

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

WRIT PETITION NO. OF 2010.

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 President,

Advocate Manzill Murshid, Hall No. 2,
Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.

2. Advocate Asaduzzaman Siddiki, 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 Commerce, Bangladesh
Secretariat, P.S. Shahbag, Dhaka,
Bangladesh.

2. The Secretary, Ministry of Home
Affairs, Bangladesh Secretariat, P.S.
Shahbag, Dhaka, Bangladesh.

3. The Secretary, Ministry of Food,
Bangladesh Secretariat, P.S. Shahbag,
Dhaka, Bangladesh.

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

5. The Managing Director , Bangladesh
Standard Testing Institute (BSTI), 116/A
Tejgaon Industrial Area, Dhaka-1208,
Dhaka, Bangladesh.

6. The Director General (DG), Rapid Action
Battalion (RAB), RAB Head Quarter, Uttra,
Dhaka, Bangladesh.

7. The Director, Chemical Testing Wing,
Bangladesh Standard Testing Institute
(BSTI), 116/A Tejgaon Industrial Area,
Dhaka-1208, Dhaka, Bangladesh.

8. The Commissioner, Rajshahi Division,
Post and District- Rajshahi

9. The Deputy Inspector General of Police
(DIG), Rajshahi, Post and District- Rajshahi.

10. The Chairman, National Board of
Revenue, NBR building, Segunbagicha,
Dhaka, Bangladesh

.....Respondents.

AND

IN THE MATTER OF:

Inaction of the respondents to take necessary steps to stop using chemical in making the fruits ripe which is dangerous to the health of the citizens and failure of the respondents to take effective measures to protect the health of the citizens.

To

Mr. Justice M. A. Matin, Performing the function of the Hon'ble Chief Justice Bangladesh and his companion Judges of the said Hon'ble Court.

The humble Petition of the Petitioners above named most respectfully;-

S H E W E T H:

1. That the organization Human Rights And Peace For Bangladesh (HRPB) is a non profitable registered organization and the objects of the organization is to uphold the human rights of the citizen and to work for the poor people, to give legal support to the helpless people, and to build up awareness amongst the people about their rights etc. That the organization is engaged in promoting and defending human rights, supporting the victims of human rights violations. It also works to protect environment and to protect health of the citizen and to establish rule of law.

2. That the petitioners are practicing lawyer of this Hon'ble Court, human rights activist and conscious citizen of the country. They are challenging the inaction of the respondent's to stop using chemical in making the fruits ripe which is dangerous to the health of the citizens and also challenging the failure of the respondents to take effective

measures to protect the health of the citizens. The petitioner also seek to bring this application by invoking Article 102 of the Constitution as a public interest litigation in order to take necessary steps against the people who are using chemical in making the fruits ripe, who has failed to perform their duties as vested upon them as a government servant.

3. That the Respondent No. 1 is the Secretary, Ministry of Commerce, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 2 is the Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 3 is the Secretary, Ministry of Food, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 4 is the Inspector General of Police (IGP), Police Head Quarter, Ramna, Dhaka, Bangladesh. Respondent no. 5 is the Managing Director , Bangladesh Standard Testing Institute (BSTI), 116/A Tejgaon

Industrial Area, Dhaka-1208, Dhaka, Bangladesh. Respondent no. 6 is the Director General (DG), Rapid Action Battalion (RAB), RAB Head Quarter, Uttra, Dhaka, Bangladesh. Respondent No. 7 is the Director, Chemical Testing Wing, Bangladesh Standard Testing Institute (BSTI), 116/A Tejgaon Industrial Area, Dhaka-1208, Dhaka, Bangladesh. Respondent no.8 is the Commissioner, Rajshahi Division. Respondent no. 9 is the DIG, Rajshahi and respondent no. 10 is the Chairman NBR. That the addresses of the petitioner and the respondents given above are correct for the purpose of service of notices.

4. That it is stated here that the matter is involved a public importance. Though the different kinds of fruits such as apple, mango, grapes, banana, papaya etc. are playing an important role to the health of the citizens but some corrupted businessman are using chemical such as carbide and formalin in making the fruits ripe. It is stated here that some businessman for their own interest and financial benefit use

chemical in fruits which is dangerous for our health. That it is stated here that the matter is involved about the interest of the health of the people which is related to right to life of the citizen. The effected people unable to come to enforce their fundamental rights, hence the petitioners move this Public Interest Litigation (PIL) before this Hon'ble Court. As it involves great public importance so this petition may be treated as public interest litigation.

