

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

WRIT PETITION NO. _____ OF 2016.

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

2. Advocate Md. Aklas Uddin Bhuiyan, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 93 Indira Road, P.S.: Sher-E-Bangla Nagar, Dhaka.

.....Petitioners.

-V E R S U S-

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

2. The Chairman, Board of Intermediate and Secondary Education, Dhaka, 13-14 Joynag Rd, Dhaka 1211, Bangladesh.

3. The Chairman, Board of Intermediate and Secondary Education, Chittagong, CDA Avenue, Muradpur, Chittagong, Bangladesh.

4. The Chairman, Board of Intermediate and Secondary Education, Rajshahi, Greater Rd, Rajshahi 6000, Bangladesh.

5. The Chairman, Board of Intermediate and Secondary Education, Barisal, Nathullah Badh, Dhaka - Barisal High way, Barisal 8200, Bangladesh.

6. The Chairman, Board of Intermediate and Secondary Education, Jessore, Jessore sadar, Dhaka - Khulna Hwy, Jessore 7400, Bangladesh.

7. The Chairman, Board of Intermediate and Secondary Education, Sylhet, Alampur Sylhet, Bangladesh.

8. The Chairman, Board of Intermediate and Secondary Education, Dinajpur, Staff Quarter Road, Dinajpur, Bangladesh.

9. The Chairman, Board of Intermediate and Secondary Education, Comilla, Laksham Road, Comilla 3500, Bangladesh.

10. The Chairman, Bangladesh Madrasa Education Board, Joynag Road, Dhaka, Bangladesh.

11. The Chairman, Bangladesh Technical Education Board, Dhaka-1207, Bangladesh

.....Respondents

AND

IN THE MATTER OF:

Inaction and failure of the respondents for dispatching the answer scripts of Secondary, Higher Secondary and equivalent Examinations to experienced and competent examiners for examining the scripts resulting in gross irregularities in the results of such SSC, HSC and equivalent examinations.

AND

IN THE MATTER OF:

Direction upon the respondents to follow policy guideline / legal mandate for conduct of examinations by the experienced teachers so as to ensure a proper results at SSC, HSC and equivalent levels.

GROUND S:

I. For that an improper or wrong result brings frustration in life of tender aged emotional students which sometimes leads them to commit suicide ultimately attracting their right to life.

II. For that the respondents have failed to perform their duties while giving answer scripts to experienced and competent teachers resulting in gross irregularities in examining answer scripts at SSC, HSC and equivalent examinations. Even they also failed to take any steps against the responsible teachers who are found making irregularities. Hence, a direction may be given upon the respondents to observe legal mandate dispatching scripts and examining them by the experienced and competent teachers only so as to ensure proper results at public examinations.

III. For that the respondents themselves found irregularities in SSC, HSC and equivalent examinations by the two separate enquiries conducted by the Inter-Educational Boards and Bangladesh Examination Development Unit (BEDU). Hence, to remove such gross irregularities in examining answer scripts; those will be examined by experienced and qualified teachers giving them enough time and necessary training. For that there is no strong database of trained teachers for checking scripts by the government and MPO listed teachers only so as to ensure tracking any of them in case of any irregularities found after result being published.

IV. For that no students get their scripts re-examined/re-checked and/or re-evaluated in true sense rather their scripts are scrutinized only on the basis of their applications for re-examination. Since results are scrutinized on the basis of four factors including marks counting and marks shifting etc. and hence, it does not reflect true strength of script being applied for re-examination. Had the scripts been re-examined/re-evaluated upon such applications, there would have been revealed more irregularities of the script-checkers and on the other hand, results would have also been different. Since, the authority does not follow their policy-guideline /legal mandate while dispatching answer scripts to the experienced teachers and hence, your lordships should intervene into this matter so that the teachers discharge their duties correctly and in case of any irregularities the teachers can be held liable for their responsibilities.

V. For 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 as well. According to the prevailing situation, the authorities have violated both the constitutional provisions and that of the general laws as well.

VI. For that the respondents being the responsible persons and the responsible bodies, they are duty to abide by laws and regulations. But the respondents have failed to perform their duties and responsibilities lawfully and so the inactions of the respondents have gone beyond the scope of law. Hence, the inactions of the respondents may be declared 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 and failure of the respondents to dispatch the answer scripts of Secondary, Higher Secondary and equivalent Examinations to experienced and competent examiners for examining the scripts resulting in gross irregularities in the results of SSC, HSC and equivalent examinations, should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondents to dispatch the answer scripts of Secondary, Higher Secondary and equivalent Examinations to experienced and competent examiners and why a direction should not be given upon the respondents to give sufficient time to examine the scripts of Secondary, Higher Secondary and equivalent Examinations.

b) Pending hearing of the rule direct the respondents to follow policy guideline and/or legal mandate in case of distribution and examining the scripts of Secondary, Higher Secondary and equivalent Examinations as to ensure a proper results at SSC, HSC and equivalent levels.

Present Status:

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble High Court Division issued Rule Nisi upon the respondents. The case is pending before the Court
