

Despite real allegations, ‘impunity’ in collaboration with drug administration and police

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RAB filed a case against Pharmic Laboratories of Chittagong for allegedly marketing various drugs using packaging and labels similar to those of reputed drug companies at their discretion without using approved packaging and labels. Despite the true nature of the complaint, the police submitted the final report on the case with the help of the Department of Medicines Administration. As a result, the court settled the case by acquitting the accused.

This reporter went to the office of Safiqul Islam, Deputy Director of the Chittagong Department of Drug Administration on August 4, 2022, to get a statement on the above-mentioned issue. After hearing about the incident, he called the medicine supervisor, Sakhawat Hossain Raju Akand, and asked him to check the documents the reporter brought to him. He took photos of all the documents. However, when the case was filed at Khulshi police station on November 8, 2021, and later when the final report was submitted, none of these two officers were on duty in Chittagong.

After submitting the supporting documents of the complaint, Deputy Director of the Drug Administration Department, Chittagong, Safiqul Islam, was surprised and asked, ‘How did you get these documents?’

He also said that the investigating officer might have submitted these documents to the court ‘perhaps by mistake’, due to which the irregularity was caught.

He said, ‘We will investigate the matter.’

Two days after visiting the Chittagong office of the Medicine Administration, on August 6 at 3:15 pm, a person named Feroze Roni called this reporter. He introduced himself as the General Manager of Pharmik.

He said, ‘You went to the medicine administration. Do you need any assistance or any information?’

This suggests, instead of investigating the irregularities and taking action, the Directorate of Drug Administration has revealed the identity of the source to Pharmik.

Feroze Roni, who introduced himself as the GM of Pharmik, could not respond properly when asked about manufacturing and marketing drugs using packaging labels similar to those of other companies without using the approved label and submitting a final report to the police in the case despite the allegations being true. Feroz Roni, the first accused in the case filed at Khulshi police station for the same incident, said that he will be able to explain the matter if we meet face to face.

The Day of August 11, 2022, was scheduled for the meeting. After meeting in front of BRAC Bank at Cheragi Pahar junction in the city at 1.00 pm that day, Feroz kept telling the reporter,

‘We are a drug company from Chittagong, please help us. You can tell me if you need any help. We are on good terms with a lot of journalists. Whatever we did, we complied with the law.’

When asked to show such a law that supports what they did, he said he will send it on WhatsApp and said that he will meet again later.

How it all started

On November 7, 2021, RAB raided Pharmik’s factory at Khulshi road No. 3, in Chittagong. Salma Siddika, Assistant Director of Drug Administration, was present in the drive. Feroze Roni (34) and Basu Nath (33), two Pharmik workers, were arrested during the raid. RAB filed a case at Khulshi police station on November 8, against the owner of the company, Ahmed Robin Ispahani, who was arrested under sections 406 and 420 of the Penal Code.

The first information report (FIR) of the case states, ‘During the interrogation, the defendants admitted that they marketed the medicine by using a label on the wrapper and leaflet of the medicines similar to the reputed drug companies instead of using the label on the back of the medicines and the wrapper approved by the Department of Drug Administration. They have been embezzling money by cheating the public.’

The plaintiff in the case and Sub-Inspector of RAB Md. Moniruzzaman also wrote in the FIR, “The arrested persons along with the people from the medicine administration presented some documents of the medicine before me. After reviewing, it was seen that the name of the drug Omeprazole is printed on the wrapper. Instead of printing the trade name ‘Sito’ was written in large letters and ‘Omeprazole USP’ in smaller letters on the label on the back of the drug wrapper as per the approval, they manufactured medicines labelled ‘Omeprazole’ in large letters on the wrapper and the back of the wrapper to market the medicine. In the case of ‘Paracetamol Extra’, although authorized to manufacture and market the drug with the trade name ‘Anapol Plus’ written in large letters on the packaging and back of the medicine wrapper, the arrested accused instead prepared the medicine for marketing with ‘Paracetamol Extra’ written in large letters on the packaging and medicine wrapper. In the case of ‘Metronidazole 400’, although authorized to manufacture and market the drug with the trade name ‘Minazole’ written in large letters on the packaging and back of the medicine wrapper, the arrested accused prepared the medicine for marketing with ‘Metronidazole 400’ written in large letters on the packaging and medicine wrapper. In the case of ‘Pantoprazole 20’, although authorized to manufacture and market the drug with the trade name ‘Pantoprax 20’ written in large letters on the packaging and back of the medicine wrapper, the arrested accused instead prepared the medicine for marketing with ‘Pantoprazole 20’ written in large letters on the packaging and medicine wrapper. In the case of ‘Riboflavin’, although authorized to manufacture and market the drug with the trade name ‘Ribofolsin’ written in large letters on the packaging and back of the medicine wrapper, the arrested accused instead prepared the medicine for marketing with ‘Riboflavin’ written in large letters on the packaging and medicine wrapper. By doing these, it appears that the public money is being embezzled through fraud in the prospect of making illegal gains from the public.”

