

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 read with Article 44 of the
Constitution.

AND

IN THE MATTER OF:

Enforcement of Fundamental Rights as
guaranteed under Article 31 of the Constitution
of Bangladesh.

AND

IN THE MATTER OF:

Eviction of land owners by way of creating
violence against the people in order to grab the

land and treatment of the law enforcing agencies in an unlawful manner violating the provision of law.

AND

IN THE MATTER OF:

1. Human Rights and Peace for Bangladesh

(HRPB) Represented by it's Secretary Advocate

Asaduzzaman Siddique, Hall No. 2, Supreme

Court Bar Association Bhaban, Dhaka,

Bangladesh.

2. Advocate Sarwar Ahad Chowdhury,

Director, Human Rights and Peace for

Bangladesh (HRPB) of 3/14 Bashbari Bosila

Road, Mohammadpur, P.S.: Mohammadpur,

Dhaka.

3. Advocate Md. Aklas Uddin Bhuiyan,
Director, Human Rights and Peace for
Bangladesh (HRPB), 3 Agamashi Lane, P.S.:
Kotwali, Dhaka.

..... Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary
Ministry of Home Affairs, Bangladesh
Secretariat, P.S. Shahbag, District: Dhaka.

2. The additional Secretary, Ministry of Home
Affairs, Bangladesh Secretariat, P.S.: Shabag,
District: Dhaka.

3. The Inspector General of Police (IGP)

Police Bhaban, Phulbaria, P.S.; Ramna, District-

Dhaka.

.....Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondents to take legal steps against the police officers who has violated the provision of law and failed to perform their duties as vested upon them under Article 21 and 33 of the Constitution of Bangladesh.

To

Mr. Justice Md. Fazlul Karim, the Hon'ble Chief Justice of Bangladesh

and the companion Judges of the Hon'ble Supreme Court.

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The humble Petition of the Petitioner above named most respectfully

S H E W E T H:

1. That the petitioners are practicing lawyer of this Hon'ble court.

The petitioners are being conscious and respectable member of the Bar and challenging the illegal act of the police violating the provision of the constitution and seeks to bring this application by invoking Article 102 of the Constitution as a public interest litigation in order to maintain the dignity and provision of the constitution.

2. That the respondent No. 1 is Bangladesh, Represented by the Secretary Ministry of Home Affairs Bangladesh Secretariat, P.S.; Ramna, District- Dhaka. The respondent no.2 is the Additional Secretary, Ministry of Home Affairs, Bangladesh Secretariat, Dhaka, Bangladesh, The Respondent No. 3 is the Inspector General of Police (IGP) Police Bhaban, Phulbaria, P.S; Ramna, District-Dhaka. That the

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addresses of the Petitioners and the Respondents given above are correct for the purpose of service of notices.

3. That it is stated here that the Respondents No. 2 and 3 are serving under the respondent no. 1. That the members of the police force are serving under the direct control of respondent no.1. It is stated here that under the leadership and supervision of the police super Bagerhat the police took part in illegal activities violating the provision of law as well as violated the fundamental rights of the citizen as guaranteed under Article 42 of the Constitution of Bangladesh. And as it involves great public importance so this petition may be treated as public interest litigation.

4. That it is stated here that it is in the interest of the petitioners and for the benefit of the citizens of the country and in order to establish the rule of law, the petitioners move this public interest Litigation (PIL) before this Hon'ble court.

5. That it is stated here that a news was published in the daily News Paper on 19.02.2010 stating the headline that "evicting hundreds of people from their land". The petitioners read the news item of the news paper and feel very much aggrieved about the action taken by the police violating the provision of law. It was reported in the newspaper that the police took possession by way of evicting hundreds of people from their land. It was done in the name of demarcation of land of Bagerhat and Gopalgongj district. During the eviction the police treated with the people in an unlawful manner. They also set up some sign board on the land in the name of some high official police officers. It is evident from the report that all action has been taken by the leadership of the police super, Bagerhat. In the report it was published in daily Prothom Alo that some police officer forcefully took possession of some properties situated between Gopalgong and Bagerhat district, which was done in the name of land demarcation. During the incident some owner of the property faced unwarrantable personal violence from the police. The police personal also behalf with

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the citizen with harshness and rudeness and also threatened the local people.

