

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.

2. Advocate Sarwar Ahad Choudhury,
Organizing Secretary, Human Rights and
Peace for Bangladesh, Hall No. 2, Supreme
Court Bar Association Bhaban, Dhaka,
Bangladesh.

3. Advocate Aklas Uddin Bhuiyan,
Publicity Secretary, Human Rights and
Peace For Bangladesh, 33 Abdul Hadi
Lane, Police Station-Bangshal, Dhaka.

4. Advocate Mahbubul Islam, Son of Md. Mofijuddin, Secretary General, Society of Justice, of Hs LA-56, Badda, Post Office Road, Gulshan, Dhaka 1212, Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Commerce, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

3. The Secretary, Ministry of Food,
Bangladesh Secretariat, P.S. Shahbag,
Dhaka, Bangladesh.

4. The Secretary, Ministry of Industries
SHILPABHABAN, Motijheel C/A, Dhaka-
1000, Bangladesh.

5 The Secretary, Ministry of Health
Bangladesh Secretariat, P.S. Shahbag,
Dhaka, Bangladesh.

6 The Inspector General of Police (IGP),
Police Head Quarter, Ramna, Dhaka,
Bangladesh.

7 The Managing Director, Bangladesh
Standard Testing Institute (BSTI), 116/A
Tejgaon Industrial Area, Dhaka-1208,
Dhaka, Bangladesh.

8 The Director General (DG), Rapid Action
Battalion (RAB), RAB Head Quarter, Uttra,
Dhaka, Bangladesh.

9 The Director, Chemical Testing Wing,
Bangladesh Standard Testing Institute
(BSTI), 116/A Tejgaon Industrial Area,
Dhaka-1208, Dhaka, Bangladesh.

10 The Police Commissioner, Dhaka, Dhaka
Metropolitan Police (DMP), DMP Head
Quarter, Eskaton Road, Dhaka, Bangladesh

.....Respondents.

AND

IN THE MATTER OF:

Inaction of the respondents to take
necessary steps to stop adulteration of food
which is dangerous to the health of the
citizens and failure of the respondents to
take effective measures to protect the
health of the citizens.

To

Mr. Justice Muhammad 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 petitioners are practicing lawyer of this Hon'ble Court, human rights activist and conscious citizen of the country. They are challenging the inaction of the respondent's to stop adulteration of food which is dangerous to the health of the citizens and also challenging the failure of the respondents to take effective measures to protect the health of the citizens. 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 people who are liable for adulteration of food.

3. That the Respondent No. 1 is the Secretary, Ministry of Commerce, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 2 is the Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 3 is the Secretary, Ministry of Food, Bangladesh

Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 4 is the Secretary, Ministry of Industries SHILPABHABAN, Motijheel C/A, Dhaka-1000, Bangladesh. Respondent no. 5 is the Secretary, Ministry of Food, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 6 is the Secretary, Ministry of Health Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh. Respondent no. 7 is the Inspector General of Police (IGP), Police Head Quarter, Ramna, Dhaka, Bangladesh. Respondent no. 8 is the The Managing Director, Bangladesh Standard Testing Institute (BSTI), 116/A Tejgaon Industrial Area, Dhaka-1208, Dhaka, Bangladesh. Respondent no. 9 is the Director General (DG), Rapid Action Battalion (RAB), RAB Head Quarter, Uttra, Dhaka, Bangladesh. Respondent no. 10 is the Director, Chemical Testing Wing, Bangladesh Standard Testing Institute (BSTI), 116/A Tejgaon Industrial Area, Dhaka-1208, Dhaka, Bangladesh. Respondent no. 11 is the Police Commissioner, Dhaka, Dhaka Metropolitan Police (DMP), DMP Head Quarter,

Eskaton Road, Dhaka, Bangladesh. 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 a public importance. Though the different kinds of food is playing an important role to the health of the citizens but some corrupted businessman are adulterating the food for much profit. It is stated here that some businessman for their own interest and financial benefit adulterate food which is dangerous for our health. That it is stated here that the matter is involved about the interest of the health of the people which is related to right to life of the citizen. 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 some corrupted businessman also fix the price of commodities in many occasions at high level. Some times they create crisis of foods and other necessity commodities by way of syndicate and earn much money by increasing price without following any procedure. Not only that in Ramadan they also took the opportunity of the demand and increase the price as well as marketing the adulterated food for their financial benefit. In order to control the price and adulteration of food there are some laws in Bangladesh such as BSTI Ordinance 1985, Standard of weights and Measure Ordinance 1982, Pure Food Ordinance 1959, Standard of weights and Measure Rules 2007 and Bhokta Odhikar Ain. For controlling the adulteration of food the steps have been taken by way of forming Mobile Court. The mobile Court functioning at field level and played a good role to stop the above mentioned illegal activities of some corrupted business man. As per section 20 of the Standard of weights and Measure Rules 2007 no one can increase the price of any commodities except

following the procedure. While a company increased the price of oil namely Rupchanda without following the procedure, the mobile court seized that goods and directed to auction sale at the price fixed by the Government. Due to the positive steps of the mobile court the vested quarter and interested businessman influenced the authority and able to stop the function of mobile court functioning.

Photocopy of the Rules is annexed here with
and marked as **'ANNEXURE-A'**.

6. That it is stated here that report was published in many Daily News Papers on 13.08.2010 and 14.10.2010 in Inqilab, Amader Shomoy and Kaler Kontho that due to some influence of the businessman the drive of the Mobile Court has been stopped by the authority. It was also reported that there will be health disaster in near future if measures are not taken to stop adulteration of food. It was also reported that priority should be given to stop adulteration of food

otherwise there will be serious consequence to health of the citizens. It is stated here the adulteration of food may cause many disease. More over by way of such marketing the people are depriving from natural quality and the health is facing serious threat.

