

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

WRIT PETITION NO. 7001 OF 2005.

IN THE MATTER OF:

An application under Article 102 read with 44 of the Constitution of the Peoples Republic of Bangladesh.

AND

IN THE MATTER OF:

Enforcement of Fundamental Rights under articles 27, 31 and 36 of the Constitution.

AND

IN THE MATTER OF:

Section 23, 25, 30, 69, 71 and 73 of the Metropolitan Police Ordinance, 1976.

AND

IN THE MATTER OF:

Public Interest Litigation

AND

IN THE MATTER OF:

For a direction upon the Respondents not to set up any cattle hat on the street and take appropriate steps to remove the slaughtering materials from the street within 24 hours.

AND

IN THE MATTER OF:

1. Human Rights and Peace For Bangladesh (HRPB) Represented by it's President, Manzill Murshid, 36 Mirpur Road, P.S. Dhanmondi, District- Dhaka.
2. Advocate Asaduzzaman Siddique of 169/2 Malibagh Bazar Road, Dhaka-1217, Bangladesh.
3. Advocate Md. Aklas Uddin Bhuiyan 3 Agamashi Lane, P.S-Kotwali, District-Dhaka.

4. Advocate A.H.M. Lutful Kabir, 36 Mirpur Road, Flat- C-3, Boshundhora Goli, P.S.- Dhanmondi, Dhaka.

5. Advocate Shah Md. Farid of 43/2 Sukrabad, Bazar, P.S. Mohammadpur, Dhaka.

6. Advocate S.M. Fazlul Huq of 70 Central Road, Police Station- Dhanmondi, District- Dhaka.

7. Advocate Md. Abu Hanif of 89 Bijoy Nagor, Police Station- Ramna, District- Dhaka.

.....Petitioners

-VERSUS-

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

2. The Mayor, Dhaka City Corporation, City Corporation Bhaban, P.S.- Ramna, Dhaka, Bangladesh.

3. The Inspector General of Police, Police Head Quarter, P.S. – Ramna, Dhaka, Bangladesh.

4. The Police Commissioner, Police Head Quarter, P.S.– Ramna, Dhaka, Bangladesh.

5. The Chief Executive Officer, Dhaka City Corporation, City Corporation Bhaban, P.S.- Ramna, Dhaka, Bangladesh.

6. The Chief Health Officer, Dhaka City Corporation, City Corporation Bhaban, P.S.- Ramna, Dhaka, Bangladesh.

.....Respondents.

GROUND S

I. For that the petitioners right to free movement as guaranteed under law has been seriously violated by the arbitrary action of the Respondents, by not only destroying the environment but creating additional hazard for the resident of the area. Hence it may be declared illegal.

II. For that the steps to set up the cattle hat as street/road or in any public places is malafide and for collateral purpose and without lawful sanction from the appropriate authority. Hence it is without lawful authority and direction may be given upon the Respondents not to set up any cattle hat on the street.

III. For that due to creation of traffic hazard and in order to creation obstruction to the peaceful movement of the petitioners and the citizens, the respondents plan to set up cattle hat on the street/road with a malafide intention, hence the cattle hat on the street/road or in any public place is liable to be declared void, illegal and is of no legal effect.

IV. For that the petitioners have no other efficacious remedy available to them except by way of this application before your Lordships to prevent the activities of the Respondents which caused serious threat to the petitioners fundamental's right to movement and to be treated accordance with law.

V. For that the Respondents did not apply their mind regarding the adverse effect upon the citizens. They have no proper sanction or approval to set up the cattle hat on the streets/roads or in any public places, so their step to set up cattle hat on the streets/roads or in any public places is without lawful authority.

VI. For that the cattle hat in roads & streets, failure to control the expansion of the hat in roads & streets, allowing the slaughtering of the cattle in roads & streets, failure of removing the cattle wastes in shortly and properly is violation of the provisions of Article 27, 31, 36 of the constitution of the peoples' Republic of Bangladesh, hence a direction should be issued upon the respondents.

VII. For that in accordance with the provision of Dhaka Metropolitan Police Ordinance, 1976, the Metropolitan Police Commissioner may permit cattle hat in public places, but to set up cattle hat on the street or in public places by the City Corporation is violation of the provision of Dhaka Metropolitan Police Ordinance, 1976.

VIII. For that section 69 & 71 the of Dhaka Metropolitan Police Ordinance, 1976, also provided penalty for exposing anything for sale to any roads/streets & public places except by the permission of the Police Commissioner. So setting up any cattle hat on any roads/streets & public places organised by City Corporation is without any lawful authority.

IX. For that section 73 of the Dhaka Metropolitan Police Ordinance, 1976, provides penalty for slaughtering animals near

streets or in any public places except by the order of the Police Commissioner. Though the Police is duty bound to act as per the provision of the law and bound to take appropriate action but they are always silent. Therefore due to their silence the environment of the city became polluted and the citizens are affected.

X. For that the Dhaka City Corporation can only lease out its property with the prior approval of the government as per the provision of section 65 of the Dhaka City Corporation Ordinance, 1983, but the Dhaka City Corporation without taking approval from the government lease out the property to set up cattle hat and as such as direction should be given upon the respondents.

XI. For that the impugned action of the Respondents to set up the cattle hat has taken with a malafide intention in order to earn money by way of obstructing the peaceful movement of the citizens in the city. Hence it may be declared with out lawful authority.

XII. For that due to such arbitrary and malafide acts of the respondents, petitioners legal rights and also fundamental rights granted by Articles 27, 31 and 36 of the Constitution have been violated.

XIII. For that due to creation of traffic hazard and in order to create a obstruction to the peaceful movement of the citizens, the respondents are implementing the cattle hat with a malafide intention, hence the implementation of the cattle hat at roads/streets and public places is liable to be declared void, illegal and is of no legal effect. Hence a direction may be given upon the Respondents not to set up any cattle hat on the street and directed the respondent to clean slaughtering materials in a hygienic manner within 24 hours.

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

a) A Rule Nisi upon the Respondents to show cause as to why a direction should not be given upon the respondents not to allow any cattle hat on the street and to take appropriate steps to remove the slaughtering materials within 24 hours with hygienic manner and 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 High Court Division issued Rule Nisi. Thereafter the Hon'ble Court was pleased to pass judgment and made the rule absolute with Some directions.
