

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.

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

2. Md. Tazul Islam Akhand, Son of Md. Sirajuddin
Akhand of 450/1, North Shahjahanpur, Police
Station- Motijheel , Dhaka, Bangladesh.

.....Petitioners.

- V E R S U S -

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

2. The Secretary, Ministry of Law, Justice and
Parliamentary Affairs, Bangladesh Secretariat, P.S.
Shahbag, Dhaka.

3. The Inspector General of Police (IGP), Police
Head Quarter, Ramna, Dhaka, Bangladesh.

4. The Police Commissioner, Dhaka Metropolitan
Police, Eskaton Road, Dhaka, Bangladesh.

5. The Deputy Commissioner (Traffic), South,
Dhaka Metropolitan Police, Dhaka, Bangladesh. [[[

6. The Deputy Commissioner (Traffic), North, Dhaka
Metropolitan Police, Dhaka, Bangladesh.

7. The Deputy Commissioner (Traffic), East, Dhaka
Metropolitan Police, Dhaka, Bangladesh.

8. The Deputy Commissioner (Traffic), West, Dhaka
Metropolitan Police, Dhaka, Bangladesh.

.....Respondents.

GROUND S

1. For that the impugned section 103(ka) of Dhaka Metropolitan Police Ordinance, 1976, is arbitrary in nature, discriminatory in character amounting to denial of right to property and right to be treated in accordance with law and hence is violative of the fundamental rights guaranteed under Article 31 and 42 f the Constitution.

II. For that in the garb of section 103(ka) of DMP Ordinance 1976, everyday vehicles drivers are facing problem. Not only that some times the police is using the provision of requisition as their earning way. Some traffic police is doing business by using this power. Some times they requisition vehicles from the taxi driver who deprived from their daily earning and unable to maintain their family. Even in many cases they forced to drive day night without any payment. Under this prevailing situation no one should allowed requisitioning any vehicles except war or any natural disaster and for this purpose new law should be passed. Section 103(ka) of DMP Ordinance 1976, is contradictory to the provision of Article 42 of the constitution of Bangladesh, hence it is liable to be declared illegal and void. The provision of requisition of vehicles curtailed the fundamental rights of the citizen hence it may be declared ultra vires to the constitution.\

III. For that the provision of section 103(Ka) of DMP Ordinance is violative of the Article 42 of the Constitution of Bangladesh. More over right to property of the citizen is fundamental rights guaranteed under the constitution of Bangladesh but due to section 103(ka) the rights has been violating every moment. Hence section 103(ka) of Dhaka Metropolitan Police Ordinance, 1976, may be declared illegal and ultra vires to the constitution of Bangladesh.

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 Section 103(ka) of Dhaka Metropolitan Police Ordinance, 1976, should not be declared illegal, void and ultra vires to the constitution as being violative of the fundamental rights of the citizen.
- b) Pending hearing of the Rule pass an order restraining the respondent no. 4-8 from requisitioning any vehicles without any public purpose.
- c) Pending hearing of the Rule the respondent no. 4-8 may be directed to pay full payment to the owner/driver of the vehicles as per standard rent and pay compensation for damage if any within 7 days.
- d) Pending hearing of the Rule the respondent no. 5-8 may be directed not to harass the vehicles owner/driver in course of requisition any vehicles.
- e) Pending hearing of the Rule the respondent no. 5-8 may be directed not to use the requisitioned vehicles for any personal purpose of any officer.
- f) Direct the respondent no.4 to submit the name and position of three police sergeant whose photo was published in daily Zugantar on .05.2010, before this court within 4 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 and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
