

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 its Organizing
Secretary Advocate Sarwar Ahad
Chowdhury, Hall No. 2, Supreme Court Bar
Association Bhaban, Dhaka, Bangladesh.

2. Advocate Mahabubul Islam, Supreme
Curt of Bangladesh, Hall No. 2, Supreme
Court Bar Association Bhaban, Dhaka,
Bangladesh

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the
Secretary, Ministry of Health and Family
welfare, Bangladesh Secretariat, P.S.
Shahbag, Dhaka, Bangladesh.

2. The Additional Secretary, (Hospital),
Ministry of Health and Family welfare,
Bangladesh Secretariat, P.S. Shahbag,
Dhaka, Bangladesh.

3. The Director General (D.G.), Health
Directorate, Mohakhali, Dhaka, Bangladesh.

4. The Director (Hospital), Dhaka
Medical College Hospital, Dhaka- 1000,
Bangladesh.

5. The Director (Hospital), Shaheed
Suhrawardy Medical College Hospital,
Sher- E- Bangla Nagar, Dhaka 1207.

6. The Director (Hospital), Sir Salimullah Medical College Hospital, Mitford Road, Dhaka 1100.
7. The Director (Hospital), Sher-e-Bangla Medical College Hospital, South Alekanda, Band Road, Barisal (8200), Bangladesh.
8. The Director (Hospital), Rajshahi Medical College Hospital, Rajshahi, Rajshahi 6000, Bangladesh.
9. The Director (Hospital), Faridpur Medical College Hospital, Chorkomlapur Road, Faridpur, Bangladesh.
10. The Director (Hospital), Comilla Medical College Hospital, Dr. Akhtar Hameed Khan Road, Comilla 3500.
11. The Director (Hospital), Khulna Medical College Hospital, Boyra Main Road, Khulna.
12. The Director (Hospital), Mymensingh Medical College Hospital, Char Para, Medical Road, Mymensingh 2200.
13. The Director (Hospital), Chittagong Medical College Hospital, 57, K.B. Fazlul Kader Road, P.S- Panchlaish, P.O- Chawkbazar, Chittagong 4203.
14. The Director (Hospital) Bangabandhu Sheikh Mujib Medical University (BSMMU), Room No: 103 (Ground Floor), Block: C, Shahabag, Dhaka.
15. The Chief Engineer (In-charge) Bangabandhu Sheikh Mujib Medical University (BSMMU) Block: B, Shahabag, Dhaka.

.....Respondents.

AND

IN THE MATTER OF:

Failure/inaction of the respondents to save/protect the dead body of late Farida Rahman, wife of Shafiur Rahman, of House-4, Road-18, Sector-14, Police Station-Uttara West, Dhaka, at the mortuary of Bangabandhu Sheikh Mujib

Medical University (BSMMU), Shahabag,
Dhaka.

G R O U N D S

1. For that the respondents are the experienced persons and very much aware of the rules and instructions of the government as well as medical services/hospitals. But they have failed to ensure save/protection of dead body of late Farida Rahman at the mortuary and Your Lordships may intervene into this matter for the ends of justice.
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 proper steps to ensure the better and prompt services to the citizen of the country at the cost of them.
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 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.
4. For that the BSMMU authority has been totally failed to give proper service to the common citizen of Bangladesh in respect of mortuary service, which has not only affected rights of the people but also violated human rights as well. That the only mortuary of BSMMU having been dysfunctional/ineffective, it shows the utmost negligence of MSMMU authority and thereby affected the rights of the relatives of late Farida Rahman and other common people of Bangladesh so affected. Hence, Your Lordships may intervene into this matter for the ends of justice.
5. For that BSMMU's mortuary status is in clear dismay, which is evident from the mortuary status report dated 27.12.17 that cooling chamber of the mortuary lacks in gas due to leakage and so, it has been left ineffective. In spite of being in such situation of the said mortuary, the BSMMU authority received dead body of late Farida Rahman for preservation but it got rotten within 24 hours of preservation at BSMMU mortuary, which shows clear failure and negligence of the respondent Nos. 14 & 15 and so, Your Lordships may intervene into this matter for the ends of justice.
6. For that the respondent no. 14 & 15 have a duty to ensure the quality of the service as being a prominent medical service provider. However they have failed to perform their duties in protecting the dead body of late Farida Rahman and others which directly violates the human rights of the near and dear ones of late Farida Rahman and

other citizens so affected, thus their failure/inactions are without lawful authority and unlawful.

7. For that the respondent Nos. 14 & 15 have been clear negligent in providing mortuary services to the people of our country and thereby occurred the shocking incident of late Farida Rahman and so her near and dear ones could not visit her within 24 hours of cooling system at BSMMU mortuary. The respondents are in charge of ensuring the quality of service to be provided to peoples but their failure to do so attracts their inaction and thereby holding them responsible for and thus Your Lordships may intervene into this matter 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 /inaction of the respondents to save/preserve/protect the dead body of late Farida Rahman (60), wife of Shafiur Rahman, of House-4, Road-18, Sector-14, Police Station-Uttara, Dhaka at the mortuary of Bangabandhu Sheikh Mujib Medical University (BSMMU), Shahabag, Dhaka, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to take appropriate legal steps against the persons responsible for failure to save/preserve/protect the dead body of late Farida Rahman above.

AND

Why a direction should also not be given upon the respondent no. 14 and 15 to give compensation amounting to BDT: 20 (twenty) lakhs to the family members of late Farida Rahman residing at House-4, Road-18, Sector-14, Police Station-Uttara, Dhaka

AND

Why a direction should not be given upon the respondents to take appropriate steps for establishment of mortuary equipped with modern apparatus/machines and trained service men at all government Hospitals.

b) Pending hearing of the Rule direct the Respondent no. 14 and 15 to file a report on the mortuary status of Bangabandhu Sheikh Mujib Medical University (BSMMU), Shahabag, Dhaka at the time of incident of late Farida Rahman

above as taken place on 24.12.17 and 25.12.17 mentioning the status of temperature of mortuary and machine and other apparatus associated with before this Hon'ble court within 7 days.

Present Status

The case was filled 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.
