

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

WRIT PETITION NO. 3134 OF 2010

IN THE MATTER OF:

An application under Article 102 read with 44 of the Constitution of the People's Republic of Bangladesh;

IN THE MATTER OF:

Human Rights and Peace for Bangladesh (HRPB), represented by its Secretary, Advocate Asaduzzaman Siddique, Hall No.-2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner

Versus

The Mayor, Dhaka City Corporation, City Corporation Bhaban, Ramna, Dhaka, Bangladesh and others.

.....Respondents

Mr. Manzill Murshid, Advocate.

.....for the Petitioner

**Mr. A. B. M. Altaf Hossain, D.A.G with
Ms. Ydhida Zaman, A.A.G**

.....for the Respondents

Juudgment dated 29.02.2012

Present :

Mr. Justice A.H.M. Shamsuddin Choudhury

And

Mr. Justice Jahangir Hossain

A.H.M. Shamsuddin Choudhury, J:

The Rule under adjudication, issued on 12.04.2010 was in following terms:

“Let a Rule Nisi be issued, calling upon the respondents to show cause as to why shops construction by the respondents in the place of selected car park at Kawranbazar, should not be declared to have been made illegally, without lawful authority and is of no legal effect and why a direction should not be given upon the respondents to ensure

existence of selected car park at Kawranbazar by way of demolishing/removing structure if any in order to avoid traffic jam in the area.”

The averments figured in the petition are, briefly, as follows:

The petitioner, Human Rights And Peace for Bangladesh (HRPB) is a non profit making registered organization, the objects of which include upholding human rights of citizens, to work for the poor people, to give legal support to the helpless and to build up awareness amongst the people about their rights etc. The organization is engaged in promoting and defending human rights and standings by the victims of human rights violations. It also works to protect environment and the healthcare of the citizens.

The person that represents the petitioner in this case is himself a practicing lawyer of this Hon’ble Court and conscious citizen of the country. The petitioner hereby challenges the failure of the respondents to protect the area. It also seeks to bring this application within the ambit of Article 102 of Constitution as a public interest litigation with a view to ensure necessary steps to stop erection of shops in the place marked as car park.

Roads users are facing serious traffic hazard at the VIP road that passes through Karwanbazar area due to the closure of the car park. The matter involves great public importance and hence this is public interest litigation.

A report published in The Daily Star on 03.04.2010, stated that the Dhaka City Corporation is constructing shops in the place which was used as a car park. It was also reported that some interested group is working behind the move in order to get personal benefit. It was reported that traffic congestion is destined to multiply in and around Karwanbazar if the car park is turned into shops.

Dhaka city is already swamped with heavy traffic jam. One of the causes behind this is the absence of wide road and deficiency of car parks. So, when it is imperative to set up more car parks in the city, the respondents, ignoring the demand of the day, is poised to construct shops in the place of the car park at Karwanbazar. Karwanbazar is a commercial place where many important offices, vegetable market, and media head offices are situated. Moreover VIP road is passing around this area. It is hence, always necessary to keep traffic moving at the Karwanbazar area, which is being jeopardized by the unholy move to turn the car park into shops.

The respondents are duty bound at all time to serve the people and to perform public duties. The respondents are liable for their negligence. They have not taken sufficient precautions to protect car park at Karwanbazar to keep traffic moving. Without any precautions to keep traffic jam free at the area the respondent hasue plunged the city dwellers to hazardous situation, in violation of their fundamental rights.

The petitioner has claimed that it receives no fund from abroad or from any citizen of the country except the lawyer members and that due to present high volume of cases it is pursuing, it is not possible on its part to bear the cost of the cases filed before the Hon'ble High Court Division as public interest litigations and as such, it should be exempt from the cost of the cases filed by it as public interest litigations and as such a direction may be given to the office to register the application as a writ petition and to serve notices at the cost of office. None filed any affidavit in opposition.

As the Rule matured, Mr. Manzill Murshid tabled his submission in line with what have been laid down by the petitioner in its pleading. None appeared to oppose the Rule.

It goes without saying, and we are, we suppose, quite entitled to take judicial notice of the fact that Dhaka traffic management is in a state of disarray. Plentitude of reasons are attributable for such a shamble. Absence of adequate number of car parks, is, arguably one of the major contributing factors in this regard.

It is also a matter of common knowledge that Karwanbazar is a vital area for traffic movement purposes, congestion in which area is bound to pervade in other parts of the city. As nobody has come up to dispute the claim that the space originally used as a car park is now being transformed into shops, we are to accept this assertion as true.

Given that truth, we are to express our disquiet at the move which will, if not already have, worsen the pre-existing appalling state of traffic topsy truvy.

The authorities, we must emphasize, have certainly failed in their duties to keep traffic moving by their move to convert the car park into shops. This move is also at odd with RAJUK's town improvement schemes.

This irrational misadventure must, hence, be guillotined without delay.

The rule is hence made absolute. The authorities are directed to refrain from any further construction of shops in the car park space. Those shops that have already been constructed in the past, must be demolished forthwith. There is no order on costs.