In the above-mentioned case filed by RAB, details of the seizure of 401,500 pieces of tablets and capsules manufactured with counterfeiting wrappers were also provided. Later Pharmik produced copies of the packaging and approved wrappers of those drugs to the investigating officer; Which he submitted to the court. Allegations made in RAB’s case regarding those copies

of approved wrappers and packages were completely true. That implies Pharmik did not use approved packaging and labels. This reporter found the medicines, for which RAB filed a case, are still in the market.

However, investigating officer and SI of Khulshi police station Zahid Parvez Talukdar submitted the 'final report' on January 27, 2022, stating that no crime has been proven against Pharmik.

The final report mentions, 'Through reliable sources including Salma Siddiqa, Assistant Director of the Department of Drug Administration and various officials of the department, I have come to know that people are not being cheated by drugs marketed with a generic name written in big letters and the commercial name in small letters on the packaging of the medicine and the back of the medicine wrapper. Even in this regard, there were no complaints from the Department of Drug Administration or any legal restrictions.'

But, Section 9(e) of the Medicines Act, 1940 clearly states, "If a medicine does not have an approved label, it shall be deemed to be a 'misbranded' medicine. Section 13(a) of the same Act states a punishment of imprisonment up to one year and a fine for misbranding drugs." However, this law was not followed in the case of Pharmik.

When asked about this, SI Zahid Parvez Talukdar told Ekushey Patrika, 'I asked the opinion of the drug administration about the case, and they did not say that Pharmic has violated the law. Therefore, the final report has been submitted.'

When he was told that even if the medicine administration did not mention it, the evidence can be found by checking the documents approved for wrapping, SI Zahed replied, 'The medicine administration is an expert for these matters. They did not mention the violation of the law. So, it was submitted that way.'

When asked about the same, Salma Siddiqa, Assistant Director of Medicines Administration (currently working at Feni), who gave an opinion on Pharmik, could not respond properly. She told Ekushey Patrika, 'I think the case is still going on. I do not know for sure. I have to check.'

When told that the case was settled as the police gave a final report as no evidence of a crime was found based on your opinion, Salma Siddiqa said, 'The police did not ask for my opinion, they asked for it from our office, so it was officially provided by the office. The police had some queries, according to which we answered. And this is not our operation, RAB received a complaint, and based on that complaint they conducted the operation. We told the police that do not have any charges against Pharmick. Anyways, let me check and call the company to see if the case is over.'

The plaintiff of the case Sub-Inspector of RAB-7 Chittagong, Md. Moniruzzaman told Ekushey Patrika, 'I do not know whether the final report has been submitted in the case. I will check and if there is anything to be done, I will do it.'

Ayub Hossain, the spokesperson and director of the Department of Drug Administration, told Ekushey Patrika, 'I will look into this matter. If there is any other such news, you can inform me directly. I will take action.'

Not only this but there have been complaints of irregularities against Pharmik in the past also. Back in 2014, on September 25, the Pharmic Laboratories' factory was sealed for manufacturing expired drugs, repackaging and bottling syrups, in an unsanitary environment and

manufacturing unlicensed drugs. At the same time the plant manager of the factory, Sadhan Biswas, was sentenced to two years in prison and the company was fined Tk 200,000 by the mobile court.

On January 7, 2016, the mobile court of RAB fined the pharmaceutical factory Tk 500,000. At that time, the factory was using expired reagents. Also, many expired medicines were available in the warehouse along with manufactured medicines. They could not give any explanation to the mobile court in this regard. Different manufacturing and expiry dates were written on the medicine packets of the same batch number. After this incident, on August 8, 2016, the High Court ordered to stop the sale of Pharmik antibiotics.

Furthermore, on February 13, 2017, the High Court banned Pharmik's drug production. There have been many fines in the administration's raids on the drug factory. Despite all this, Pharmik's production of 'medicine' has not stopped. Their manufacturing license has been renewed until February 21, 2024. With this, Pharmik is making medicines by copying the packaging materials of other companies.

