

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(1) & (2) of the
Constitution

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 Asaduzzaman
Siddiqui, Hall No. 2, Supreme Court Bar
Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

1. Bangladesh, represented by the Secretary,
Ministry of Civil Aviation, Bangladesh Secretariat,
P.S. Ramna, Dhaka

2. Biman Bangladesh, a statutory body
corporate operating pursuant to Bangladesh Biman
Corporation Ordinance, 1977, represented by its
Managing Director

3. Bangladesh Bank, represented by its
Governor, Motijheel C/A, Dhaka

4. Anti Corruption Commission, represented
by its Chairman, Shegunbagicha, Dhaka

... Respondents

-A N D-

IN THE MATTER OF:

Discriminatory and mal practices perpetrated by
Biman Bangladesh in granting privileges without
paying regard to the Warrant of Precedence and
thereby being in flagrant violation, not only of
Article 29 and 31 of the Constitution but also of
Article 102(2) of the Supreme Law.

-A N D-

IN THE MATTER OF:

Nepotism and cronyism, regularly indulged upon by
Biman Pilots and other officials by upgrading their
relatives, friends, cronies and chosen people, though
often they are not deserving to be upgraded

-A N D-

IN THE MATTER OF:

Biman authorities oblivious stand on scores of much and many other irregularities

GROUNDS:

I. For that by the impugned decision, annexed at Annexure-A the respondent No. 2, the Biman, has decided to grant automatic upgradation to state functionaries placed at 13 of the Warrant of Precedence, and excluded state functionaries placed above them between No. 12 and 6 of the Warrant of Precedence and have thereby breached the Warrant of Precedence, 1986.

II. For that by deciding to automatically upgrade lower ranking VIPs, namely those placed at No. 13, and excluding superior VIPs, namely VIPs placed at numbers 4, 6, 8,9, 11, 12 and the learned Attorney General, the respondent No. 2, the Biman authorities, have not only breached the Warrant of Precedence, but has also acted in defiance of Article 29 and 31 of the Constitution.

III. For that that as Biman is not a privately owned company, but a statutory public body, a state emanation, it cannot operate at its whim by violating provisions of the Warrant of Precedence.

IV. For that by excluding the Hon'ble Chief Justice of the Republic, who is a double flag carrying VVIP, being the Fourth man in the Republic, while including functionaries of much lower ranks in the auto-upgradation list, the respondent No. 2, the Biman Authorities, have not only flouted Article 29 of the Constitution, the command of the Warrant of Precedence, provisions in the statute that created Biman, but have also given rise to a ludicrous and embarrassing situation and has created a state of absurdity and anarchy in rank marshalling order, and has plunged high profile state functionaries to utter humiliation and degradation.

V. For that by excluding from the list such high profile state dignitaries as those who, though not ministers, are accorded with the status of ministers (No. 6 in the Warrant of Precedence), the Chief Election Commissioner (No. 8 in the Warrant of Precedence), the Judges of the Appellate Division of the Supreme Court (No. 8 in the Warrant of Precedence), the Chairman Planning Commission(no 8 in the Warrant of Precedence), persons accorded the status of State Ministers (No. 8 in the Warrant of Precedence), the Election Commissioners (No. 9 in the Warrant of Precedence), the Judges of the High Court Division of the Supreme Court of Bangladesh (No. 9 in the Warrant of Precedence), and the Principal Law Officer of the Republic, the Attorney General, the respondent No. 2, the Biman authorities, have been acting in a ridiculous manner and have thereby been subjecting such high profile dignitaries to unpalatably embarrassing situation from time to time.

VI. For that it is about time that a thorough investigation, with a view to stop some of the Biman Pilots' illegally maintained overseas bank account, being used as a device for money laundering, be investigated not only by the Biman authorities, but also by Bangladesh Bank, the respondent No. 3 and the Anti Corruption Commission, the respondent No. 4.

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

a) Issue a Rule Nisi asking the respondent No. 1 and 2 to show cause as to why their decision, as reflected in the document enclosed in Annexure-"A", whereby decision to automatically upgrade lower ranking state VIPs, at No. 13 of the Warrant of Precedence, denying the same to a

double flag carrying VVIP, the Chief Justice of Bangladesh, placed at No. 4 of the Warrant of Precedence, and, to such other high profile state dignitaries who are placed at No. 6, 8, 9, 10, 11, 12 of the Warrant of Precedence, who are far above No. 13, shall not be declared to have been done without lawful authority for being violative of Article 29 and 31 of the Constitution, for being repugnant to the command contained in the Warrant of Precedence and for being ultra vires the statute that created Biman and why the respondents shall not be directed to stop all Biman Pilots and officials from upgrading their chosen non-VIP people, and why the respondents No. 1, 2, 3 and 4 shall not be directed to undertake an infallible investigation to unearth whether some Biman pilots have been maintaining bank accounts abroad in violation of the provisions contained in the Foreign Exchange Control Regulation Act, 1947 and other anti money laundering legislations;

b) Your Lordships may also be graciously pleased to pass the following interlocutory orders pending hearing of the Rule:

i) an order requiring the Managing Director of Biman to personally appear before this Hon'ble Court to explain why Biman authorities have been violating the law, as stated above, for such a long time by causing grave humiliation and affrontation to such high profile dignitaries of the Republic, as are mentioned above

ii) an order requiring the respondents No. 1 and 2 to either withdraw completely their decision to automatically upgrade any person at all or, alternatively, to include in the auto upgradation list people who are placed in No. 4, 6, 8, 9, 10, 11, 12 of the Warrant of Precedence, as well as the Attorney General ;

iii) to intimate this Hon'ble Court as to how many economy class passengers had been upgraded during the preceding period of three years, stating the reasons, why and at whose instance they were upgraded and their status;

iv) to intimate this Hon'ble Court on the number of non-VIP economy class passengers who were upgraded by or at the instance of Biman Pilots during last three years and the reasons for such upgradation;

v) to intimate this Hon'ble Court whether the identities of such Biman pilots who do or have been maintaining bank accounts abroad in breach of the Foreign Exchange Control Regulation Act 1947 and other money laundering legislation and what steps have been taken to bring them to book.

vi) an order requiring the respondent No. 2 to train its employees in general and the cockpit crew and the cabin crew in particular on the Warrant of Precedence.

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 was heard by the Hon'ble High Court Division and disposed of the rule with some direction.