Copy of the paper clippings are annexed here with and marked as '**ANNEXURE-B and B-1**'.

7. That it is stated here that the mobile court which was functioning earlier has played a great role to stop adulteration of food and to stop high price. Due to the activities of the Mobile Court some illegal steps of the business man have been stopped, so the interested group is trying to create obstruction to the function of the Mobile Court. If it is stopped the people will suffer and they will be bound to buy the food at higher price even in the Ramadan. Due to absence of the control

over adulteration of food by the Mobile Court, some corrupted businessman will be benefited but the health of the people will be seriously affected. It is evident from the news item that Mobile Court found many illegalities in their drive which are dangerous to their health.

Photocopies of the paper clippings are annexed here with and marked as **‘ANNEXURE-C’**.

8. That it is stated here that the millions of people residing in Dhaka city and are depending on the food supplied by the businessman. But due to illegal acts of the law violators and failure of the respondents to take effective steps to stop adulteration of food the people are suffering.

9. That it is stated here that in every moment the life of the city dwellers is depending on food available in the market. Facts remain that the total supply of food is control by the businessman and it is their duty to bring good food but they have failed to do that. It may be mentioned here that fresh food is very much important for the life of the citizen. Due to adulteration food the people are becoming sick day by day and health cost is increasing which is unaffordable for the poor people. But the respondents are not taking steps to stop it. In this way the people are depriving from their emergency need of fresh food. It is necessary to stop adulteration of food in order to save the health of the citizen otherwise the people will suffer.

10. That it is stated here that the respondent are the experienced public servant and very much aware of the rules and instructions of the government. More over the issues of adulteration of food is always reporting in media, so it is not out of the knowledge of respondents. 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 sending any legal notice.

11. 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 adulteration of food.

12. That it is submitted here that without any precautions to save the health of the city dwellers the respondents has sent the life of the people in a dangerous situation, which is violation Article 18(1) of the Constitution of Bangladesh. More over right to life of the citizen is fundamental rights guaranteed under Article 32 of the constitution of Bangladesh but due to adulteration of food, the life is facing health threat. Hence a direction may be given upon the Respondents to take

appropriate steps to control adulteration of food by functioning the Mobile Court.

13. 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 the public servant to act legally but no law has been allowed them to do anything in an unlawful manner. But the respondent has failed to perform the duties and responsibility.

14. 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 prevailing situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

15. 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.

16. That being aggrieved by and dissatisfied with the inaction of the respondents to take necessary steps to stop adulteration of food

which is causing health threat to the people and having no other equally efficacious remedy the petitioners beg to move Your Lordships on the following amongst others:-

GROUND S

- I. For that the duty and responsibility vested upon the administration to perform the duties for the people. 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 vested upon them. Hence respondents may be directed to take necessary steps to control the adulteration of food by Mobile Court.

- 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. Under the present

situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

III. For that the fresh food is essential for the life of the citizen living in Dhaka City. So at this stage there is no alternative to stop adulteration of food.

V.

IV. For that disregard to laws and legal provisions and failure to ensure proper steps the respondents have caused enough threat to the life of the citizen and the city dwellers are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to take all necessary steps to stop adulteration of food.

V. For that without any precautions to save the health of the city dwellers by way fresh food, the respondents has sent the life of

the people in a dangerous situation, which is violation Article 18(1) of the Constitution of Bangladesh. Moreover the right to life is a fundamental right guaranteed under Article 32 of the Constitution of Bangladesh but it is violating by way of failure to stop adulteration of food.

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 inaction of the respondents to take necessary steps to stop adulteration of food

and failure of the respondents to take effective measures to protect the health of the citizens, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to take effective measure to stop adulteration of food.

c) Pending hearing of the Rule directs the respondent no. 1, 4 and 5 to continue Mobile Court functioning in order to control adulteration of food and the high price illegally fixed by the businessman and submit a compliance report within 7 days.

d) Pending hearing of the rule directs the respondent no. 6, 8 and 10 to provide force as per the demand of the Mobile Court.

e) Pending hearing of the rule direct the respondent no. 2 to ensure that the cases will be filled by the police under the provision of Special Powers Act, 1974 against the person who are liable for adulteration of food.

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 applicants-

Advocate Asaduzzaman Siddiki -----
Advocate Sarwar Ahad Choudhury -----
Advocate Aklas Uddin Bhuiyan-----
Advocate Mahbubul Islam-----

Submitted by;-

Advocate Manzill Murshid
Supreme Court Of Bangladesh

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

WRIT PETITION NO. OF
2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh
(HRPB).

.....Petitioners.

-V E R S U S-

1. Bangladesh and others.

.....Respondents.

INDEX

Sl.	Description of the paper or document	Date	Page
1.	Power		
2.	Writ Petition		
3.	Photocopy of the Rules is annexed here with and marked as ' <u>ANNEXURE-A</u> '.		
4.	Copy of the paper clippings are annexed here with and marked as ' <u>ANNEXURE-B and B-1</u> '.		
5.	Photocopies of the paper clippings are annexed here with and marked as ' <u>ANNEXURE-C</u> '.		
6.	Back Sheet		

Manzill Murshid
গম্বুজ তগ্বি তম
Advocate
Supreme Court of Bangladesh.

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

WRIT PETITION NO.....OF 2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh
(HRPB).

.....Petitioners.

-V E R S U S-

Bangladesh and others.

.....Respondents.

Manzill Murshid
গব্বরজ তগবি তম`
Advocate
for the Petitioners.

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

WRIT PETITION NO. OF
2010.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh.

.....Petitioners.

-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, 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.