

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

WRIT PETITION NO. OF 2006.

IN THE MATTER OF:

An application under Article 102 of the Constitution of the People's Republic of Bangladesh read with Article 44 of the Constitution in order to enforce Fundamental Rights as guaranteed under the Constitution.

AND

IN THE MATTER OF:

Public Interest Litigation.

AND

IN THE MATTER OF:

To enforcement of fundamental rights as guaranteed under Article 27,31 and 32 of the constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

For a direction upon the respondents to protect the life of the arrested detained person during their custody.

AND

IN THE MATTER OF:

1. Human Rights and Peace For Bangladesh (HRPB) Represented by it's Chairman of the Board of Directors, Syed Arif Niazi, House No. 27, Flat B-1, Road No.126/130, Gulshan-1, Dhaka, Bangladesh.

2. Advocate Asaduzzaman Siddique Secretary, Executive Committee, Human Rights And Peace For Bangladesh of Hall No.2, Supreme Court Bar Association Bhaban, Ramna, Dhaka, Bangladesh.

3. Advocate Md. Aklas Uddin Bhuiyan Director, Human Rights and Peace For

Bangladesh, 3 Agamashi Lane, P.S-Kotwali,
District- Dhaka.

4. Advocate Mojibur Rahman, Director,
Human Rights and Peace For Bangladesh of
51/F Jonson Road, Shark Law Chamber
Room NO.110, P.S. Kotwali, District-
Dhaka.

.....Petitioners.

-VERSUS-

1. Bangladesh represented by the
Secretary, Ministry of Home Affairs,
Government of Bangladesh, Bangladesh
Secretariat, Ramna, Dhaka.

2. The Inspector General of Police,
Police Head Quarter, Ramna, Dhaka,
Bangladesh.

3. The Director General (D.G.), Rapid
Action Battalion (RAB), Rapid Action
Battalion Head Quarter, Uttara, Dhaka,
Bangladesh.

4. The Director, RAB-1, Uttara, Police
Station-Uttara, Dhaka, Bangladesh.

5. The Director, RAB-2, Moghbazar,
Police Station-Ramna, Dhaka, Bangladesh.

6. The Director, RAB-3, Tikatuli, Police
Station-Motijheel, Dhaka, Bangladesh.

7. The Director, RAB-4, Mirpur, Police
Station-Mirpur, Dhaka, Bangladesh.

8. The Director, RAB-10, Dholpur,
Zatrabari, Police Station- Demra, Dhaka,
Bangladesh.

.....Respondents.

G R O U N D S

1. For that in many cases death in the custody of the joint forces RAB are happening in the name of crossfire violating the fundamental rights of the citizen guaranteed under our Constitution and in every cases they have failed to protect life of the arrested person.

2. For that it is the fundamental right of the citizen of this country that they would not be subjected to any 'torture or cruel, inhuman or

degrading punishment or treatment' as guaranteed under Article 35(5) of our Constitution.

3. For that if the arrested person of a case killed by passing the judicial system in the name of crossfire in that case judicial system could be paralysed. It is certainly gross violation of the Constitution of Bangladesh. Because Article 32 protected the right to life of a citizen. But respondents have failed to protect the right to life of a citizen. Hence their inaction may be declared illegal.

4. For that the duty and responsibility vested upon the law-enforcing agency to protect the persons who is in their custody. The respondents are also duty bound to obey the provisions of law. It is the duty of law enforcing agency to investigate the case but no law has allowed them to kill any accused person in their custody. But they have failed to perform the duties and responsibility as per the constitution. Hence their inaction to protect the life of the arrested person is liable to be declared illegal and unconstitutional.

5. For that as per the report of the newspaper many people who died in the name of crossfire is the accused of many cases and many of them are terrorist, killer and convicted of heinous offences. But the law gave them a right to get protection of law, fair trial. Even whatever the offence committed by any citizen of country no one can be punished except provided in the law. In that view the respondents are bound to provide legal protection and trial for the arrested person. The principal of law is that no one should be punished without giving any opportunity to defend himself. This is also a fundamental rights of a citizen to get protection of law but the person who have killed in the name of crossfire they were deprived of their rights due to the inaction of the respondents.

6. For that the inaction of a respondents violated the fundamental rights as guaranteed under Article 27,31,32 of the Constitution, hence it may be declared illegal.

Wherefore, it is most humbly prayed that your Lordships would graciously be pleased to issue:-

a) A Rule Nisi calling upon the Respondents to show cause as to why the respondents should not be directs to ensure protection of life of any arrested/detained person (s) in their custody in accordance with law and pass such other or further order or orders as your Lordships may deem fit and proper.

b) Pending hearing of the rule the respondents may be directed to use bullet proof jacket and helmet for the arrested person during recovery of arms at night.

c) Upon hearing the cause if any shown makes the Rule absolute.

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

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