

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

2. Advocate Aklas Uddin Bhuiyan, Hall No. 2, Supreme Court Bar Association Bhaban, Ramna, Dhaka.

3. Advocate Mahbulul Islam, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

4. Advocate Mamun Alim, 926 Shahidbagh, P.S Shahjahanpur, Dhaka, Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Health and Family Planning, Bangladesh Secretariat, Dhaka, Bangladesh.

2. The Additional Secretary (Hospital), Ministry of Health and Family Planning, Bangladesh Secretariat, Dhaka, Bangladesh.

3. The Director General, Directorate of Health Services, Mohakhali, Dhaka-1212.

4. The Director(Hospital), Directorate of Health Services, Mohakhali, Dhaka-1212.
5. The Vice Chancellor, BSMMU(ex PG hospital), Shahbagh, Dhaka, Bangladesh.
6. The Director, Dhaka Medical College and Hospital, Secretariat Road, Dhaka-1000.
7. The Director, Shaheed Suhrawardy Hospital, Asad Gate, Dhaka-1000.
8. The Director, Sir Salimullah Medical Hospital, Midford, Lalbagh, Dhaka.
9. The Director, Chittagong Medical College Hospital, Chittagong, District-Rajshahi.
10. The Director, M.A.G. Osmani Medical College Hospital, Sylhet, District- Sylhet.
11. The Director, Rajshahi Medical College Hospital, Rajshahi, District-Rajshahi.
12. The Director, Rangpur Medical College Hospital, Rangpur, District- Rangpur.
13. The Director, Mymensing Medical College Hospital, Mymensing, District-Mymensing.
14. The Director, Barisal Sher E Bangla Medical College Hospital Barisal, District-Barisal.
15. The Director, Dinajpur Medical College Hospital, Dinajpur, District- Dinajpur.
16. The Director, Khulna Medical College Hospital, Khulna, District- Khulna.
17. The Director, Faridpur Medical College Hospital, Faridpur, District-Faridpur.
18. The Director, Comilla Medical College Hospital, Comilla, District- Comilla.
19. The Director, Mental Hospital, Pabna, Post-Pabna, District- Pabna.
20. The Director, Dhaka National Medical Institute Hospital, Kotwali, District- Dhaka.

21. The Director, Dhaka Shishu Hospital, Shamoli, District- Dhaka.

22. The Director, Directorate of Nursing Services, Motijheel, Dhaka.

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

.....Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondents to take necessary steps to stop strike or absent from duty (ধর্মঘট/কর্মবিরতি) by any Doctor/Nurses in the government hospital during their duty time in order to ensure the treatment of the patient as well as to save the life of the citizen and to take immediate legal action against the miscreant who are liable for any incident/offence against Doctor/Nurses within the hospital area.

GROUND S

I. For that the duties and responsibilities vested upon the respondents to perform their duties for the people. The respondents are also duty bound to obey the provisions of law. It is the duty of the respondents to perform the duties in accordance with law but they have failed to perform their duties and responsibilities as vested upon them under Article 21 of the Constitution of Bangladesh. Hence respondents may be directed to take steps to stop strike or absent from duty (ধর্মঘট/কর্মবিরতি) by the Doctor/Nurses in the hospital during their duty time

II. For that the medical services and treatment for the citizens is very important for their normal life living. So, there is no alternative without taking necessary steps for safe treatment and effective medical services to the patient, otherwise the people will suffer seriously.

III. For that disregard to laws and legal provisions and failure to ensure proper steps, the respondents have caused enough threat to the life of the citizens and adversely affecting to the right to life. Under these circumstances, the respondents are legally bound to take all necessary steps to stop strike or absent from duty (ধর্মঘট/কর্মবিরতি) by the Doctor/Nurses in the hospital during their duty time. Hence a

direction may be given upon the Respondents to take appropriate and necessary steps in this regard.

IV. For that without any precautions to save the life of the citizen, the respondents have sent the life of the people in a dangerous situation, which is violation of Article 18(1) of the Constitution of Bangladesh. That according to the provision of Article 18(1) of the Constitution, the State shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties. Moreover the right to life is a fundamental right guaranteed under Article 32 of the Constitution of Bangladesh but it is violating by way of inaction and negligence of the respondents in the government hospitals.

V. For that the poor people of our country is unable to get medical services and treatment from the private hospitals and clinics due to their excessive rates. Normally most of the poor people are rushing to the government hospitals to get medical services and treatment. So it is very important to ensure safe treatment and effective medical services to the patients but it is hampering when the doctors and nurses are doing strike or absent from duty (ধর্মঘট/কর্মবিরতি) during duty time. Otherwise, most of the poor people could be deprived of from the medical services and treatment which will materially affect to their right to life.

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 inaction/failure of the respondents to stop strike or absent from duty (ধর্মঘট/কর্মবিরতি) by the Doctor/Nurses in the hospital during duty time, should not be declared illegal and without lawful authority

AND

Why a direction should not be given upon the respondents to take necessary steps to stop strike or absent from duty (ধর্মঘট/কর্মবিরতি) by any Doctor/Nurses in the hospital during their duty time in order to ensure the treatment as well as to save the life of the citizen

AND

Why a direction should not be given upon the respondents to take immediate legal action against the miscreant who are liable for any incident/offence against Doctor/Nurses within the hospital area.

b) Pending hearing of the rule directs the respondent 1-4 to issue written instructions to the Respondent No. 5-22 directing them to ensure the presence of Doctors/Nurses during their duty time in hospital and take departmental action if found any one absent during duty time and file a compliance report within 4(four) weeks before this court.

c) Pending hearing of the Rule direct the respondent no 3 to form a three members committee within one week and to arrange sudden visit by the members of the committee two times in every week in any Government Hospitals in Dhaka City to observe the compliance of the instructions as given by respondent 1-4 and submit the report in every 4(four) months before this court.

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. The case is pending before the Court