Considering the plea that the petitioner organization receives no fund from within or abroad and has been filing many similar cases with their own fund, donated by its members, let their prayer be allowed so that this application can be treated as a public interest litigation, and the necessity of swearing any affidavit can be dispensed with.

The office is directed accordingly.

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“It goes without saying, and we are, we suppose, quite entitled to take judicial notice of the fact that Dhaka traffic management is in a state of disarray. Plentitude of reasons are attributable for such a shamble. Absence of adequate number of car parks, is, arguably one of the major contributing factors in this regard. (Para-14)”

A.H.M. Shamsuddin Choudhury, J:

1. The Rule under adjudication, issued on 12.04.2010 was in following terms:

“Let a Rule Nisi be issued, calling upon the respondents to show cause as to why shops construction by the respondents in the place of selected car park at Kawranbazar, should not be declared to have been made illegally, without lawful authority and is of no legal effect and why a direction should not be given upon the respondents to ensure existence of selected car park at Kawranbazar by way of demolishing/removing structure if any in order to avoid traffic jam in the area.”

2. The averments figured in the petition are, briefly, as follows:

The petitioner, Human Rights And Peace for Bangladesh (HRPB) is a non profit making registered organization, the objects of which include upholding human rights of citizens, to work for the poor people, to give legal support to the helpless and to build up awareness amongst the people about their rights etc. The organization is engaged in promoting and defending human rights and standings by the victims of human rights violations. It also works to protect environment and the healthcare of the citizens.

3. The person that represents the petitioner in this case is himself a practicing lawyer of this Hon’ble Court and conscious citizen of the country. The petitioner hereby challenges the failure of the respondents to protect the area. It also seeks to bring this application within the ambit of Article 102 of Constitution as a public interest litigation with a view to ensure necessary steps to stop erection of shops in the place marked as car park.

4. Roads users are facing serious traffic hazard at the VIP road that passes through Karwanbazar area due to the closure of the car park. The matter involves great public importance and hence this is public interest litigation.

5. A report published in The Daily Star on 03.04.2010, stated that the Dhaka City Corporation is constructing shops in the place which was used as a car park. It was also reported that some interested group is working behind the move in order to get personal benefit. It was reported that traffic congestion is destined to multiply in and around Karwanbazar if the car park is turned into shops.

6. Dhaka city is already swamped with heavy traffic jam. One of the causes behind this is the absence of wide road and deficiency of car parks. So, when it is imperative to set up more car parks in the city, the respondents, ignoring the demand of the day, is poised to construct shops in the place of the car park at Karwanbazar. Karwanbazar is a commercial place where many important offices, vegetable market, and media head offices are situated. Moreover VIP road is passing around this area. It is hence, always necessary to keep traffic moving at the Karwanbazar area, which is being jeopardized by the unholy move to turn the car park into shops.

7. The respondents are duty bound at all time to serve the people and to perform public duties.

8. The respondents are liable for their negligence. They have not taken sufficient precautions to protect car park at Karwanbazar to keep traffic moving.

9. Without any precautions to keep traffic jam free at the area the respondent hasue plunged the city dwellers to hazardous situation, in violation of their fundamental rights.

10. The petitioner has claimed that it receives no fund from abroad or from any citizen of the country except the lawyer members and that due to present high volume of cases it is pursuing, it is not possible on its part to bear the cost of the cases filed before the Hon'ble High Court Division as public interest litigations and as such, it should be exempt from the cost of the cases filed by it as public interest litigations and as such a direction may be given to the office to register the application as a writ petition and to serve notices at the cost of office.

11. None filed any affidavit in opposition.

12. As the Rule matured, Mr. Manzill Murshid tabled his submission in line with what have been laid down by the petitioner in its pleading.

13. None appeared to oppose the Rule.

14. It goes without saying, and we are, we suppose, quite entitled to take judicial notice of the fact that Dhaka traffic management is in a state of disarray. Plentitude of reasons are attributable for such a shamle. Absence of adequate number of car parks, is, arguably one of the major contributing factors in this regard.

15. It is also a matter of common knowledge that Karwanbazar is a vital area for traffic movement purposes, congestion in which area is bound to pervade in other parts of the city.

16. As nobody has come up to dispute the claim that the space originally used as a car park is now being transformed into shops, we are to accept this assertion as true.

17. Given that truth, we are to express our disquiet at the move which will, if not already have, worsen the pre-existing appalling state of traffic topsy truvy.

18. The authorities, we must emphasize, have certainly failed in their duties to keep traffic moving by their move to convert the car park into shops. This move is also at odd with RAJUK's town improvement schemes.

19. This irrational misadventure must, hence, be guillotined without delay.

20. The rule is hence made absolute. The authorities are directed to refrain from any further construction of shops in the car park space.

Those shops that have already been constructed in the past, must be demolished forthwith.

There is no order on costs.

21. Considering the plea that the petitioner organization receives no fund from within or abroad and has been filing many similar cases with their own fund, donated by its members, let their prayer be allowed so that this application can be treated as a public interest litigation, and the necessity of swearing any affidavit can be dispensed with.

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