

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

WRIT PETITION NO. OF 2011.

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 it's
Secretary Advocate Asaduzzaman Siddique,

Hall No. 2, Supreme Court Bar Association

Bhaban, Dhaka, Bangladesh.

2. Advocate Md. Sarwar Ahad

Chowdhury, Organizing Secretary, Human

Rights and Peace for Bangladesh (HRPB) of

3/14 Bashbari Bosila Road, Mohammadpur,

P.S.: Mohammadpur, Dhaka.

3. Advocate Md. Aklas Uddin Bhuiyan

Publicity Secretary of Hall No. 2, Supreme

Court Bar Association Bhaban, Dhaka and 33

Abdul Hadi Lane, Police Station Kotwali,

District- Dhaka, Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary of Ministry of Law, justice and Parliamentary Affairs, Bangladesh Secretariat P.S.: Ramna, District: Dhaka.

2. The Secretary, Ministry of Finance, Bangladesh Secretariat P.S.: Ramna, District: Dhaka.

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

4. The Register of Supreme Court of Bangladesh, Supreme Court Bhaban, P.S. Shahbagh, Dhaka.

5. The Director, Department of Printing, Stationary, Forms and Publications, Tejgaon, Dhaka, Bangladesh.

6. The Deputy Controller, Bangladesh
Government Press (B.G), Tejgoan, Dhaka.

...Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondent to
prepare paper book of the criminal
matters within six months after receiving
the L.C.R. in order to ensure effective
Justice.

AND

IN THE MATTER OF:

For a direction upon the respondent to set
up a printing press for printing paper

book/all necessary papers/documents of
the Supreme Court of Bangladesh
expeditiously.

To,

Mr. Justice A. B. M. Khairul Haque, the Hon'ble Chief Justice of
Bangladesh and the 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 are to uphold the human rights of the citizen, to establish rule of law, 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 petitioners are the members of the organization and engaged in promoting and defending human rights, working to establish rule of law and supporting the victims of human rights violations.

2. The petitioners being conscious citizen and respectable member of the Bar are aware of the present situation of the preparation of the paper book by the office of the Supreme Court. Now hundreds of accused are waiting in different cell in many jail with death sentence but appeal could not be heard due to absence of paper book. It is important to conclude hearing because of their right to get justice. Considering the importance of the matter the petitioners are filling this petition as public interest litigation for a direction to prepare paper book expeditiously.

3. That the respondent no. 1 is Bangladesh represented by the Secretary of Ministry of Law, justice and Parliamentary Affairs, Bangladesh Secretariat P.S.: Ramna, District: Dhaka. The respondent no. 2 is the Secretary, Ministry of Finance. Respondent no. 3 is The Secretary, Ministry of Establishment, Bangladesh Secretariat P.S.: Ramna, District: Dhaka. The respondent no.4 is The Register of Supreme Court of Bangladesh, Supreme Court Bhaban, P.S. Shahbagh, Dhaka. Respondent no. 5 is The Director, Department of Printing, Stationary, Forms and Publications, Tejgaon, Dhaka, Bangladesh. The respondent no.6 is The Deputy Controller, Bangladesh Government Press (B.G press), Tejgoan, Dhaka. The addresses of the petitioner and respondents given in the cause title are correct for the purpose of services of notice upon them.

4. That it is stated here that a report was published in daily “Kaler Kontho” on 22 January 2011 with a heading “Before the judgment of appeal, the conviction period over”, where it was stated that Mr

Sahidul Islam Hauladar Shaokat of Madaripur was arrested on 1st September 2001 from Kauranbazar. A case was filled by the police against him under Arms Act. He was convicted under section 19(a) for 10 years and 19 (f) for 7 years. He was released after 8 years according to Jail Code. It was stated that after the conviction by Special Tribunal he filed an appeal being Criminal Appeal no. 3847/2004 before the Hon'ble High Court Division but the hearing of that case never took place, however he has served his prison time of that conviction. The lawyer of the appellant Advocate Jugol Kishor Biswas said to "Kaler Kontho", that the appellant due to economic crisis could not prepare the "Paper Book" which required before hearing of the appeal and due to which his appeal has not heard before the court yet he has already served his period of conviction. Abdul Khaleque S/O Abdul Aziz of Thana Asuganj, Village Chorgoshaipur, Zilla Bramanbaria and Raise Mia S/O Surat Ali of Thana Nabinagar, Village Amtoli of same Zilla, Tajul Islam S/O Abdur Rahim of Zilla

