

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

WRIT PETITION NO. OF 2022.

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 Secretary, Advocate Md. Sarwar Ahad Choudhury, Hall No.2 Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Ripan Barai, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, District: Dhaka.

2. The Secretary, Ministry of Local Government, Rural Development and Cooperatives, Local Government Division, Building No 7, Bangladesh Secretariat, Abdul Gani Road, Dhaka – 1000.

3. The Mayor, Dhaka South City Corporation, Nagar Bhaban, Dhaka-1000.

4. The Mayor, Dhaka North City Corporation, Nagar Bhaban, Dhaka-1000.
5. The Chairman, Rajdhani Unnayan Karttripakkha(RAJUK), Rajuk Bhaban, Rajuk Avenue, Dhaka 1000.
6. The Chief Executive Officer, Dhaka North City Corporation, Nagar Bhaban, Dhaka, Bangladesh.
7. The Chief Executive Officer, Dhaka South City Corporation, Nagar Bhaban, Dhaka, Bangladesh.
8. The Inspector General of Police (IGP), Police Head Quarter, Fulbaria, Dhaka, Bangladesh.
9. The Commissioner of Dhaka Metropolitan Police, DMP Head Quarter, Dhaka, Bangladesh.
10. The Chief of Criminal Investigation Department. (C.I.D.), Additional Inspector General, Dhaka Metropolitan Police (DMP), Malibagh, Dhaka.
11. The Additional Commissioner of Police (Traffic), Dhaka Metropolitan Police, DMP Head Quarter, Dhaka, Bangladesh.
12. The Joint Commissioner (Traffic-South), Dhaka Metropolitan Police, DMP Head Quarter, Dhaka, Bangladesh.
13. The Joint Commissioner (Traffic-North), Dhaka Metropolitan Police, DMP Head Quarter, Dhaka, Bangladesh.
14. The Deputy Commissioner, Dhaka, Collectorate Building, Kotwali, Dhaka, Bangladesh.
15. The Officer in Charge (O.C.), Badda Police Station, Dhaka, Bangladesh.
16. The Officer in Charge (O.C.), Bangshal Police Station, Dhaka, Bangladesh.

17. The Officer in Charge (O.C.), Dhanmondi Model Police Station, Dhaka, Bangladesh.

18. The Officer in Charge (O.C.), Jatrabari Police Station, Dhaka, Bangladesh.

19. The Officer in Charge (O.C.), Khilgaon Police Station, Dhaka, Bangladesh.

20. The Officer in Charge (O.C.), Mirpur Model Police Station, Dhaka, Bangladesh.

21. The Officer in Charge (O.C.), Motijheel Police Station, Dhaka, Bangladesh.

22. The Officer in Charge (O.C.), New Market Police Station, Dhaka, Bangladesh.

23. The Officer in Charge (O.C.), Paltan Model Police Station, Dhaka, Bangladesh.

24. The Officer in Charge (O.C.), Ramna Model Police Station, Dhaka, Bangladesh.

25. The Officer in Charge (O.C.), Rampura Police Station, Dhaka, Bangladesh.

26. The Officer in Charge (O.C.), Tejgaon Police Station, Dhaka, Bangladesh.

27. The Officer in Charge (O.C.), Uttara (East) Police Station, Dhaka, Bangladesh.

28. The Officer in Charge (O.C.), Uttara (West) Police Station, Dhaka, Bangladesh.

29. The Officer in Charge (O.C.), Gulshan Police Station, Dhaka, Bangladesh.

..... Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondents to take the necessary steps to stop renting/selling

of walkway/footpaths situated within the Dhaka Metropolitan City, Dhaka, in order to free movement of the citizen within area.

AND

IN THE MATTER OF:

For a direction upon the respondents not to allow any shops, hawkers, any stalls, any goods displayed for sale, any establishment obstructing footpaths, any goods placed on roads walkways/footpaths, vans and any food/push cart stand on walkway/footpaths situated within the Dhaka Metropolitan City, Dhaka, in order to free movement of the citizen within area.

GR O U N D S

I. For that the traffic jam is seriously hampering the public life as general peoples are using roads instead of walkways/footpath. It is the moral responsibility to ensure the free movement of the citizens as per Article 36 of The Constitution of the People's Republic of Bangladesh. From the past experience it is learnt that due to inaction and negligent to traffic system many the peoples are suffering. The cause behind this is illegal renting/selling of roads walkway/footpath, setting up shops in the roads walkway/footpath and encroachment by the shop owners in the roads walkway/footpath. It cannot expect that road users will be safe under these conditions. It should realize that due to illegal renting/ selling the roads on walkway/footpath, the general peoples are using roads instead of walkways/footpath and for this vehicle cannot move hence there is serious traffic jam, so necessary steps should be made for improving the situation.

