

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

1. Human Rights and Peace for Bangladesh

(HRPB), represented by its Secretary, Advocate

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

2. Bangladesh Human Rights Foundation,
represented by Advocate Alena Khan,
Chairperson and Chief Executive, 71 Shahid
Tazuddin Ahamed Shoroni, 1st Floor,
Mohakhali, Dhaka-1212, Bangladesh.

.....Petitioners.

-VERSUS-

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. Additional Inspector General of Police
(Headquarter), Dhaka, District-Dhaka.

4. The Police Commissioner, Dhaka
Metropolitan Police (DMP), District- Dhaka.

5. The officer in charge, Gulshan Thana, P.S.
Gulshan, District-Dhaka.

6. The officer in charge, Dar Us Salam, Thana,
P.S. Dar Us Salam, District-Dhaka.

7. Mr. Anisur Rahman Anis, Sub Inspector,
Gulshan Thana Police Station P.S. Gulshan,
District- Dhaka.

8. Mr. Masudur Rahman, Sub Inspector, Dar
Us Salam Thana Police Station P.S. Dar Us
Salam, District- Dhaka.

9. Mr. Syed, Asst. Sub Inspector, Dar Us
Salam Thana Police Station P.S. Dar Us Salam,
District- Dhaka.

10. Mr Hekmotullah, Asst. Sub Inspector, Dar
Us Salam Thana Police Station P.S. Dar Us
Salam, District- Dhaka.

11. Mr. Moshiyr, Asst. Sub Inspector, Dar Us
Salam Thana Police Station P.S. Dar Us Salam,
District- Dhaka.

.....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 Petitioners above named most
respectfully;-

S H E W E T H:

1. That the organization Human Rights And Peace For Bangladesh (HRPB) and Bangladesh Human Rights Foundation are non profitable registered organization and the objects of the organizations are 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 organizations are engaged in promoting and defending human rights, supporting the victims of human rights violations. It also works to establish the 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 failure of the law enforcing agencies to protect the life of the citizens during police custody. The petitioners 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 1. Bangladesh represented by the Secretary, Ministry of Home Affairs, Bangladesh Secretariat , P.S.: Shahbag, District: Dhaka. Respondent no. 2 is Inspector General of Police (IGP), Police Head Quarter Bhaban, Ramna, Dhaka, Bangladesh. Respondent no. 3 is Additional Inspector General of Police (Headquarter), Dhaka, District-Dhaka. Respondent no. 4 is OFFICER IN CHARGE , GULSHAN THANA, RESPONDENT No. 5 IS THE OFFICER IN CHARGE, DAR US SALAM THANA, The Police Commissioner, Dhaka Metropolitan Police (DMP), District- Dhaka. Respondent no. 6 is Mr. Anisur Rahman Anis, Sub Inspector, Gulshan Thana Police Station P.S. Gulshan, District- Dhaka. Respondent no. 7 is Mr. Masudur Rahman, Sub Inspector, Dar Us Salam Thana Police Station P.S. Dar Us Salam, District- Dhaka. Respondent no. 8 is Mr. Syed, Asst. Sub Inspector, Dar Us Salam Thana Police Station P.S. Dar Us Salam, District- Dhaka. Respondent no. 9 is Mr Hekmotullah, Asst. Sub Inspector, Dar

Us Salam Thana Police Station P.S. Dar Us Salam, District- Dhaka.

Respondent no. 10 is Mr. Moshiur, Asst. Sub Inspector, Dar Us Salam

Thana Police Station P.S. Dar Us Salam, District- Dhaka. That the

addresses of the petitioners 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 3 persons were died in Dhaka in different dates, 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 Star that one Mizan died in the police custody, Mojibur Mizan died in the police custody after was arresting them by the police in connection with

case. It was also reported that due to torture they died. Report were also published in Prothom Alo and Zugantor which are annexing here with.

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

6. 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 him to treat the citizen in an unlawful manner. But the respondent has failed to perform the duties and responsibility as per the constitution.

7. 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.

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

GROUND 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 instant 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 legal action against the persons who are liable for the offence.

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 a direction should not be given upon the respondents to ensure the safety of the citizen during police custody and to perform their duties as vested upon them under Article 31, 32 and 35 of the Constitution of Bangladesh.
- b) Pending hearing of the Rule an order may be passed directing the Respondent no. 5-11 to be present before this Hon'ble Court and explain their position about the death.

c) Pending hearing of the rule direct the respondent no. 1 to form an inquiry committee (except police personal) to investigate the matter published in the news paper and submit a report before this Court within 15 (fifteen) days.

d) Pending hearing of the rule direct the respondent no. 5 and 6 to submit surathal report and post mortem report through an affidavit before this Hon'ble Court within 10 days.

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

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

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

A F F I D A V I T

I, Advocate Asaduzzaman Siddiqui of Hall No.2 , Supreme Court Bar
Association Building , Ramna, Dhaka, Bangladesh, aged about 49 years
by faith muslim by occupation lawyer by Nationality Bangladeshi by
birth do hereby solemnly affirm and say as follows:-

1. That I am Petitioner No. 1 in this case and acquainted with the
facts and circumstances of the cases and competent to swear this
affidavit.

2. That the statements made hereinabove in this application are true to the best of my knowledge and belief.

Prepared in my office.

Advocate

(DEPONENT)

THE DEPONENT IS KNOWN TO ME AND IDENTIFIED BY ME

Advocate

SOLEMNLY AFFIRMED BEFORE
ME THIS THEDAY OF
.....:2010 AT..... AM/PM

COMMISSIONER OF AFFIDAVITS
SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION, DHAKA.

AFFIDAVIT

I, Advocate Alena Khan, Chairperson and Chief Executive, 71 Shahid Tazuddin Ahamed Shoroni, 1st Floor, Mohakhali, Dhaka-1212, Bangladesh, aged about 48 years by faith muslim by occupation lawyer by Nationality Bangladeshi by birth do hereby solemnly affirm and say as follows:-

1. That I am Petitioner No. 2 in this case and acquainted with the facts and circumstances of the cases and competent to swear this affidavit.
2. That the statements made hereinabove in this application are true to the best of my knowledge and belief.

Prepared in my office.

Advocate

(DEPONENT)

THE DEPONENT IS KNOWN TO ME
AND IDENTIFIED BY ME

Advocate

SOLEMNLY AFFIRMED BEFORE
ME THIS THEDAY OF
.....:2010 AT..... AM/PM

COMMISSIONER OF AFFIDAVITS
SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION, DHAKA.

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1. Bangladesh and others.

.....Respondents.

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Advocate
Supreme Court of Bangladesh.

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Advocate
for the Petitioners.

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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-

Advocate
Supreme Court of Bangladesh.