A lack of thorough investigation against the owners of illegal drug manufacturing factories, tenuous charge sheet

On December 13, 2015, police officers from the Pahartali Police Station arrested five people including a doctor couple working in Chittagong City Corporation for being involved in the production of adulterated drugs with fake licenses. On that afternoon, they were arrested after a raid at the factory of Lexicon Pharmaceuticals in the Munsipara area of North Kattali of Chittagong city. The police and drug administration seized adulterated drugs, 6 kg raw material pellets and equipment from the factory. Later the factory was sealed.

The persons arrested that day were the three directors of the pharmaceutical factory Abdul Jalil, AHM Nazirul Haque and his wife Jannatul Mawa, and two employees of the factory Al Amin and Ruhul Amin, who were also brothers. Among them, Nazirul Haque was the Medical Officer of North Kattali Alimullah Chowdhury Health Center of Chittagong City Corporation and his wife was the Medical Officer of Uttar Kattali Mostafa Hakim Matrisadan Hospital. The S.I. Matiur Rahman of Pahartali Police Station filed a charge sheet against 13 people including the owner and employees of the factory on August 17, 2016, under Section 25-C (1) (d) of the Special Powers Act.

The court did not accept the charge sheet and on December 5, 2016, directed the PBI to conduct further investigations. After the investigation, S.I. of PBI Chittagong Metro Shahidul Islam issued a charge sheet against 17 people on March 19, 2017. On October 16, 2017, without accepting the charge sheet, the court again ordered PBI to conduct further investigation. On October 29 of the same year, the Inspector of PBI Chittagong Metro, Noor Ahmad was assigned the responsibility of the investigation. Inspector Enamul Haque Chowdhury was given the responsibility of investigating the case when he went to training.

After the investigation, inspector Enamul issued a charge sheet, on January 31, 2018, against a total of 17 people, including the owner of the illegal factory, 15 people who transferred shares at different times and 2 employees.

As per the charge sheet, Police and PBI arrested five people including the doctor couple and a person named Abdur Rauf on December 15, 2015. No other arrests were made. On January 6, 2016, the court allowed Rauf to be interrogated at the jail after the police asked for a two-day remand. The remaining five people including the arrested doctor couple were kept away from giving their statements in court, they were not even remanded. The raw materials for producing the medicine were recovered from the illegal factory but their sources were not mentioned in the charge sheet. The investigation did not reveal how the accused got these raw materials for making medicine. Four and a half years have passed since the issue of the charge sheet, yet the charges have not been framed against the absconding accused.

Even more surprising fact is that the first investigating officer S.I. Matiur Rahman sent the seized 'Isolex' medicine, 100 grams of raw material, 5 empty capsules and 50 grams of capsules to the Central Drug Testing Laboratory in Chittagong for testing. But without testing this evidence, a report was submitted to the police on March 30, 2016, from the Central Drug Testing Laboratory; It commented, 'Samples sent are invalid as they were unregistered. There is no need to test and analyze.' It is not customary to register raw materials. Registration is needed for medicines.

The police also did not mention the specific name of the seized 6 kgs of 'raw material pellets' in the case file. When questioned that how the name of the raw material was known without testing, the Director of Chittagong's Central Drug Testing Laboratory Md. Qayoum said, 'Though the report was sent from my office, I was not in charge at that time. However, if the name of the raw material is mentioned then we could tell whether it is allowed to import in Bangladesh. Maybe the police did not give the name of those raw materials, so it was said to be unregistered. And there was no facility to check what the raw material was.'

When asked what might happen with this case as the drugs and raw materials were not properly tested and the accused did not give statements, Akhtar Kabir Chowdhury, the former General Secretary of Chittagong District Lawyers Association, said, 'The court gives sentence based on the testimony and evidence. It is difficult to prove the crime unless the evidence is presented and the accused provides a statement.'

On January 16, 2018, the detective police branch (DB) found a counterfeit drug manufacturing factory in the name of a fake company called 'Ecuara Pharma' at Lalkhan Bazar High-Level Road under Khulshi Thana of Chittagong city. 28 types of counterfeit drugs, container and drug labels were recovered from there. One miscreant, Saidul Islam (38), was arrested and a case was registered against him under the Special Powers Act at the Khulshi police station.

Saidul was remanded for two days and interrogated but did not testify in court. On December 1, 2018, the then inspector Rajesh Barua of the city intelligence police filed a charge sheet against Saidul. Even after 4 years of filing the charge sheet, the case has not yet been charged. The case is pending in the 7th Joint Metropolitan Judge's Court.

