

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

WRIT PETITION NO. OF 2014.

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. Advocate Asaduzzaman Siddique, 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 Home Affairs, Bangladesh Secretariat, P.S. Shahbag, District: Dhaka.

2. The Inspector General of Police (IGP), Police Head Quarter, Fulbari, Dhaka, Bangladesh.

3. The Police Commissioner, Dhaka Metropolitan Police (DMP), Dhaka, Bangladesh.

4. The Joint Commissioner (Traffic), Dhaka Metropolitan Police, DMP Head Quarter, Dhaka, Bangladesh.

5. The Deputy Secretary (Raj-2) Ministry of Home Affairs, Bangladesh Secretariat, Shahabag, Dhaka, Bangladesh.

....Respondents.

AND
IN THE MATTER OF:

The illegal, discriminatory and unreasonable Order/Direction of the Government dated 30.04.14 on the basis of S.R.O. No.: 54-Law/2006 issued by the Ministry of Commerce as per the power of section 53 of the “The Motor Vehicle Ordinance 1983” and that of section 3 of “The Exports and Imports (Control) Act, 1950” as are notified by a press release dated 06.05.14 issued by respondent no. 5, prohibiting the use of extra or artificial coat of dark/ black / colored / mercury / tinted / opaque sticker on the glass of vehicles should not be declared illegal and without lawful authority.

GROUND S:

I. For that the said order/direction of the Government has no authority in the eye of law and hence it is illegal as the Government has issued the said order/direction in accordance with the S.R.O. No.: 54-Law/2006 as issued by the Ministry of Commerce under the power of section 53 of the “The Motor Vehicle Ordinance 1983” and that of section 3 of “The Exports and Imports (Control) Act, 1950” for which the Ministry of Commerce or the Ministry of Home Affairs is not the proper authority as required by law.

II. For that the charge and the punishment under section 151 of “The Motor Vehicle Ordinance 1983” against the users/owners of vehicles is also illegal and without lawful authority because section 151 of “The Motor Vehicle Ordinance 1983” deals with sale of vehicle in or alteration of vehicle to a condition contravening the Ordinance.

III. For that Black’s Law Dictionary in its Eighth Edition, page 85, has defined the word: “alteration” by a substantive change to real estate or to a structure, usually not involving an addition to or removal of the exterior dimensions or a significant change in something. That the adding extra or artificial coat of tinted/dark/black sticker on glass of vehicles does not mean an alteration to the vehicles and hence, punishment and framing charge under section is without lawful authority and illegal.

IV. For that the said direction /order and the subsequent notification has prohibited the use of tinted/dark sticker on glass of vehicles and also asked for removing the same by 10.05.14 but does not define the vehicles or classify the vehicles for which huge controversy was raised. That it is submitted that due to drive against the

tinted/black/colored glass, police have harassed peaceful common people unnecessarily and without any legal manner depriving of their personal liberty.

V. For that the said direction /order and the subsequent notification have been proved discriminatory and in violation of Article of 27 of the Constitution as the order/direction and the subsequent notification are applicable for such vehicles which added artificial coat of tinted/dark/back/film/polithine on glass of vehicles but not applicable for such vehicles which are built in factories with tinted/dark/back/colored glass. Hence, the order/direction may be declared illegal and without lawful authority.

VI. For that the order/direction of the Government is also in violation of the fundamental rights as enshrined in Article 31 (right to protection of law), 32 (protection of right to life and personal liberty) and 36 (freedom of movement). For that due to drive by the police as per the said order/direction and subsequent notification people have been devoid of freedom of movement and have been treated unequally. Hence, the said order/direction and subsequent notification of the Government may be declared illegal and void.

VII. For that due to safety of people and personal liberty, it is reasonable to use some kind of protection. For that in that context general people have used tinted/dark/black sticker on glass of vehicles for the safety on road. For that general people in general are not actually offenders/wrongdoers. For that to control the offence and offenders, it is not rational to control the rights and well being of the general people.

VIII. For that due to severe heat it is not unreasonable to use additional black/tinted/dark sticker on glass of vehicles in this summer season. Hence, the said order/direction and subsequent notification of the Government may be declared illegal and void.

IX. For that it is not rational to stop the production of domestic weapons such as knife but it is required to handle reasonably and carefully. Hence, the said order/direction and subsequent notification of the Government may be declared illegal and void.

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 illegal, discriminatory and unreasonable Order/Direction of the Government dated 30.04.14 on the basis of S.R.O. No.: 54-Law/2006 issued by the Ministry of Commerce as per the power of section 53 of the "The Motor Vehicle Ordinance

1983” and that of section 3 of “The Exports and Imports (Control) Act, 1950” as are notified by a press release dated 06.05.14 issued by respondent no. 5, prohibiting the use of extra or artificial coat of dark/ black / colored / mercury / tinted / opaque sticker on the glass of vehicles should not be declared illegal and without lawful authority.

b) Pending hearing of the rule direct the respondents to maintain statuesque in respect of implementation of order/direction/decisions of the Government as published by press release dated 06.05.14

c) After hearing the parties make the Rule absolute.

d) Pass such other and further order and/or orders as your Lordships may deem fit and proper.

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.
