

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 Secretary,
Advocate Asaduzzaman Siddiqui, Hall No. 2,

Supreme Court Bar Association Bhaban,

Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

1. Bangladesh represented by the Secretary,

Ministry of Home Affairs, Bangladesh

Secretariat , P.S.: Shahbag, District: Dhaka.

2. Inspector General of Police (IGP), Police

Head Quarter Bhaban, Ramna, Dhaka,

Bangladesh.

3. The Superintendent of Police (S.P.), Sylhet,

Post and District-Sylhet.

4. The Superintendent of Police (S.P.),

Gaibandha, Post and District-Gaibandha.

5. The Superintendent of Police (S.P.),

Lalmanirhat, Post and District-Lalmanirhat.

6. Md. Nurul Alam, Officer in Charge(O.C.),

Osmaninagar Police Station P.S. Osmaninagar,

District- Sylhet.

7. Fahima Haider, Sub Inspector, Posted at

Lalmanirhat.

8. Constable Dulal Chandra Sarkar, posted

at Gaibandha.

9. Constable Mizanur Rahman, posted at

Gaibandha.

.....Respondents.

AND

IN THE MATTER OF:

Violation of Article 31, 32 and 35 of the

Constitution of Bangladesh.

To

Mr. Justice Mohammad Fazlul Karim, The Hon'ble Chief Justice
Bangladesh and his companion Judges of the said Hon'ble Court.

The humble Petition of the Petitioner 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 petitioner is a practicing lawyer of this Hon'ble Court, human rights activist and conscious citizen of the country. He is challenging the failure of the law enforcing agencies to protect the life of the citizen under the police custody. The petitioner also seek to bring this application by invoking Article 102 of the Constitution as a public interest litigation in order to enforce of the provision of the constitution of Bangladesh.

3. That the Respondent No. 1 is The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka. 2. Inspector General of Police (IGP), Police Head Quarter Bhaban, Ramna, Dhaka, Bangladesh. Respondent no. 3 is The Superintendent of Police (S.P.), Sylhet, Post and District-Sylhet. Respondent no. 4 The Superintendent of Police (S.P.), Gaibandha, Post and District-Gaibandha. Respondent no. 5 is The Superintendent of Police (S.P.), Lalmanirhat, Post and District-Lalmanirhat. Respondent 6 is Md. Nurul Alam, Officer in Charge(O.C.), Osmaninagar Police Station P.S.

Osmaninagar, District- Sylhet. Respondent no. 7 is Fahima Haider, Sub Inspector, Posted at Lalmanirhat. Respondent no. 8 is Constable Dulal Chandra Sarkar, posted at Gaibandha. Respondent no. 9 is Constable Mizanur Rahman, posted at Gaibandha. 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 about the rule of law. Due to torture in police custody one Sajidur Rahman died in Gaibandha in 21.05.2006 the effected people unable to come to enforce their fundamental rights, hence the petitioner 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 Star on 02.06.2010 that 4 police personnel filed an application for

anticipatory bail granted in connection with a case and which was not.

It was also reported that due to torture in the police custody one Sajid died in Gaibandha and Gaibandha Nagorik Committee filed a case against the respondent no. 6-9.

Paper clipping is annexed here with and marked as **“ANNEXURE-A.”**

6. That it is stated here that the respondents are the experienced public servant and very much aware of the rules and law of the land. More over the responsibility vested upon the law enforcing agency to give safety of the citizen and not to kill the citizen . Even in every steps of the service the law enforcing agencies is getting training about the duties vested upon them. 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 legal notice for taking steps.

7. 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 an officer to act legally but no law has been allowed them to treat the citizen in an unlawful manner. But the respondents have failed to perform the duties and responsibility as per the constitution.

8. 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. Under Article 31 of the constitution of Bangladesh every one is to be treated in accordance with law. According to the news report the provision of Article 32, 35 and 31 of the Constitution of Bangladesh has been violated.

9. 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.

10. That being aggrieved by and dissatisfied with the violation of the respondents and having no other equally efficacious remedy the petitioner beg to move Your Lordships on the following amongst others:-

G R O U N D S

I. For that Article 31 of the constitution of Bangladesh has provided a provision that 'to enjoy protection of law and to be treated in

accordance with law and only in accordance with law' but in the case it has been violated by the law enforcing agencies.

II. For that the duty and responsibility vested upon the administration to protect the life of the persons. 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 per the constitution. Hence a direction may be given to take appropriate steps as per law.

III. For 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 an officer to act legally but no law has been allowed him to treat the citizen in an unlawful manner. But the respondent has failed to perform the duties and responsibility as per the constitution.

IV. For that under Article 31 of the constitution of Bangladesh every one is to be treated in accordance with law. According to the news report the provision of Article 21 and 31 of the Constitution of Bangladesh has been violated. It is also prohibited to torture any person in police custody but it has been violated by the police, hence direction may be given upon them to take appropriate steps against the persons who are liable for killing.

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 a direction should not be given upon the respondents to ensure the safety of the citizen and to perform their duties as vested upon them under Article 31, 32 and 35 of the Constitution of Bangladesh.

c) Pending hearing of the Rule an order may be passed directing the Respondent no. 3-5 to abstain the respondent no. 6-9 from any public duty in any police station.

d) Pending hearing of the Rule an order may be passed directing the Respondent no. 3-5 to take steps as per Bangladesh Service rules against the respondent no. 6-9

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

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

g) 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 Petitioner-

Advocate Asaduzzaman Siddiqui -----

Submitted By-

Manzill Murshid
গব্বরজ তগ্বিতম`
Advocate
Supreme Court of Bangladesh.

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

WRIT PETITION NO. OF 2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh
represented by it's Secretary Advocate
Asaduzzaman Siddiqui.

.....Petitioner.

-V E R S U S-

1. Bangladesh and others.

.....Respondents.

INDEX

Sl.	Description of the paper or document	Date	Page
1.	Power		
2.	Writ Petition	03.06.10	
3.	Paper clipping is annexed here with and marked as " <u>ANNEXURE-A.</u> "	02.06.10	
4.	Back Sheet		

Manzill Murshid
গভীর জগৎ
Advocate
Supreme Court of Bangladesh.

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

WRIT PETITION NO.....OF 2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh.

.....Petitioner.

-V E R S U S-

Bangladesh and others.

.....Respondents.

Manzill Murshid
গব্বরজ তগব্বি তম`
Advocate
for the Petitioner.

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

WRIT PETITION NO. OF 2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh.

.....Petitioner.

-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 তম`
Advocate
Supreme Court of Bangladesh.