Lawyers commented that it would have been easier to prove the allegations of this case beyond doubt in the court if the statement of the accused had been recorded. Akhtar Kabir Chowdhury, the former General Secretary of Chittagong District Lawyers Association said, 'Though a case has been filed under the Special Powers Act regarding the recovery of counterfeit and adulterated drugs, the results of these cases would not come good in the end. Defendants do not have depositions; many do not appear to testify.'

‘As a result, the accused got away. Cases filed on account of counterfeit and adulterated drugs under the Special Powers Act carry the death penalty or life imprisonment on conviction, but there is no precedent for any exemplary punishment. Sometimes minor sentences and fines are passed through mobile courts. As there is no exemplary punishment, in many cases, the convicts get involved in crime again.’

Two months of imprisonment for one truckload of fake-illegal drugs

This reporter went to the office of Safiqul Islam, the Deputy Director of the Medicine Administration Department of Chittagong on July 14, 2022, at noon. When asked about his success in the last year, he replied, ‘There have been 74 mobile court cases in Chittagong in the last fiscal year 2021-2022 due to the sale of counterfeit, adulterated, unregistered and import prohibited drugs. The fine was more than Tk 2.1 million. Goods or medicines worth Tk 5 million were seized.’

When we wanted to know what were the counterfeit medicines and what was the quantity, Safiqul replied, ‘We do not call them counterfeit medicines without testing. We use the terms unregistered and misbranded. These are technical terms. Misbranded means that what was supposed to be manufactured was not manufactured. This is counterfeit or misbranded in legal terms. There is no specific law about counterfeit medicines. The existing law is about misbranded medicine.’

‘Last November, I seized a truckload of counterfeit medicine. There was a garbage dump at a place called Shahpin on the toll road along the Bayezid Link Road along the Dhaka-Chittagong highway. I found a truckload of illegal drugs containing allopathic and Yunani medicines. These medicines were stored in three warehouses by a man named Harun. He was sentenced to 2 months imprisonment and fined Tk 50,000. There were medicines worth Tk 2 million. That truck was a noose around my neck. I was worried about offloading the medicines.

There were goods from three warehouses. Liquid medicines especially are heavy. In the end, I hired four people. We made a list and burnt all the seized drugs till 1 am. The operation started at 3:30 pm and ended at 1 am. I kept some samples as evidence and burned the rest. There were medicines of more than a hundred types.’

When asked for the documents of the case, he said, ‘I cannot give you the papers. These are confidential.’

After running to-and-fro in the Chittagong district administration, we got hold of the case paper of the mobile court. It was mentioned in the paper that the above-mentioned mobile court was held in the Bibirhat area of Chittagong City on November 18, 2021. However, the deputy director of the Chittagong Department of Medicine Administration Md. Safiqul Islam claimed that a truckload of drugs was seized from a place called Shahpin on the toll road next to the Dhaka-Chittagong highway. Although the seizure of a truckload of drugs was not mentioned in the case; There was a mention of 54 types of ‘misbranded’ drugs that were seized.

Also mentioned in the case of the mobile court was, Md Harun was sentenced to two months of imprisonment and fined Tk 50,000 as he confessed his crimes. However, on December 18 of the same year, Harun appealed against the verdict. But the District Magistrate rejected the appeal on December 30 last year stating that the mobile court’s verdict was correct. However, the question remains, whether the punishment of two months of imprisonment and a fine of Tk

50,000 was enough for Harun, who was caught with ‘a truckload of adulterated drugs’, where there are precedents of imprisonment for 6 months- to a year for crimes like eve teasing.

According to the Annual Report 2020-2021 of the Department of Medicines Administration, 1,715 mobile court operations were conducted in collaboration with the Medicines Administration in the last fiscal year of 2020-2021. A fine of Tk 75.8001 million has been collected in these operations. Also, illegal drugs worth Tk 77.530153 million have been seized. 49 persons have been sentenced to imprisonment for various terms. 18 pharmacies were sealed.

In this regard, the former General Secretary of the Chittagong District Bar Association, Advocate Akhtar Kabir Chowdhury told Ekushey Patrika, ‘If a case is filed against adulterated drugs under the Special Powers Act, the maximum penalty is the death penalty. Still, there is no precedent that anyone has been punished for fake and adulterated drugs under this law. There are very few cases under this law. Culprits were fined and released by the mobile court. Hence fake and adulterated drugs have become rampant. The medicine administration is also not fulfilling its responsibilities.

