

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 Home Affairs, Bangladesh

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

2. Inspector General of Police (IGP), Police

Head Quarter Bhaban, Ramna, Dhaka,

Bangladesh.

3. Deputy Inspector General of Police (DIG),

Barisal Range, P.O.- Barisal, District-Barisal

4. The Superintendent of Police (SP), Pirojpur,
District- Pirojpur.

5. The Officer in Charge (O.C.), Mothbaria
Police Station, P.S. Mothbaria, District-
Pirojpur.

.....Respondents.

AND

IN THE MATTER OF:

Inaction of the law enforcing agencies to take
appropriate legal steps against the land
grabbers at South Sonakhali, P.S. Mothbaria,
District-Pirojpur, who has violated the
provision of law and failure of the law
enforcing agencies to perform their duties as
vested upon them under Article 21 and 31 of

the Constitution of Bangladesh and direction
to ensure the safety of the Hindu Citizens in
the locality.

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 Hindu citizens from land grabbers at Shonakhali, Motbaria, Pirojpur. 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 land grabbers, who has violated the provision of law and the law enforcing agencies who has failed to perform their duties as vested upon them under Article 21 and 31 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. Respondent no. 2 is Inspector General of Police, Police Bhaban, P.S. Ramna, District: Dhaka. Respondent No. 3 is Deputy Inspector General of Police (DIG), Barisal Range P.S.: Barisal, District: Barisal. Respondent no. 4 is the Superintendent of police, Pirojpur, District-Pirojpur and Respondent no. 5 is the Officer in Charge, Mothbaria Thana, District-Pirojpur. 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 inaction of the law enforcing agencies the hundreds of Hindu 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 Zangtar on 20.04.2010 that the hundreds of Hindu citizens at Shonakhali, Motbaria, Pirojpur has been tortured by the land grabbers supported by the law enforcing agencies. It was also reported that the some people under direct supervision of the Local Member of Parliament are trying to take possession of 500 acre land from the Hindu owners. Though it was informed to the police but they have failed to take any steps against the land grabbers. It was also reported that a case has been filed by the land owners but the police is not taking any steps to arrest the land grabbers. Moreover after filling the case the land grabbers became furious and taking action against the people by way of torture and Nari Nirzaton. Due to this reason many Hindu people left the area.

More over the responsibility vested upon the law enforcing agency to give safety of the citizen and to protect the property of the citizen, so it is not out of the knowledge of respondents. 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.

9. 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.

10. 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.

11. 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.

12. That being aggrieved by and dissatisfied with the failure of the respondents to take appropriate steps against the land grabbers and 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 law enforcing agencies.

- 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 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 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.

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 inaction of the respondents to take appropriate legal steps against the land grabbers at South Sonakhali, P.S. Mothbaria, District-Pirojpur, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to ensure the safety of the Hindu Citizens in the locality and to perform their

duties as vested upon them under Article 21 and 31 of the Constitution of Bangladesh.

c) Pending hearing of the Rule an order may be passed directing the Respondent no. 4 and 5 to be present before this Hon'ble Court and explain their position about their failure to arrest the land grabbers.

d) Pending hearing of the rule direct the respondent no. 2 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) Pending hearing of the rule direct the respondent no. 4 to ensure arrest of the accused within 48 hours and file affidavit in compliance thereof within 7 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
Advocate
গব্বরজ তগবি তম`
Supreme Court of Bangladesh.

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HIGH COURT DIVISION
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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
গব্বরজ তগবি তম`
Advocate
Supreme Court of Bangladesh.

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গব্বরজ তগবি তম`
Advocate
for the Petitioner.

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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
gbwRj tgyi tm`
Advocate
Supreme Court of Bangladesh.