

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 Siddique, 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 Establishment, Bangladesh
Secretariat , P.S.: Shahbag, District: Dhaka.

2. The Secretary, Ministry of Commerce,
Bangladesh Secretariat, P.S.: Shahbag,
District: Dhaka.

3. The Secretary, Ministry of Power,
Energy and Minarel Resources, Bangladesh
Secretariat, P.S.: Shahbag, District: Dhaka.

4. The Deputy Commissioner, Rangpur,
District- Rangpur.

.....Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondent to take appropriate steps against the Deputy Commissioner, Rangpur, who has violated the instructions of the Government in respect of not to misuse the electricity and failed to perform his duties as vested upon him.

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 steps which was taken by the Deputy Commissioner,

Rangpur, violating the instructions of the Government. 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 Deputy Commissioner, Rangpur, who has failed to perform his duties as vested upon him as a government servant.

3. That the Respondent No. 1 is the Secretary, Ministry of Establishment, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka. Respondent no. 2 is the Secretary, Ministry of Commerce, Bangladesh Secretariat , P.S.: Shahbag, District: Dhaka. Respondent No. 3 is the Secretary, Ministry of Power, Energy and Mineral Resources and Respondent no. 4 is the Deputy Commissioner, Rangpur, District-Rangpur. 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. Due to violation of the instruction of the government by the respondent no. 4 the people of that area are suffering, the effected people unable to come to enforce their 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 on 21.04.2010 a report was published in the Daily Zugantar, that the Deputy Commissioner, Rangpur, has violated the instruction of the Government in respect of misusing electricity. It is stated here that the Prime Minster directed the administration not to misuse the electricity in pick time due to shortage of electricity. The cause was to ensure supply of electricity for the farmer for cultivation of rice on which all the citizens are depending on. The Prime Minster also urged the people to consider the matter for much production of rice. Despite of that the respondent no. 4 along

with other district administration misused the electricity in pick time by way of playing Lon tennis. It was reported in the news paper that though there was no electricity at that time in the Rangpur city but abusing the power of the respondent no. 4, the District administration misused the electricity by playing Lon Tennis in Floodlight. Which is clear violation of the instruction of the government.

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

6 That it is stated here that the news was published in the daily Zugantar stating the headline ‘‘i scj kni hLb AÜKvi ZLb tRj v cKvmK tL†j b dvBWj vB†U’’ The petitioner read the news item of the news paper and feel very much aggrieved about the steps of the Deputy commissioner violating the instructions of the government.

7. That it is stated here that the total production of electricity is less than the demand of the country and it has created many major problem in the normal life of the citizen. It also hampers the industrial and agricultural production of the country. As the report published in the news paper this short of serious problem is facing the nation due to not taking steps by the earlier governments for sufficient production of electricity. It is also reported in the news paper that the present government took initiative to increase the need full production of electricity but it will take more years to complete the project. It is admitted position that the people of this country have to face shortage of electricity since the incoming project is completed by the government. So at this stage there is no alternative to stop misuse of electricity which is reflected by the instructions of the Hon'ble Prime Minister. It is stated here that in many places electric connection was continuing by the illegal means of the corrupted people of the electricity department and the government is depriving huge money in this way. If such kinds of illegal use are stopped in that case suffering

of the general people may be reduced. In another way it is often to see that many shop owners are using excesses bulb in their commercial place, which is totally unnecessary and creating obstruction to other users of electricity. Even they use 20-40 bulb in a small space and unnecessary consuming electricity by depriving others people. If both the illegal steps can be stopped the suffering of the citizens in respect of shortage of electricity may be reduced. So it is necessary to direct the respondents to monitor the situation effectively by way of forming a committee in every City Corporation. It is also necessary to disconnect all the illegal electric lines and to stop use of excesses bulb in shops and commercial palace in order to improve the situation.

8. That it is stated here that the respondents are the experienced public servant and very much aware of the rules and instructions of the government. More over the issues of shortage of electricity, conditions of the user and way of different misuse is always reporting in media, so it is not out of the knowledge of respondents. Under this 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.

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 illegal steps of the respondent no. 4.

10. 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 do anything in a unlawful manner. But the respondent has failed to perform the duties and responsibility.

11. 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 news report the provision of Article 21 of the Constitution of Bangladesh has been violated.

12. 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 Shitalakha 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.

13. That being aggrieved by and dissatisfied with the failure of the respondents to take appropriate steps against the respondent no.4 and illegal steps of the respondent no. 4 and having no other equally efficacious remedy the petitioner beg to move Your Lordships on the following amongst others:-

GROUND S

I. For that the duty and responsibility vested upon the administration to follow the instruction of the government. 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 against the respondent no. 4.

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. According to the news report the provision of Article 21 of the Constitution of Bangladesh has been violated.

III. For that The Prime Minister directed the administration not to misuse the electricity in peak time due to shortage of electricity. The cause was to ensure supply of electricity for the farmer for cultivation of rice on which all the citizens are depending on. The Prime Minister also urged the people to consider the matter due to shortage of electricity and for much production of rice. Despite of that the respondent no. 4 along with other district administration misused the electricity in peak time by way of playing Lawn tennis. Abusing the power of the respondent no. 4, the District administration misused the electricity by playing Lawn

Tennis in Floodlight hence is clear violation of the instruction of the government.

IV. For that the total production of electricity is less than the demand of the country and also hampers the industrial and agricultural production of the country. So at this stage there is no alternative to stop misuse of electricity which is reflected by the instructions of the Hon'ble Prime Minister. In many places electric connection was continuing by the illegal means of the corrupted people of the electricity department and the government is depriving huge. Many shop owners are using excesses bulb in their commercial place, which is totally unnecessary and creating obstruction to other users of electricity. Even they use 20-40 bulb in a small space and unnecessary consuming electricity by depriving others people. Both the illegal steps should be stopped for reducing the suffering of the citizens in respect of shortage of electricity. So it is necessary to direct the respondents to monitor

the situation effectively by way of forming a committee in every City Corporation. It is also necessary to disconnect all the illegal electric lines and to stop use of excesses bulb in shops and commercial palace in order to improve the situation.

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 the steps taken by the respondent no. 4 by abusing power of the district administration and violating the instruction of the

government regarding the misuse of electricity, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondent no. 1 to take proper disciplinary action against the respondent no. 4 for his conduct.

c) Pending hearing of the Rule an order may be passed directing the Respondent no. 1 to refrain the respondent no. 4 from performing any function as Deputy Commissioner in any District.

d) Pending hearing of the rule direct the respondent no. 1 to form an inquiry committee to investigate the matter published

in the news paper and submit a report before the Court within 15 (fifteen) days.

e) Pending hearing of the rule direct the respondent no. 2 to form a vigilance team in all City Corporations consisting of members of law enforcing agencies, electricity department and local administration to stop misuse of electricity by way of disconnecting of illegal connection and to stop using excesses bulb in every shops and commercial place and submit a compliance report within 30 (thirty) days.

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

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

h) 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 Siddiki -----

Submitted By-

Manzill Murshid
গব্বরজ ত্গবিত্ৰম`
Advocate
Supreme Court of Bangladesh.

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
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WRIT PETITION NO. OF 2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh

represented by it's Secretary Advocate

Asaduzzaman Siddiki.

.....Petitioner.

-V E R S U S-

1. Bangladesh and others.

.....Respondents.

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Manzill Murshid
গভীর জীবিত
Advocate
Supreme Court of Bangladesh.

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.....Respondents.

Manzill Murshid
গভীর জগৎ
Advocate
for the Petitioner.

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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 of Bangladesh 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.