Copies of the paper cutting is annexed here with and marked as **'ANNEXURE-A and A-1.'**

6. That it is stated here that on 21.02.2009 another report was published in the daily Prothom Alo that the police super Mizanur Rahman was closed from the station and a letter was issued for the same by the Deputy Inspector General of Police (Admin). But no legal steps has been taken against the persons who violated the provision of law.

Copy of the paper cutting is annexed here with and marked as **'ANNEXURE-B.'**

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7. That it is submitted here that the article 35 (5) of the constitution of Bangladesh has provided a provision that 'no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. More over section 29 of the Police Act 1861 has provided punishment for police officer who shall offer any unwarrantable personal violence to any person.

8. That it is submitted here that the duty and responsibility vested upon the law enforcing agency to protect the citizen of the country and property of the citizen. The respondents are also duty bound to obey the provisions of law. It is the duty of a police officer to act legally but no law has been allowed them to treat the citizen in an unlawful manner. But they have failed to perform the duties and responsibility as per the constitution.

9. That it is submitted here that under the supervision of a police officer the people were evicted from their own land violating the

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provision of law and it has violated the fundamental rights of the citizen.

So the police officer who is liable for this illegal act should be punished as per law.

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 protect public property. Under Article 31 of the constitution of Bangladesh no one is allowed to take any action detrimental to property of any person except in accordance with law. According to the news report police violated the provision of Article 21 and 31 of the Constitution of Bangladesh.

11. That duty and responsibility vested upon the law enforcing agency to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the police have failed to perform the duties and responsibility as vested upon them and also failed to protect the property of the citizen, which is illegal. Under these circumstances

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the respondents are liable to take immediate steps against the police personal who have violated the provision of law and initiate legal action under section 21 of the Police Act. 1861 as well as section 33 of PRB against them. The respondents are legally bound to form an enquiry committee to find out the real involvement of the police personal in the incident.

12. That on 22.02.2010 a legal notice has been sent by the learned lawyer to the respondents and requested them to take legal action against the persons who were involved in the incident as reported in the daily news paper. But the respondents did not inform the learned lawyer about the request, so it is presumed that the respondents have taken no action.

A copy of the legal notice is annexed here with
and marked as **“ANNEXURE-C”**.

15. That being aggrieved by and dissatisfied with the activities of the police and failure to perform the duties as vested upon police and having

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no other equally efficacious remedy the petitioners beg to move your Lordships on the following amongst others;-

GROUND S

- I. For that Article 35 (5) of the constitution of Bangladesh has provided a provision that 'no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. More over section 29 of the police Act 1861 has provided punishment for police officer who shall offer any unwarrantable personal violence to any person. The police have violated the principal of law, hence they should be punished.

- II. For that the duty and responsibility vested upon the law enforcing agency 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 a police officer to perform the duties in accordance with law, but they have failed to perform the

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duties and responsibility as per the constitution. Hence they are liable to be punished for their illegal act.

III. For that the duty and responsibility vested upon the law enforcing agency to protect the citizen of the country and property of the citizen. The respondents are also duty bound to obey the provisions of law. It is the duty of a police officer to act legally but no law has been allowed them to treat the citizen in an unlawful manner. But they have failed to perform the duties and responsibility as per the constitution.

IV. For that under the supervision of a police officer the people were evicted from their own land violating the provision of law and it has violated the fundamental rights of the citizen. So the police officer who is liable for this illegal act should be punished as per law.

V. For that as per Article 21 of the Constitution of Bangladesh the duty of every public servant is to perform public duties and to protect

public property. Under Article 31 of the constitution of Bangladesh no one is allowed to take any action detrimental to property of any person except in accordance with law. According to the news report police violated the provision of Article 21 and 31 of the Constitution of Bangladesh.

VI. For that duty and responsibility vested upon the law enforcing agency to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the police have failed to perform the duties and responsibility as vested upon them and also failed to protect the property of the citizen, which is illegal. Under these circumstances the respondents are liable to take immediate steps against the police personal who have violated the provision of law and initiate legal action under section 21 of the Police Act, 1861 as well as section 33 of PRB against them. The respondents are legally bound to form an enquiry committee to find out the real involvement of the police personal in the incident.

