

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

WRIT PETITION NO. \_\_\_\_\_ OF 2013.

IN THE MATTER OF:

An application under Article 102 of the Constitution of 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 Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Md. Aklas Uddin Bhuiyan, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 93 Indira Road, P.S.: Sher-E-Bangla Nagar, Dhaka.
3. Advocate Sarwar Ahad Chowdhury, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
4. Advocate Mahabubul Islam, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioners.

-V E R S U S-

1. The Hon'ble Speaker, Bangladesh Zatio Sangsad, Zatio Sangsad Bhaban, Sher-E-Bangla Nagar, Dhaka.
2. Bangladesh represented by the Cabinet Secretary, Cabinet Division, Bangladesh, Secretariat, Police Station- Shahbag, Dhaka, Bangladesh.
3. The Secretary, President Secretariat, Bangabhaban, Dhaka, Bangladesh.

4. The Secretary, Prime Minister's Secretariat, Prime Minister Office, Tejgaon, Dhaka, Bangladesh.

5. The Secretary, Legislative and Drafting Wing, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Secretariat, Police Station- Shahbag, Dhaka, Bangladesh.

6. The Secretary, Parliamentary Secretariat, Zatio Sangsad Bhaban, Sher E Bangla Nagar, Dhaka,

.....Respondents.

**AND**

**IN THE MATTER OF:**

The Amendment to the Anti Corruption Commission Act 2004 as made by the Anti Corruption Commission (amendment) Act 2013 by way of insertion section 32K.

**AND**

**IN THE MATTER OF:**

The Discriminatory and ultra vires provisions of section 32K of the Anti-Corruption Commission (Amendment) Act, 2013.

**GROUND S:**

I. For that the impugned section 32K of the Anti-Corruption Commission (Amendment) Act, 2013, is arbitrary in nature, discriminatory in character amounting to denial of rights to equal protection of law and right to be treated in accordance with law and hence it is violative of the fundamental rights guaranteed under Articles 26 (1) (2), 27 and 31 of the Constitution of Bangladesh. Hence it is liable to be declared to be void and illegal.

II. For that with a malafide intention of saving a group of people from corruption cases under this Act, the respondents took initiative to pass the Anti-Corruption Commission (Amendment) Act, 2013. That the section 32K has been inserted in the Act of 2004 by the Anti-Corruption Commission (Amendment) Act, 2013, by which power given under sections 17(j), 20(1), (2) and 24 of the Anti-Corruption Commission Act, 2004, to the Commission has been curtailed. Hence it is liable to be declared to be void and without lawful authority.

III. For that the respondents passed the Anti-Corruption Commission (Amendment) Act, 2013, amending some sections including by insertion of section 32K saving a section of people from corruption

cases, which is beyond the scope of law. For that the petitioners have been left with no option but to challenge the vires of the section 32K of the Anti-Corruption Commission (Amendment) Act, 2013.

IV. For that the impugned section 32K of the Anti-Corruption Commission (Amendment) Act, 2013, is violative of the provisions of Articles 7(2), 26(1), (2) and 27 of the Constitution of Bangladesh and hence the impugned section has gone beyond the scope of law and is therefore ultra vires.

V. For that the law was passed for protecting the high government officials and influential persons. Hence the section 32K of the Anti-Corruption Commission (Amendment) Act, 2013, is an instrument of discrimination and is violative of Article 27 of the Constitution of Bangladesh.

VI. For that the impugned amendment is ex-facie illegal and the same is both malice in law and in fact and in violation of principles of natural justice.

VII. For that the impugned section is discriminatory, violative and conflicting with the fundamental rights as guaranteed under Article 27 of the Constitution of Bangladesh. For that the said 32K is beyond the spirit of Article 31, by which people are treated only in accordance with law. Hence it is liable to be declared illegal and without lawful authority.

VIII. For that the independent power of the Commission as per section 24 of the Anti-Corruption Commission Act, 2004, has been curtailed by the impugned section 32K of the Anti-Corruption Commission (Amendment) Act, 2013. The content of above mentioned section clearly interferes in the independent power of the Commissioners regarding filing and investigation of corruption cases.

IX. For that as per impugned section of the Anti-Corruption Commission (Amendment) Act, 2013, some high government officials may be protected in different ways from corruption cases under this Act, which ultimately frustrates the purpose of Anti-Corruption Act. Hence the impugned section may be declared illegal and without lawful authority.

X. For that there was no such provisions as like 32K in the Anti-Corruption Commission (Amendment) Bill 2011 and the proposed Anti-Corruption Commission (Amendment) Act 2012 and hence the amendment in respect of 32K in the Act is malafide 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 the impugned section 32K of Anti Corruption Commission (amendment) Act 2013 (published in official Gazette on 20.11.13), should not be declared to be void and ultra vires to the Constitution of Bangladesh as being violative of the fundamental rights guaranteed under Articles 26 (1) (2), 27 and 31 of the Constitution (as of Annexure-A).
- b) Direct the office to serve notice upon the respondents at the cost of office.

**Present Status**

The case was filed and moved by Advocate Manzill Murshid, President, HRPB and Rule Nisi upon the respondents was issued. That after hearing the parties the Hon'ble High Court Division passed judgment in making the rule absolute and the law of Anti Corruption Commission (amendment) Act 2013 (published in official Gazette on 20.11.13), declared illegal and void.

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