II. For that as general peoples are using roads instead of walkways/footpath and due to this ignorance of traffic rules many accidents occurred in the Dhaka metropolitan city area and most of the time school/college going students became the victim. The pedestrians and the driver both of them ignore the signal/traffic rules and caused accident in which many people died. It is also necessary to build up awareness amongst the students and pedestrians. It would be better if all the obstructions from the road's walkway/footpath be removed and not permitted any renting/selling any roads walkway/footpath and the respondents took the matter seriously and take steps as per the existing law and procedure.

III. For that if it is expected to reduce the road traffic, the total road transport and traffic management system has to be reorganized and upgraded along with walkways/footpaths. Most of our roads walkway/footpath are under control of the small shop owners as they are paying money which is illegal but the law enforcing agencies are silent in this regard.

IV. For that considering all the circumstance stated above it is necessary to take steps by the authority concern to remove all obstructions from the roads walkway/footpath. Day by day the situation is decreasing due to the negligence of the respondents and the people are losing valuable time. But no authority is perfectly moving to solve the problem, so accident traffic jam is continuing as general peoples are using roads instead of walkways/footpath. Considering the safety of the time of the citizen and in order to save their valuable time the respondents should be vigilant, which could be reduce the traffic jam of the street of the Dhaka Metropolitan City, Dhaka.

V. For that in section 53 of the Motor Vehicle Ordinance, 1983, authorized a power to the government to issue order and direction upon the authority as it may consider necessary in respect of any matter relating to road transport or on any matter provided in this ordinance and the authority shall give affect to all such order and directions. Though everyday traffic jam is collapsing the normal movement of the citizens due to continuous traffic jam but the respondents did not issue any affective directions in order to solve this problem.

VI. For that everyday there are heavy traffic jam due to not following the traffic rules and in absence of affective traffic management the general people as well as lawyers and Judges are facing problem and losing many hours. The main reason of traffic jam is renting/selling the roads walkway/footpath for setting up illegal shops, hatbazar, which is illegal. Not only that most of the time the obstruction created in the road by illegal renting and due to this general people are using roads instead of walkways/footpath but the traffic police do not take any steps to clear or remove of the obstructions from the road walkway/footpath. Which not only is causing traffic jam but also the cause of many accidents in which many people died unnecessary.

vii) For that in the metropolitan area, the City Corporation is the Government authority in charge of maintenance of roads and footpaths as per article 41(1)(ক) of the Local Government (City Corporation) Act 2009 and outside the metropolitan area such responsibilities fall on the Union Parishad under the Local

Government (Union Parishad) Act 2009. But the respondents failed to take any affective directions in order to solve the selling/renting problem of walkways/footpaths.

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 inaction/failure of the respondents to stop renting/ selling of walkway/ footpaths situated within the Dhaka Metropolitan City, Dhaka, in order to free movement of the citizen within area, should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondents to stop renting/ selling of walkway/ footpaths situated within the Dhaka Metropolitan City, Dhaka, in order to free movement of the citizen within area.

b) Pending hearing of the rule direct the respondents to take appropriate steps against the persons who are liable for renting/ selling of walkway/ footpaths situated within the Dhaka Metropolitan City, Dhaka.

c) Pending hearing of the rule direct the respondent nos. 6, 7 and 11-29 to take effective steps within 72 hours not to allow any shops, hawkers, any stalls, any goods displayed for sale, any establishment obstructing footpaths, illegal vehicle parking, any goods placed on roads walkways/footpaths, vans and any food/push cart stand on walkway/footpaths situated within the Dhaka Metropolitan City, Dhaka, in order to free movement of the citizen within area and constitute a traffic team to monitor the implementation of the directions and submit progress report in 2 weeks before this Hon'ble Court through affidavit.

d) Pending hearing of the rule direct the respondent nos. 1- 4 to form a committee of five members consisting one higher official each from Ministry of Home Affairs, Dhaka South City Corporation(DSCC), Dhaka North City Corporation(DNCC), Criminal Investigation Department (CID) and Rajdhani Unnayan Karttripakkha (RAJUK) to investigate the matter who are liable for giving rent/sell of the walkways/footpaths situated within the Dhaka Metropolitan City, Dhaka and submit the report along with the names within 30 days before this Hon'ble Court through affidavit.

e) Direct the office to serve the copies and notices at the cost of office.

f) Upon hearing the parties and cause shown, if any make the rule absolute.

g) Pass such other or further order or orders as your Lordships may deem it 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 and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
