

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. OF 2010.

IN THE MATTER OF:

An application under Article 102 of the constitution of the People's Republic of Bangladesh read with Article 44 of the Constitution.

AND

IN THE MATTER OF:

Enforcement of Fundamental Rights as guaranteed under Article 31 of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

Eviction of land owners by way of creating violence against the people in order to grab the land and treatment of the law enforcing agencies in an unlawful manner violating the provision of law.

AND

IN THE MATTER OF:

1. Human Rights and Peace for Bangladesh (HRPB) Represented by it's Secretary Advocate Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Sarwar Ahad Chowdhury, Director, Human Rights and Peace for Bangladesh (HRPB) of 3/14 Bashbari Bosila Road, Mohammadpur, P.S.: Mohammadpur, Dhaka.

3. Advocate Md. Aklas Uddin Bhuiyan, Director, Human Rights and Peace for Bangladesh (HRPB), 3 Agamashi Lane, P.S.: Kotwali, Dhaka.

..... Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, District: Dhaka.

2. The additional Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S.: Shabag, District: Dhaka.

3. The Inspector General of Police (IGP) Police Bhaban, Phulbaria, P.S.; Ramna, District- Dhaka.

..... Respondents.

GROUND S

I. For that Article 35 (5) of the constitution of Bangladesh has provided a provision that 'no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. More over section 29 of the police Act 1861 has provided punishment for police officer who shall offer any unwarrantable personal

violence to any person. The police have violated the principal of law, hence they should be punished.

II. For that the duty and responsibility vested upon the law enforcing agency to protect persons and property of any citizen of the country. The respondents are also duty bound to obey the provision of law. It is the duty of a police officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as per the constitution. Hence they are liable to be punished for their illegal act.

III. For that the duty and responsibility vested upon the law enforcing agency to protect the citizen of the country and property of the citizen. The respondents are also duty bound to obey the provisions of law. It is the duty of a police officer to act legally but no law has been allowed them to treat the citizen in an unlawful manner. But they have failed to perform the duties and responsibility as per the constitution.

IV. For that under the supervision of a police officer the people were evicted from their own land violating the provision of law and it has violated the fundamental rights of the citizen. So the police officer who is liable for this illegal act should be punished as per law.

V. For that as per Article 21 of the Constitution of Bangladesh the duty of every public servant is to perform public duties and to protect public property. Under Article 31 of the constitution of Bangladesh no one is allowed to take any action detrimental to property of any person except in accordance with law. According to the news report police violated the provision of Article 21 and 31 of the Constitution of Bangladesh.

VI. For that duty and responsibility vested upon the law enforcing agency to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the police have failed to perform the duties and responsibility as vested upon them and also failed to protect the property of the citizen, which is illegal. Under these circumstances the respondents are liable to take immediate steps against the police personal who have violated the provision of law and initiate legal action under section 21 of the Police Act, 1861 as well as section 33 of PRB against them. The respondents are legally bound to form an enquiry committee to find out the real involvement of the police personal in the incident.

Wherefore it is most humbly prayed that your Lordships would graciously be pleased to issue: -

a) A Rule Nisi calling upon the Respondents to show cause as to why direction should not be given upon the respondents to take legal steps as per section 29 of the Police Act 1861 and section 33 of PRB against the police personnel who violated the provision of law as reported in daily news paper on 19.02.10.

b) Pending hearing of the Rule an order may be passed directing the Respondents to abstain the police super Mizanur Rahman from any public duty.

c) Direct the respondents to form an independent inquiry committee within 7 days to find out the name of the police personal who are liable for the incident as reported in the news paper and submitted report before this Hon'ble Court within 30 (thirty days).

Present Status

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents

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and granted ad-interim order. After hearing the parties the Hon'ble Court passed judgment and disposed of the rule with direction.