5. That it is stated here that a report was published in the Daily Shomokal on 08.05.2010 and in Prothom Alo dated 06.05.2010 that some businessman are selling mango and other fruits in the market in which chemical was used. It was also reported that there will be health disaster in near future if measures are not taken to stop using chemical in making the fruits ripe. It was also reported that priority should be given to stop chemical use in fruits otherwise there will be serious consequence to health of the citizens. It is stated here the chemicals which are using in fruits may caused many disease. More over by way

of such marketing the people are depriving from natural quality and the health is facing serious threat.

Copy of the paper clippings are annexed here with and marked as 'ANNEXURE-A and A-1'.

6. That it is stated here that the millions of people residing in Dhaka city and are depending on the fruits supplied by the businessman. But due to illegal acts of the law violators and failure of the respondents to take effective steps the people are suffering. More over using the chemical in making the fruits ripe it lost it's original taste and quality.

7. That it is stated here that in every moment the life of the city dwellers is depending on fruits available in the market. Facts remain that the total supply of fruits is control by the businessman and it is their duty to bring fresh fruits but they have failed to do that. It may

be mentioned here that chemical less fruits is very important for the life of the citizen. Due to chemical used fruits the people are becoming sick day by day and health cost is increasing which is unaffordable for the poor people. But the respondents are not taking steps to stop using chemical in making the fruits ripe. In this way the people are depriving from their emergency need of pure fruits. It is necessary to stop using chemical in making the fruits ripe in order to save the health of the citizen otherwise the people will suffer.

8. That it is stated here that the respondent are the experienced public servant and very much aware of the rules and instructions of the government. More over the issues of chemical used fruits is always reporting in media, so it is not out of the knowledge of respondents. Under these circumstances in such a public interest issues which is always in the notice of the respondents, is not necessary to bring his notice again by way of sending any legal notice.

9. That it is submitted here that the respondents are duty bound at all time to serve the people and to perform the public duties. But they have failed to do their duty because they have failed to take steps against the using of chemical in fruits.

10. That it is submitted here that without any precautions to save the health of the city dwellers the respondents has sent the life of the people in a dangerous situation, which is violation Article 18(1) of the Constitution of Bangladesh. More over right to life of the citizen is fundamental rights guaranteed under Article 32 of the constitution of Bangladesh but due to chemical used fruits the life is facing health threat. Hence a direction may be given upon the Respondents to take appropriate steps to stop chemical use in making the fruits ripe.

11. That it is submitted here that the duty and responsibility vested upon the administration to serve the people and they are duty bound to

obey the provisions of law. It is the duty of the public servant to act legally but no law has been allowed them to do anything in an unlawful manner. But the respondent has failed to perform the duties and responsibility.

12. That it is submitted here 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. According to the prevailing situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

13. That it is stated here that Human Rights And Peace For Bangladesh (HRPB) is an organization working on different issues and many public interest litigations have been filed by them. In many cases the Hon'ble High Court Division has passed judgment such as i) VAT collection from the patient declared illegal, ii) directed to

constitute civil vacation court during civil vacation in every December in subordinate court, iii) directed not to set up any cattle hat on the street in Dhaka City during Eid-Ul-Azha and removing all slaughtering materials within 24 hours with a hygienic manner, iv) directed to form an inquiry commission about murder/rape /persecution/torture committed immediate after parliament election of 2001 upon the then opposition supporter and minorities, v) directed to set up food court in every city in order to prevent food adulteration, vi) directed to form an “Earthquake Preparedness And Awareness Committee” and collected the necessary earthquake rescue equipments as per their recommendation, vii) directed to protect river Buriganga, Balu, Turag and Shitallakha and to stop encroachment in the rivers as well as directed to remove all the structure from inside the rivers and etc. Many others cases are pending before the Hon’ble High Court Division. The organization is always bearing all the cost of the cases by it’s own fund which is raised by the donation of the

members. The organization received no fund from abroad or from any citizen of the country except the lawyer members. Due to present high volume of cases it is not possible to bear the cost of the cases filed before the Hon'ble High Court Division as public interest litigation.

