

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

WRIT PETITION NO. OF 2012.

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.

3. Advocate Md. Sarwar Ahad Chowdhury, Director, Supreme Court of Bangladesh of 3/14 Bashbari Bosila Road, Mohammadpur, P.S.: Mohammadpur, Dhaka.

..... Petitioners.

-V E R S U S-

1. Bangladesh represented by The Cabinet Secretary, Cabinet Division, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka.

2. The Secretary, Prime Minister's Secretariat, Old Sangsad Bhaban, P.S.: Tejgaon, District: Dhaka.

3. The Secretary, President Secretariat, Bangabhaban, P.S.: Ramna, District: Dhaka.

4. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka.

5. The Inspector General Of Police(IGP), Police Head Quarter, Fulbaria, Ramna, Dhaka, Bangladesh.

6. The Deputy Inspector General of Police (DIG), Chittagong Range, P.O.- Chittagong, District- Chittagong.

7. The Police Super (S.P.), Feni, Post and District- Feni.

8. Mr. Nazim Uddin, Officer in Charge, Feni Sadar Model Thana, Post and District- Feni.

9. Mr. Saiful Islam, Sub Inspector, Feni Sadar Model Thana, Post and District- Feni.

10. Mr. Mahfuj, Sub Inspector, Feni Sadar Model Thana, Post and District- Feni.

11. Mr. Hakkani, Sub Inspector, Feni Sadar Model Thana, Post and District- Feni.

.....Respondents.

G R O U N D 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 leadership of respondent no. 8 the officers were tortured 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 citizen. Under Article 31 of the constitution of Bangladesh no one is allowed to take any action 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 officers performing official duty, 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 326/307/353 of penal code, 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: -

- 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 326/353/307 of the penal code and section 29 of the Police Act 1861 and section 33 of PRB against the police personnel who are liable for creating obstruction to the eviction of unauthorized structure build in the Govt. Khas land and torture upon the civil

officers and employee violated the provision of law as reported in daily news paper on 05.05.12.

- b) Pending hearing of the rule 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 submit a report before this Hon'ble Court within 15 (fifteen days).
- c) Pending hearing of the rule direct the respondent no. 8-11 to appear in person on 14.05.12 at 10.30 am before this court and explain their conduct.

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 and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
