

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

3. The Inspector General of Police, Bangladesh Police, Police Headquarters, 6 Phoenix Road, Fulbaria Dhaka – 1000.

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

5. The Director General (D.G.), Health Directorate, Mohakhali, Dhaka, Bangladesh.
6. The President/ Secretary, Bangladesh Medical and Dental Council, 203 Syed Nazrul Islam Shoroni, (86 Bijoyagar), Dhaka-1000, Bangladesh.
7. The Commissioner, Dhaka Metropolitan police, 36 Shaheed Captain Mansur Ali Soroni, Ramna, Dhaka-1217.
8. The Officer-in-Charge, Gandaria Police Station, Gandaria, Dhaka.
9. The Officer-in-Charge, Jatrabari Police Station, Jatrabari, Dhaka.
10. The Officer-in-Charge, Dhanmondi Police Station, Dhanmondi, Dhaka.
11. The Officer-in-Charge, Wari Police Station, Wari, Dhaka.
12. The Managing Director / the Director (Hospital), Salauddin Specialized Hospital Limited, 44/A, Hatkhola Road, Tikatuli, Dhaka- 1203.

.....Respondents.

AND

IN THE MATTER OF:

Article 31 and 32 of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

Failure/inaction of the respondents to protect the lives of two victims Md. Ibrahim and Mrs. Helena Begum from the hands of snatchers at the incident held on 25.01.2018 within the Dhaka Metropolitan City.

G R O U N D S

1. For that the respondents have shown clear failure/disregards to protect the lives of late Md. Ibrahim and late Helena Begum from the hands of snatchers at Dhaka and by giving proper medical treatment to them when necessary.
2. For that the respondent No. 12 has been clear negligent in providing primary medical treatment and care to the said injured Md.

Ibrahim and thereby breached their professional obligations as advocated by their professional conduct and etiquette and ethics. The respondents are in charge of ensuring service as to be provided to people by doctors, nurses, hospital and the police but their failure to do so attracts the inaction and thereby holding them responsible for not saving the life of Md. Ibrahim and thus Your Lordships may intervene into this matter for the ends of justice.

3. For that the respondent No-12 has breached its professional obligations as enunciated in the Professional conduct, etiquette and ethics to be followed by registered medical practitioners, which prescribes in its article 2.2: Applying knowledge and experience to practice: that a doctor must promptly provide or arrange suitable advice, investigations or treatment where necessary and at its article 2.3.1 it prescribes that a doctor(s) must give priority to patients on the basis of their clinical need. Hence, the respondent has also failed to oblige the provisions of Bangladesh Medical and Dental Council Act, 2010 as well as Professional Conduct and Etiquette and Ethics.

4. For that Professional conduct, etiquette and ethics also provides at its article 2.3.4.1 (a) that where death is imminent, it is the doctor's responsibility to take care that a patient dies with dignity and with as little suffering as possible. A terminally ill patient's right to adequate symptom control should be respected. This includes problems arising from physical, emotional, social and spiritual aspects. That the respondent no-8 did consider noting as enunciated in the above articles in the professional conduct, etiquette and ethics and the respondents have failed to perform their responsibilities under laws for which the values of life of late Md. Ibrahim has been disregarded and hence, he lost his life. So, Your Lordships may pass appropriate order for the ends of justice.

5. For that the respondents have a duty to save lives of the common people of Bangladesh. However, they have failed to perform their duties which directly violates the right to life as guaranteed under the Constitution of Bangladesh to its citizens, thus their inactions are without lawful authority and unlawful.

6. 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 to ensure the better and prompt treatment of the citizen of the country by the private hospitals.

7. 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 and hence, Your Lordships may pass an order directing the respondents to take appropriate steps to provide emergency medical services to any injured person by any hospital and clinic.

Wherefore, it is most respectfully 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 protect the lives of late Md. Ibrahim of Sheikhpara, Sonadanga, Khulna and late Helena Begum, wife of Manirul Islam of Karapur, Barisal Sadar, Barisal from the hands of snatchers active within Dhaka City, should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondent 1 to issue a circular to all medical college hospitals / hospitals /clinics situated in Bangladesh directing them to provide appropriate/life saving primary treatment to any person injured suddenly or accidentally or in any other way and then if necessary transfer for any better treatment.

AND

Why a direction should not be given upon the respondent no. 12 to give compensation amounting to Taka 10 (ten) lakhs to the family members of late Md. Ibrahim of Sheikhpara, Sonadanga, Khulna.

b) Pending hearing of the Rule directs the Respondent no. 7 to identify the vulnerable areas for snatching within the Dhaka City and form several vigilance teams there in order to stop such incidents and file a compliance report within 30 days before this court.

c) Pending hearing of the Rule direct the Respondents No. 4 to issue directions within (7) seven days to all medical college hospitals / hospitals /clinics to provide primary treatment to any person so injured suddenly or accidentally or in any other way and file a compliance report within 7 (seven) days before this court.

d) Upon hearing the cause if any shown make the rule absolute.

e) Pass such other or further order or orders as Your Lordships may deem fit and proper.

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 The matter is pending before the Hon'ble High Court Division.
