

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

WRIT PETITION NO. OF 2011.

IN THE MATTER OF:

An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Public Interest Litigation (PIL).

AND

IN THE MATTER OF:

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

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Law, Bangladesh Secretariat Building no.7(3rd floor), P.S. Shahbag, Dhaka – 1000, Bangladesh.
2. The Chairman of Anti Corruption Commission, 1, Segunbagicha, Dhaka-1000.
3. The Register, Bangladesh Supreme Court, Bangladesh Supreme Court Building, Shahbagh, Dhaka.
4. The Secretary Ministry of Public Administration, Bangladesh Secretariat, P.S. Shahbag, Dhaka – 1000, Bangladesh.

.....Respondents.

GROUND S

I. For that this judiciary has the most significant responsibility to protect the sacred Constitution of the People Republic of Bangladesh, which holds the sovereignty of this country. However, the official of the lower judiciary is disgracing the sacred judicial utility, due to which the general peoples are losing their reliance, assurance and confidence over the judicial system. Which will subsequently tempting the common people to take the law on their own hand and it has been witness in many recent events. Such a tendency and preference to avoid seeking help of judiciary put question of the inevitability, effectiveness, competence and worthiness of the judiciary to protect the Constitution of People republic of Bangladesh. Such a questionable status of judiciary should not be maintainable, hence the concern activities must declared unlawful and illegal.

II. For that the fundamental rights of the citizens declared in the part III of the Constitution is to be enforce and protect by the judiciary. The citizens of this great

country put their faith on the judicial system to get protection of their fundamental rights. If the officials of the judiciary maintain their corrupt practice to deny justice to the people in return of bribe then people will lose hope on judicial functions and as well as on the democracy which will abolish the republic. This court of law is under duty to defend its own superior, unprejudiced, uncorrupted and seared illustration before the people whom they are only constitutional duty bound. Thus this court must declare the concern activities without lawful authority and unlawful.

III. For that it is unprecedented that the judicial officers are so aggressively corrupted in an extent to indulge the reliance of the people on the judiciary. Due to this, the democracy of the country endangered and justice has denied to the people. Democracy practised by the Parliament but it is the duty of the judiciary protect it. Due to the corrupt practise of the official of the lower judiciary the judicial system has fail to perform the sacred duty which is entrusted to them by the people of this republic. Thus this court is under obligation to restrain such corrupt practise and declare these illegal and unlawful.

IV. For that the Article 7 of Schedule I of the Constitution of this Republic declares the Supremacy of the Constitution and the sacred duty to protect it rest on the Judiciary. However, due to the corruption of the judicial officers' this institution is consistently failing to perform their duty. This court is under duty to declare these activities to be in violation of the constitutional duty and against the principals of natural justice, thus without lawful authority and unlawful.

V. For that the Article 11 of Part II of the Constitution provides that "The Republic shall be a democracy which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed". As the watchdog of the constitution, it is the duty of the judiciary to ensure that the democracy, fundamental right and freedom, and respect for human life has maintained by all the organs of the Republic. However, the corrupted officials have sold the justice due to whom the judiciary is failing to perform their duty, which is violation of constitution, and natural justice. Thus, this Hon'ble court is under duty protects its honour and dignity by declaring concern activities without lawful authority and by taking appropriate steps against the responsible persons.

VI. For that the Article 27 of the Constitution guaranties the equality before law, Article 31 provides the right to protection of law and Article 35 provides protection in respect of trial and punishment. Which means irrespective of race, colour, ethnic origin, social status and economical status all citizens of this Republic is entitle to acquire protection and to obtain justice, from the judiciary. However, due to the corrupted practise of the lower judiciary it has failed to maintain its unbiased image before the common people, which has destroyed the trust and reliance of common people. This court is under constitutional duty to maintain an unbiased position and deliver justice. Thus this court is ought to bound to declare these concern activity illegal and take appropriate steps against the responsible officials.

VII. For that the Article 44 of the Constitution provides the duty to this Hon'ble High Court to enforce the fundamental rights guaranteed by Constitution. Thus undoubtedly this court is under duty by the authority of the Constitution to declare the corrupted activity of the officials of lower judiciary illegal and ought to take appropriate steps against the responsible persons.

VIII. For that under Article 21 of the constitution the respondents and concern officials of the judiciary are duty bound at all time to serve the people and to perform the public duties. Nevertheless, they have failed to do their duty because they have failed to take steps against the corruption in the judiciary.

Wherefore, it is most humbly prayed that Your Lordships would graciously be pleased to:-

- a) Issue a Rule Nisi calling upon the Respondents to show cause as to why the inaction of the respondents to take appropriate steps against the corruptions done by the Serestadar, Peshkar, Najir, Administrative officers, Mudrakhori, and General Record Officers (GRO) of Dhaka District Judge, Metropolitan Sessions Judge, CMM, and Chief Judicial Magistrate court, should not be declared illegal and without lawful authority.
- b) Pending hearing of the rule directs the respondents to form a committee consisting of three members chaired by a reputed retired District and Sessions Judge to prepare a guide line to stop corruption in the office of the lower judiciary and submit the report within three months before this court through the Registrar of the Supreme Court of Bangladesh .
- c) Pending hearing of the rule directs the respondent no. 2 to investigate the allegation of corruption against the employees serving under the lower judiciary as reported in news paper dated 18.06.2011 in Amader Shomoy and take appropriate action under the provisions of Anti Corruption Law if they are found guilty.

Present Status

The case was filed and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
