proceeding of

Bangladesh and lack of perspective to accurately assess whether sincerely offering comments on trial in question as being non residents of Bangladesh could be considered in the lenient view. Lack of knowledge as well as inadvertent mistake invites the meaning that the opposite parties had no intention to undermine the judges of the Tribunal for upholding their dignity, integrity and impartiality in the due administration of justice. But it is very hard to be digested by a reasonable man that such a reputed organization as claimed they could make mistake lacking of knowledge over a sensitive issue observed everyday by the world people at large. However, judges are not harder than that of others as they have a lot of patience after having taken oath of office in the due administration of justice and they should exercise their power sparingly if they have an interest in the matter in question.

In Rezina–Vs- Metropolitan Police Commissioner, Ex parte Blackburn, Mr. Quintin Hogg, a Privy Councillor and former MP and Queen's Counsel, wrote an article in weekly "Punch" entitled "Political Parley" seriously criticising the Court of Appeal and its dicta. Mr. Albert Raymond Blackburn made an application for an order that the writer had been guilty of contempt of court. Rejecting the application, Lord Denning MR observed,

> *"this is the first case, so far as I know, where this court has been called on to consider an allegation of contempt against itself. It is a jurisdiction which undoubtedly belongs to us but which we will most sparingly exercise; as*

we ourselves have an interest in the matter as quoted earlier."

Fair criticism regarding conduct of the judges may not tantamount to contempt if it is made in good faith and in the people's interest. It can be appreciated when every conduct of ours [Judges] regarding the proceedings of the Tribunal is being observed and criticised lawfully by mass people. We always welcome by accepting constructive criticism from the people who have definite knowledge on the fact in issue. We also do not fear criticism, nor do we resent it because it enriches and achieves the highest standards in pursuant of their importance and trial process of the Tribunal to some extent that for instances as model but at the same time each and every commentator or contemnor has to keep in mind that the institution like judiciary or authority of the court should not be disregarded, dishonoured or undermined with its dignity and prestige in any way under criticism in the name of freedom of speech and expression.

In a democratic practice, fair criticism of the working of all three organs of a State should be welcomed and would, in fact, promote interests of democratic functioning. In view of this right, a person shall not be guilty of contempt of court for publishing any 'fair comment' on the merits of any case which has been heard and finally decided. But, comment not made honestly and in good faith would not be fair comment and also comment not intended to promote public interest could not be fair comment.

A comment cannot be fair which built upon facts which are not truly stated and accurate. Any unfair criticism of judgment underling confidence of judiciary amounts to contempt.

It is a worst kind of contempt to scandalise court or its judges by the commentators without having adequate knowledge on the fact in issue. It is also a contempt of court touching the impartiality and integrity of a judge or making sarcastic remarks regarding his judicial competence. From the nature of office, judges have no scope to reply to the criticisms made by the commentators. Judges cannot enter into public and political controversy. They have to rely on their conduct itself to be its own justification. But judges should not apply aggressive and segregated or isolated mind in the due administration of justice rather they should feel to embrace and enjoy patience hearing all the time in the judicial functions which happens in every action of the administration of justice all over the world including this Tribunal. Lord Chancellor Bacon spoke right when he said that “patience and gravity of hearing is an essential part of justice.”

There is no reason to become happy or unhappy following some observations of ours [judges] made in disposing the instant contempt petition as it seems to be defending ourselves on the contemptuous allegations presented by the petitioner against the opposite parties. Because judges are always obliged to hold that counter blast is not a good measure for rectification of the attackers, at least, in the conduct of the case in which an interest is involved. It is the best policy to apply

defensive view for justification of a good judge's conduct in due administration of fair justice. Yes, in the case in hands judges have ample power to exercise their authority upon the opposite parties in accordance with law as it has been proven that the opposite parties made contemptuous remarks in their official website regarding the judges as well as authority of the Tribunal in the name of freedom of speech and expression. But it is not the final solution to focus rigidness on the opposite parties as being authorised. Solution may find if they realise their mistakes wholeheartedly. Apart from this, it may be mitigated if the Tribunal forgives by accepting their [opposite parties] repentance narrating the reason as first test.

People like opposite parties in a civilized society got no mandate to exceed the limit of law. Everybody knows that all are equal in the eye of law. So, people in very high positions of power are subject to the rule of law, even if it takes a very long time. It is to be noted here that a judge of the Tribunal shall get privilege of individual right as to his opinion in conducting a case as per section 6(7) of the Act of 1973. This legislation has not given mandate to the people at large like the opposite parties in the very Act of 1973 to criticise all judges or authority of the Tribunal at random. However, on scrutiny of the dossier presented by the parties concerned, the issue in hands is found to be contemptuous against the opposite parties but it is for the first time such allegation brought against them before us. No such allegation was brought earlier by anybody or any organisation against them to draw contempt proceeding. For the

reasons stated above lenient view may take place in order to adjudicate the instant contempt petition. It may be reiterated here that the opposite parties being reputed and civilized natural and legal persons would have been more careful before making such remarks in their official website as their activities as claimed are always for the distressed and oppressed people.

In view of the facts, circumstances and laws as narrated above, we are expecting more circumspection, understanding, discretion and judgement on the part of the opposite parties because they are strongly claiming that they speak on behalf of the distressed and oppressed people and of their fundamental rights and as such the instant contempt petition is disposed of with a note of desire that upon realising mistakes as narrated above the opposite parties shall be more careful, cautious and respectful in making any statement or comment with regard to the judicial proceedings or the judges of the Tribunals or any other courts of Bangladesh in future. With the said observations the application filed by the Chief Prosecutor as petitioner is hereby disposed of accordingly.

(M. Enayetur Rahim, Chairman)

(Jahangir Hossain, Member)

(Anwarul Haque, Member)