Under these circumstances it is necessary to exempt the cost of the cases filed by the organization as public interest litigation. Hence a direction may be given to the office to register the application as a writ petition and also notices may be served at the cost of office.

14. That being aggrieved by and dissatisfied with the inaction of the respondents to take necessary steps to stop chemical use in fruits which is causing health threat to the people and having no other equally efficacious remedy the petitioners beg to move Your Lordships on the following amongst others:-

G R O U N D S

I. For that the duty and responsibility vested upon the administration to perform the duties for the people. The

respondents are also duty bound to obey the provision of law. It is the duty of an officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as vested upon them. Hence respondents may be directed to take necessary steps to stop chemical use in making fruits ripe.

II. 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. Under the present situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

III. For that the pure fruits is essential for the life of the citizen living in Dhaka City. So at this stage there is no alternative to stop chemical use in fruits.

IV. 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 citizen and the city dwellers are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to take all necessary steps to stop chemical use in making fruits ripe.

V. For that without any precautions to save the health of the city dwellers by way of available fruits in a good condition, the respondents has sent the life of the people in a dangerous situation, which is violation Article 18(1) of the Constitution of Bangladesh. 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 failure to stop using chemical in fruits.

Wherefore, it is most humbly prayed that

Your Lordships would graciously be pleased

to;-

a) Direct the office to register this application as a writ petition.

b) Issue a Rule Nisi calling upon the Respondents to show cause as to why inaction of the respondents to take necessary steps to stop using chemical in making the fruits ripe and failure of the respondents to take effective measures to protect the health of the citizens, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to take

effective measure to stop using chemical in making the fruits ripe.

c) Pending hearing of the Rule an order may be passed directing the Respondent no. 5-7 for continuous monitoring in all fruits store house (wholesale depot) in Dhaka city so that no chemical used fruits can be sale/store in any way and directing them to take steps for conducting test everyday about purity of fruits in all wholesale depot in Dhaka City.

d) Pending hearing of the rule direct the respondent no. 1-3 to form a monitoring committee consisting of members of each

office to monitor the fruits business and prepare a recommendation to stop chemical use in fruits and submit a compliance report within 15 days.

e) Pending hearing of the rule direct the respondent no. 10 to take immediate steps to stop import chemical mixed fruits from all port around the country and submits a progresses report within 15 days.

f) Pending hearing of the rule direct the respondent no. 9 to deploy force in mango orchards (commercial) in order to stop using chemical in making the mango ripe and take action against the persons who are liable for that.

g) Pending hearing of the rule direct the respondent no. 4 to ensure that the cases will be filled by the police under the provision of Special Powers Act. 1974 against the person who are using chemical in making the fruits ripe.

h) Direct the office to serve notices upon the respondents at the cost of office.

i) Upon hearing the cause if any shown makes the rule absolute.

j) Pass such other or further order or orders as Your Lordships may deem fit and proper.

And for this act of kindness Your Petitioner as in duty bound shall
ever pray.

Name of the applicants-

Manzill Murshid -----

Advocate Asaduzzaman Siddiki -----

Submitted by;-

Advocate Manzill Murshid
Supreme Court Of Bangladesh

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INDEX

Sl.	Description of the paper or document	Date	Page
1.	Power		
2.	Writ Petition	10.05.10	
3.	Paper clipping is annexed here with and marked as <u>“ANNEXURE-Aand A-1.”</u>	08.05.10 06.05.10	
4.	Back Sheet		

Manzill Murshid
গব্বরজ তগবি ত্রম`
Advocate
Supreme Court of Bangladesh.

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গব্বরজ তগবি তম`
Advocate
for the Petitioners.

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.....Petitioners.

-V E R S U S-

1. Bangladesh and others.

.....Respondents.

To
The Learned Attorney General
The Peoples Republic of Bangladesh

Dear Sir,

Please take notice that an application under Article 102 of the Constitution, will be filed and moved before this Court, a copy of which is enclosed herewith for your kind information.

Regards-

Manzill Murshid
গব্বরজ তগবি ত্রম`
Advocate
Supreme Court of Bangladesh.