

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

WRIT PETITION NO. .... OF 2018.

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 Advocate Md. Sarwar Ahad Chowdhury, Secretary(in-Charge), Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

**-V E R S U S-**

1. Bangladesh represented by the Secretary, Health Services Division, Ministry of Health and Family welfare, Bangladesh Secretariat, Abdul Gani Road, P.S.- Shahbagh, Dhaka-1000.

2. The Director General (D.G.), Directorate General of Health Services (DGHS), Mohakhali, Dhaka-1212, Bangladesh.

3. The President/ Secretary, Bangladesh Medical and Dental Council, 203 Syed Nazrul Islam Shoroni, (86 Bijoyagar), Dhaka-1000, Bangladesh.

4. The Registrar, Bangladesh Nursing and Midwifery Council, 203, Shaheed Syed Nazrul Islam Sarani, Bijoyagar Dhaka-1000.

5. The Senior Assistant Secretary, Hospital-Division, Ministry of Health and Family Welfare, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

6. The Officer-in-Charge (O.C.), Lohagara Police Station, Lohagara, Chattagram, Bangladesh.

7. The Civil Surgeon, Civil Surgeon Office, District- Chattagram.

8. Doctor Abdullah Al Mamun, Lohagara Upazila Health Complex, Lohagara, Chattagram.

9. Mrs. Chaya Chowdhury, Senior Nurse, Lohagara Upazila Health Complex, Lohagara, Chattagram.

.....Respondents.

AND

IN THE MATTER OF:

Articles 27, 31 and 32 of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

Failure of the respondents to give medical treatment to a pregnant woman namely Mariam, wife of Maharam Mia of Gaursthan, Putibila, Lohagara, Chattagram at Lohagara Health Complex, Lohagara, Chattgram as well as to save the life of a newly born child of Mariam.

### GROUND S

1. For that the respondents are the experienced public servant and very much aware of the rules and instructions of the government. But they have failed to take steps against the steps taken by the hospital authority.

2. For 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 in case of refusal to give medical treatment to a pregnant woman as well as her newborn child.

3. 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. 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. It is the duty of the public servants 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.

4. For that the respondents have a duty to ensure the quality of the service provided by doctors, nurses and any private medical service provider. However they have failed to perform their duties which directly violates the right of life of both mother and newly born baby as guaranteed under the constitution of Bangladesh to its citizens, thus their inactions are without lawful authority and unlawful. Moreover, the respondents did not treat the victims in accordance with law nor they had equal treatment as a citizen of Bangladesh.

5. For that the poor people of our country is unable to get medical treatment from the private hospitals & clinics due their excessive rates. Hence, normally most of the poor people are rushing to the government hospitals for their medical treatment. But in this respect, the respondents failed to serve the victims with utter surprise which caused death of the newly born baby at the Lohagara Health Complex premises after a few minutes it came on earth. The hospitals were such negligent to cause death of the baby and left Mariam in critical condition. Due to such incidents the right to life is under question. The respondents have violated their lawful duties which caused death to a baby and left Mariam to suffer health complications, thus their inactions being illegal, it requires interference by Your Lordships for the ends of justice.

6. For that Mariam and her baby was not given any medical treatment, which violated the rights as guaranteed in article 27 and 31 of the Constitution of Bangladesh. Hence, Your Lordships may pass appropriate orders for the ends of justice.

Wherefore, it is most humbly prayed that  
Your Lordships would graciously be pleased  
to;-

a) Issue a Rule Nisi calling upon the Respondents to show cause as to why failure of the respondents to give medical treatment to Mariam, wife of Maharam Mia of Gaursthan, Putibila, Lohagara, Chattagram as well as to save the life of a newly born child of Mariam at Lohagara Health Complex, Lohagara, Chattgram, should not be declared illegal and without lawful authority.

And

Why a direction should not be given upon the respondent no. 8 and 9 to compensate the parents of the new born child who died

at the Lohagara Health Complex premises, Lohagara, Chattagram.

b) Pending hearing of the Rule directs the Respondent No. 8 and 9 to appear in person before this Hon'ble court on 01.07.18 at 10.30 am and explain their conduct.

c) Pending hearing of the rule directs the respondent no. 3, 4 and 7 to withdraw the respondent no. 8 and 9 from their duty immediately.

d) Direct the office to serve notices and copies 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.

### **Present Status**

The case was filed and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.

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