

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:

For a direction upon the respondents to take
appropriate steps against the Deputy
Commissioner, Bogura, who has violated the

provision of law and failed to perform his duties as vested upon him under Article 21 and 33 of the Constitution of Bangladesh.

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. The Cabinet Secretary, Cabinet Division, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka.

2. The Secretary, Prime Minister's Secretariat, Prime Minister's Office, Old Sangsad Bhaban,, P.S. Tejgaon, District: Dhaka.

3. The Secretary, Ministry of Establishment, Bangladesh Secretariat , P.S.: Shahbag, District: Dhaka.

4. Mr. Iftekharul Islam, the Deputy Commissioner, Bogra, District- Bogra.

.....Respondents.

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) 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 were taken by the Deputy Commissioner,

Bogra, violating the provision of provision of law. 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, Bogura, who has violated the provision of law and failed to perform his duties as vested upon him under Article 21 and 33 of the Constitution of Bangladesh.

3. That the Respondent No. 1 is The Cabinet Secretary, Cabinet Division, Bangladesh Secretariat, P.S.: Shahbag, District: Dhaka. Respondent no. 2 is the Secretary, Prime Minister's Secretariat, Prime Minister's Office, Old Sangsad Bhaban,, P.S. Tejgaon, District: Dhaka. Respondent No. 3 is the Secretary, Ministry of Establishment, Bangladesh Secretariat , P.S.: Shahbag, District: Dhaka and Respondent no. 4 is Mr. Iftekharul Islam, the Deputy Commissioner, Bogra, District- Bogra. 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 vindictive action of the respondent no. 4 the people are suffering injustice, 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 07.04.2010 that the Deputy Commissioner, Bogra, has ordered to arrest four leaders of a political party who brought corruption charges against him. It was also reported that the Deputy Commissioner told the journalist that he issued an order to arrest the leaders as they made false allegations against him. It was stated in the news paper that a case has been filed against the Deputy Commissioner on charge of corruption.

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 star stating the headline ‘ Bogra DC finally orders arrest of 4 leaders’ The petitioners read the news item of the news paper and feel very much aggrieved about the action taken by the Deputy commissioner violating the provision of law.

7. 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.

8. 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.

9. 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 21 and 31 of the Constitution of Bangladesh has been violated.

10. 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.

11. 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 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 respondent no. 4.

II. For that the duty and responsibility vested upon the administration to protect persons and property of any citizen of the country. 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.

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 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 21 and 31 of the Constitution of Bangladesh has been violated.

V. For that the order of arrest was passed by the respondent no. 4 against the persons who made allegation against him for corruption charge, which is not an offence as per the existing laws of the land. So the steps of the respondent no. 4 was taken in a vindictive manner by using abuse of power, hence it is illegal.

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 action of the respondent no. 4 for directing the police to arrest 4 persons belonging to a political party, who brought allegations of corruption against the respondent no. 4, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondent no. 1-3 to take proper disciplinary action against the

respondent for his conduct if the allegation is found to be correct by the investigation.

c) Pending hearing of the Rule an order may be passed directing the Respondent no. 1-3 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. 1-3 to form an inquiry committee to investigate the matter published in the news paper and submit a report before this Court within 30 (thirty) days.

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 Siddiki -----

Submitted By-

Manzill Murshid
Advocate
Supreme Court of Bangladesh.

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

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-V E R S U S-

1. Bangladesh and others.

.....Respondents.

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

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Advocate
for the Petitioner.

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-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 read 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.