Kisorganj Thana Voirob Village Baghorikandi, Zilla Kishorgonj, Minnat Ali S/O Suroj Mia of Village Vairobpur os same Thana; was convicted for 10 years. After conviction the convicted of that case filed an appeal before the Hon'ble High Court Division being Appeal no. 2250 of 1998 but the appeal was never heard, but they have severed 14 years imprisonment which is more then their conviction period. Then the learned Advocate Motahar Hossain Saju placed the matter before court and a Division Bench comprising of Mr. Justice Syed Dastgir Husain and Mr. Justice M. A. Hafiz ordered their release. In 2002 Nobu Uddin of Zilla Rajbari was convicted by Rajbari Nari-O-Shisu-Nirzaton Court for 7 years. In 22nd August of same year he preferred appeal against his conviction which was received on 6th November of same year. He got bail after serving 5 years imprisonment at beginning of 2008, but his appeal has never heard. That another Appeal no. 4559 of 05 was submitted by convicted name Gulzar who was convicted for 10 years under Arms

case. His imprisonment time is almost over yet the appeal is not being heard. Nur Alam or Pirganj, Rangpur was convicted life imprisonment for murdering his step brother. He preferred appeal in High Court but it was not heard in 20 years and his life imprisonment period is almost over.

Copy of the paper clipping is annexed here

with and marked as 'ANNEXURE-A'

4. That it is stated here that it is inhuman that even after the completion of conviction period the appeal were not heard. If the appeals heard convicted may get released. There are high numbers of case where accused get convicted in lower court but released in High Court. That the judicial system of Bangladesh is responsible for this. If the appropriate steps for complication of preparation of Paper Book could be taken in time then such inhuman incidence has never

could occur. According to the rule of Supreme Court including all the case related materials a special book has to prepare for hearing, which is called "Paper Book". It is the duty of the office to prepare the paper book but due to rush of cases its take a long time to prepare the paper book. Some time lawyers of the appellant with the permission of the court prepare paper book by them self and submit in that case they bear the cost. Who does not have ability to spend money they can not prepare the paper book of their own so their appeals are not heard.

5. That it is stated here that the matter is involved a public importance. Though the right to get justice is involved in the matter but due no negligence of some officials the peoples are suffering, so it is necessary to intervene by this Hon'ble Court. That it is stated here that the matter is involved about the interest of the life 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.

6. 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.

7. 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 preparation of paper books are always reporting in media, so it is not out of the knowledge of the 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.

8. That being aggrieved by and dissatisfied with the failure of the respondent to prepare the paper book in time and having no other alternative, efficacious remedy begs to move this application before your Lordships on the following amongst other-

GROUND S

I. For that Article 32 of the Constitution of People Republic of Bangladesh provides the citizens of Bangladesh a fundamental right, “protection of right to life and personal liberty”. But for the failure of the respondents to preparation of paper book in time, the fundamental rights protected by the constitution is violated , hence a direction should be given upon the respondents to take necessary steps for early preparation of paper book.

II. For that it is inhuman that even after the completion of conviction period the appeal were not heard. If the appeals heard convicted may get released. There are high numbers of case where accused get convicted in lower court but released in High Court. That the judicial system of Bangladesh is responsible for this. If the appropriate steps for complication of preparation of Paper Book could be taken in time

then such inhuman incidence has never could occur. Who does not have ability to spend money they can not prepare the paper book of their own so their appeals are not heard. Hence a direction should be given upon the respondents to take necessary steps for early preparation of paper book.

III. For that hundreds of accused are waiting in different cell in many jail with death sentence but appeal could not be heard due to absence of paper book. It is important to conclude hearing because of their right to get justice. Hence a direction should be given upon the respondents to take necessary steps for early preparation of paper book.

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 a direction should not be given upon the respondents to prepare paper book of the criminal matters within six months after receiving the L.C.R. in order to ensure effective Justice and why a direction should not be given upon the respondent to set up a printing press for printing paper book/all necessary papers/documents of the Supreme Court of Bangladesh expeditiously.

- c) Pending hearing of the Rule directs the Respondent No. 4 to submit a detail report within 4 weeks about the case list for which paper book (Criminal Matter) has not been prepared though L.C.R has received by the office of the Supreme Court of Bangladesh.
- d) Direct the office to serve notices upon the respondents at the cost of office.
- e) Upon hearing the cause if any shown makes the rule absolute.
- f) 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 Md. Sarwar Ahad Choudhury---

Advocate Aklas Uddin Bhuiyan-----

Submitted by;-

Manzill Murshid
গব্বরজ তগবি তম`
Advocate
Supreme Court Of Bangladesh

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-V E R S U S-

Bangladesh and others.

.....Respondents.

Manzill Murshid
গব্বরজ তগবি তম`
Advocate
for the Petitioners.

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I N D E X

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1.	Power		
2.	Writ Petition		
3.	Copy of the paper clipping is annexed here with and marked as ‘ <u>ANNEXURE-A</u> ’		
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Manzill Murshid
গব্বরজ তগবি ত্রম`
Advocate
Supreme Court of Bangladesh.

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WRIT PETITION NO. OF 2011.

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others.

.....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
গভীর জগৎ
Advocate
Supreme Court of Bangladesh.