Wherefore it is most humbly prayed that your Lordships would graciously be pleased to issue: -

a) A Rule Nisi calling upon the Respondents to show cause as to why direction should not be given upon the respondents to take legal steps as per section 29 of the Police Act 1861 and section 33 of PRB against the police personnel who violated the provision of law as reported in daily news paper on 19.02.10.

b) Pending hearing of the Rule an order may be passed directing the Respondents to abstain the police super Mizanur Rahman from any public duty.

c) Direct the respondents to form an independent inquiry committee within 7 days

to find out the name of the police personal who are liable for the incident as reported in the news paper and submitted report before this Hon'ble Court within 30 (thirty days).

d) Make the Rule absolute upon hearing the cause if any shown by the Respondent.

e) Pass such other and further order or orders as may seem fit and proper to your Lordships

And for this act of kindness your petitioner as in duty bound shall ever pray.

AFFIDAVIT

I, Advocate, Asaduzzaman Siddique, Secretary Human rights and Peace for Bangladesh of Hall No. 2, Supreme Court of 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 the Petitioner No. 1 in this case and acquainted with the facts and circumstances of this application and am competent to swear this affidavit.

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

Prepared in my office.

Manzill Murshid
মনজিল মোরসেদ
Advocate

(DEPONENT)

THE DEPONENT IS KNOWN
TO ME
AND IDENTIFIED BY ME

Manzill Murshid
মনজিল মোরসেদ
Advocate

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

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

A F F I D A V I T

I, Advocate Sarwar Ahad Chowdhury, Director, Human Rights and Peace for Bangladesh (HRPB) of 3/14 Bashbari Bosila Road, Mohammadpur, P.S.: Mohammadpur, Dhaka, aged aboutyears by faith Muslim by occupation Lawyer by Nationality Bangladeshi by birth do hereby solemnly affirm and say as follows:-

1. That I am the Petitioner No. 2 in this case and acquainted with the facts and circumstances of this application and am competent to swear this affidavit.

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

Prepared in my office.

Manzill Murshid
মনজিল মোরসেদ
Advocate

(DEPONENT)

THE DEPONENT IS KNOWN
TO ME
AND IDENTIFIED BY ME

Manzill Murshid
মনজিল মোরসেদ
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 Md. Aklas Uddin Bhuiyan, Director, Human Rights and Peace for Bangladesh (HRPB), 3 Agamashi Lane, P.S.: Kotwali, Dhaka, aged aboutyears by faith Muslim by occupation Lawyer by Nationality Bangladeshi by birth do hereby solemnly affirm and say as follows:-

1. That I am the Petitioner No. 3 in this case and acquainted with the facts and circumstances of this application and am competent to swear this affidavit.

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

Prepared in my office.

Manzill Murshid
মনজিল মোরসেদ
Advocate

(DEPONENT)

THE DEPONENT IS KNOWN
TO ME
AND IDENTIFIED BY ME

Manzill Murshid
মনজিল মোরসেদ
Advocate

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

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

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

WRIT PETITION NO. OF 2010.

IN THE MATTER OF:

Advocate Asaduzzaman Siddique and others.

.....Petitioners.

-V E R S U S-

1. Bangladesh, Represented by the
Secretary, Ministry of Home Affairs,
Bangladesh Secretariat, Ramna, Dhaka and
another.

.....Respondents.

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4.	Copy of the paper cutting dated 21.02.10 is annexed here with and marked as <u>'ANNEXURE-B.'</u>	21.02.10	
5.	A copy of the legal notice is annexed here with and marked as <u>"ANNEXURE-C".</u>		
6.	Back Sheet		

Manzill Murshid
Advocate
For the Petitioners.

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.....Petitioners.

-V E R S U S-

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 read with Article 44, will be filed and moved before this Court, a copy of which is enclosed herewith for your kind information.

Regards-

Manzill Murshid
মনজিল মোরসেদ
Advocate
Supreme Court of Bangladesh.