

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 its Secretary Advocate 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 Health and Family welfare, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
2. The Director General (D.G.), Health Directorate, Mohakhali, Dhaka, Bangladesh
3. The President/ Secretary, Bangladesh Medical and Dental Council, 203 Syed Nazrul Islam Shoroni, (86 Bijoyagar ), Dhaka-1000, Bangladesh.
4. Divisional Director (Dhaka), Directorate General of Health Services, Mohakhali, Dhaka.
5. The Senior Assistant Secretary, Hospital-Division, Ministry of Health and Family Welfare, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
6. The Lab Aid Hospital represented by its Chairman/Managing Director, Lab Aid Cardiac Hospital, Road-4, Dhanmondi R/A, Dhaka.
6. Major (Rtd.) Dr. A. K. M. Mahbul Haque, Director, Lab Aid Cardiac Hospital, Road-4, Dhanmondi R/A, Dhaka.
7. The chief Consultant, Lab Aid Cardiac Hospital, Road-4, Dhanmondi R/A, Dhaka.
8. The Officer in Charge, Dhanmondi Police Station. Dhanmondi R/A, Dhaka.

**GROUND S**

I. For that the respondents are the experienced public servant and very much aware of the rules and instructions of the government. But the have failed to take steps against the offence committed by the in the hospital and clinic.

II. For that the respondents are duty bound at all time to serve the people and to perform the public duties. But they have failed to do their duty because they have failed to take steps to ensure the better treatment of the citizen of the country by the private medical organization.

III. For that without any precautions to save the normal life living of the citizens, by way of neglecting the ensuring proper and prompt treatment to the patient the respondents have sent the life of the people in a dangerous situation, which is violation of Article 18(1) of the Constitution of Bangladesh. More over right to life of the citizen is fundamental rights guaranteed under Article 32 of the Constitution of Bangladesh but due to inaction of the respondents to ensure the proper treatment to the patient, the normal life living of the citizen has been hampered. Hence the respondents may be directed to take appropriate steps to monitor the hospitals and thus ensure the quality of the medical treatments they provide.

IV. For that Section 11 of the Medical Practise and Private Clinics and Laboratories (Regulation) Ordinance, 1982 provides (1) The Director General or any officer authorized by him in this behalf may inspect any chamber of a registered medical practitioner or private clinic or private laboratory to see if the provisions of this ordinance are being followed. (2) If on such inspection it is found that the registered medical practitioner or the owner of the clinic or laboratory has contravened or failed to comply with any provision of this Ordinance, the Director General may,- (a)in case of registered medical practitioner, recommended to the Government to debar him from carrying on private practice; (b) in the case of a clinic, by order, cancel the license in respect thereof. However the Director General has failed to perform his duties to inspect, which is illegal and unlawful.

V. For that the duty and responsibility vested upon the administration to serve the people and they are duty bound to obey the provisions of law. That as per Article 21 of the Constitution of Bangladesh the duty of every public servant is to perform public duties and to observe the constitution and the laws. It is the duty of the public servant to act legally but no law has been allowed them to do anything in an unlawful manner. But the respondent has failed to perform the duties and responsibility.

VI. For that the poor people of our country is unable to get medical treatment from the private hospitals & clinics due their excessive rates. Normally most of the poor people are rushing to the government hospitals for their medical treatment. Yet due to short capacity of Government hospital in spite of their disability they come to the private medical for treatment but the hospitals are such negligent to cause death of the patient. Such incidents of mal practice of private hospitals and clinic has become so frequent that now the right to life is under question and doubted so the strong steps required to be taken to stop such violation of law which affect the life of the citizens. The respondents are in charge of ensuring the quality of service provided by private hospitals but they have violated their lawful duties which cause death to peoples thus their inactions are illegal.

VII. For that the respondent no 6 -8 has committed an offence under the provision of penal law due to causing the death of any person by doing negligent act. However knowing this wide spread news in media the respondent no. 8 has not taken any action against the responsible persons, where he had duty to do so. Thus it is illegal and without lawful authority.

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 inaction of the respondents to ensure quality, effective and prompt medical services to the patient by the Private Medical Hospitals/clinic and failure to perform their duties under section 11 of the Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982. , should not be declared illegal and without lawful authority.

And

Why a direction should not be given upon the respondent no. 6-8 to compensate the family of Dr. Mridul Chokroboti.

b) Pending hearing of the Rule direct the Respondent No. 1-2 to form an expert committee of 10 members within 14 days consisting of the representative of Ministry of Health, Government Hospital, Professor of Medical College and expert Doctors to prepare a guideline for ensuring the proper, effective and prompt medical services/treatment in the private hospital/clinic.

c) Pending hearing of the rule direct the respondent no. 1, 2 and 4 to organize regular inspection in every month in the private hospital/clinic and ensure that all the rule and regulations are followed for proper and prompt medical treatment to the patient.

d) Pending hearing of the rule direct the respondent no. 6-8 to appear in person on 23.08.2011 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.

-----