

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

WRIT PETITION NO. OF 2012.

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 Director Aklasuddin Bhuiyan, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

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

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

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

4. Divisional Director (Dhaka), Directorate General of Health Services, Mohakhali, Dhaka.

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.), Mohammadpur Police Station, Mohammadpur, Dhaka, Bangladesh.

7. The City Hospital represented by its Chairman/Managing Director, Mohammadpur, Dhaka, Bangladesh.

.....Respondents.

AND
IN THE MATTER OF:

Refusal to handover the dead body of a newborn child to his parent due to unable to pay hospital bill.

G R O U N D S

I. 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.

II. 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 handover the dead body of a newborn child to his parent due to unable to pay hospital bill.

III. For that Section 11 of the Medical Practise and Private Clinics and Laboratories (Regulation) Ordinance, 1982 provides (1) The Director General or any officer authorized by him in this behalf may inspect any chamber of a registered medical practitioner or private clinic or private laboratory to see if the provisions of this ordinance are being followed. (2) If on such inspection it is found that the registered medical practitioner or the owner of the clinic or laboratory has contravened or failed to comply with any provision of this Ordinance, the Director General may,- (a)in case of registered medical practitioner, recommended to the Government to debar him from carrying on private practice; (b) in the case of a clinic, by order, cancel the license in respect thereof. However the Director General has failed to perform his duties to inspect, which is illegal and unlawful.

IV. 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.

V. For that the poor people of our country is unable to get medical treatment from the private hospitals & clinics due their excessive rates. Normally most of the poor people are rushing to the government hospitals for their medical treatment. Yet due to short capacity of Government hospital in spite of their disability they come to the private medical for treatment but the hospitals are such negligent to cause death of the patient. Such incidents of mal practice of private hospitals and clinic has become so frequent that now the right to life is under question and doubted so the strong steps required to be taken to stop such violation of law which affect the life of the citizens. The respondents are in charge of ensuring the quality of service provided by private hospitals but they have violated their lawful duties which cause death to peoples thus their inactions are illegal.

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 refusal to handover the dead body of a newborn child to his parent due to

unable to pay hospital bill and failure to perform their duties under the provisions of Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982. , should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondent no. 7 to compensate the parents of the new born child who died in City Hospital, Mohammadpur.

b) Pending hearing of the Rule directs the Respondent No. 6 and 7 to appear in person before this Hon'ble court on 11.07.2012 at 10.30 am before this court and explain their conduct.

c) Direct the respondent no. 2, 5, 6 and 7 to take steps within 3 (three) days to withdraw the dead body of the child which was buried by the Anjuman Mofidul Islam and handover to the parents and direct the respondent no. 7 to bear the cost.

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.