A former professor of the Faculty of Pharmacy of the University of Dhaka Dr Muniruddin Ahmad said, ‘Due to legal loopholes, the production and marketing of counterfeit drugs cannot be stopped. Activities of manufacturers of counterfeit, adulterated and harmful drugs are on the rise. The degree of punishment is so small compared to the crime that it has little effect on the crime and the criminal. The punishment for killing people by producing and selling fake, adulterated and harmful drugs is Tk one or two hundred thousand- and three-month imprisonment in default. This is not acceptable. If we want to control fake and adulterated drugs, cases should be filed under the Special Powers Act and maximum punishment should be ensured.’

Only 10 cases in 33 years in the drug court of Chittagong

Chittagong’s only drug court, established in 1989, has been handling cases related to controlling adulterated and counterfeit drugs. In the last 33 years after its establishment, only 10 cases under the Drug Control Act, of 1982 have been registered in the court. After 2014 there were no more cases.

According to the Registrar of drug court cases, there were five cases in the drug court in 1989. In the first case, a fine of Tk 500, 15 days imprisonment in default was ordered; In the second case, a fine of Tk 400, 7 days imprisonment in default was ordered. The third, fourth and fifth cases were transferred to the Special Tribunal.

There were no cases in 1990. A single case was filed in 1991; However, the plaintiff could not produce witnesses in the case, so the judge dismissed it. After that in 1992, 93 and 94 there were no cases in the drug court. One case was filed in 1995, But the registrar did not mention the outcome of the case. Again, a single case was filed in 1996; The case was transferred to the Metropolitan Sessions Judge’s Court on 18 February 1999. From 1997 to 2013, there was not a single case in the Chittagong drug court.

There were two cases in 2014. In the first case, a fine of Tk 100,000, three months imprisonment in default was imposed on October 23, 2017. The second case was transferred to the court of the First Additional Sessions Judge on 13 November 2019.

The Drug Control Act can impose a maximum of 10 years in jail and a fine of Tk 200,000 for the production of adulterated and counterfeit drugs and the death of someone due to the consumption of those drugs. According to the law, only the authorities of the Department of Drug Administration can file a case in the drug court. Victims, or even law enforcement agencies, cannot sue counterfeiting companies or individuals.

When asked about not filing a case in the Chittagong Drug Court, Safiqul Islam, the Deputy-Director of the Chittagong Drug Administration, told Ekushey newspaper, 'Even though no case was filed in Drug Court, two cases were instead filed in Magistrate Court last year.' When asked about whether another case could have been filed in the Chittagong Drug Court or not, he said, 'A case was filed in the mobile court and another was filed under the Special Powers Act.'

When asked to know the number of the case filed under the Special Powers Act, he said, 'It is confidential, so the number of the case cannot be given.' When asked for the number of the cases pending in the Magistrate Court, he said, 'The number of the case cannot be given. These are confidential'

When asked how the number of the case under trial in the court was 'confidential', Safiqul Islam said, 'Take it from the court. I don't have the case number. Our assistant director Salma had them. She was transferred to Feni.'

When he was told, 'Your subordinate assistant director, the medicine supervisor, will have the case information', he replied, 'It might be in his closet.'

In the next second, he again said, 'The person who has the case will have the information. The system here is that if I file a case, even if I am gone, I have to come to testify.'

When he was told that the number of the case was supposed to be in the office, he replied, 'No, the case number will not be here. It's too complicated! The person who files the case will know that these should be kept in his custody. No one else can do anything. Please tell me if you have anything else to ask other than the case.'

It is alleged that with the connivance of some drug administration officials, those involved in counterfeit and adulterated drugs cannot be taken under the jurisdiction of the drug court. Again, even if a case is filed in the drug court for death due to consumption of toxic drugs, punishment cannot be ensured. There are also instances of the accused getting away because the charges were not proven due to weaknesses in the investigation. This observation has also come out in the judgment of the court.

All the accused were acquitted in the cases filed in connection with the deaths of 28 children across the country from June 2009 to August 9 due to the consumption of counterfeit paracetamol. On November 28, 2021, the Dhaka Divisional Drug Court acquitted the accused. According to the court verdict, the complaint could not be proved due to the incompetence and inefficiency of the plaintiff and the investigating officer. As a result, the accused were acquitted.

In this regard, a lawyer of the Supreme Court, Manzil Morsed, said, 'There are allegations that the criminals escape punishment by perverting the officials of the Department of Drug Administration. In this case, proper investigation should be done and stringent actions should be taken.'