

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

WRIT PETITION NO. _____ OF 2016.

IN THE MATTER OF:

An application under Article 102 of the Constitution of 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 Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Md. Aklas Uddin Bhuiyan, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 93 Indira Road, P.S.: Sher-E-Bangla Nagar, Dhaka.

.....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 Director General (DG), Health Directorate, Mohakhali, Dhaka, Bangladesh.

3. The Director General, the Directorate of National Consumer-Rights Protection, 1 Kawranbazar, TCB Bhaban (8th Floor), Dhaka, Bangladesh.

4. The Director, Directorate of Drug Administration, Motijheel C/A, Dhaka-1000, Bangladesh.

5. The Secretary General, Bangladesh Aushad Shilpa Samity/Bangladesh Association of Pharmaceutical Industries (BAPI), House # 41 (1st floor), Road # 4, Block-F, Banani, Dhaka-1213.

6. The Inspector General of Police(IGP), Police Head Quarter, Raman, Dhaka, Bangladesh.

7. The Director General (D.G.) of RAB Forces, RAB Head Quarter, Kurmitola, Dhaka, Bangladesh.

.....Respondens.

AND

IN THE MATTER OF:

Inaction and failure of the respondents to closedown the pharmaceuticals industries which are producing life saving drugs & medicine such as antibiotic, storied, hormone, anti cancer drug etc. without maintaining quality control, consequently affecting the right to life of the citizen Bangladesh.

AND

IN THE MATTER OF:

Violation of the Article 31, 32 and 18(1) of the Constitution of Bangladesh, and the provisions of the Drugs (Control) Ordinance, 1982 and the Essential Commodities Act, 1957 and the Consumer-Rights Protection Act. 2009.

GROUND S:

I. For that as per Article 32 of the Constitution of the People Republic of Bangladesh right to life of the citizens is guaranteed as a fundamental right. But by way of less quality medicine/drug/antibiotic, the right to life of the citizens is violated. Moreover, as per Constitution of the People Republic of Bangladesh the fundamental human rights of the citizens in the republic shall be guaranteed. Medical treatment is one of the fundamental human rights of citizens. So, no authority can show any negligence in any way to this right. Rather it is the duty of the government to give full support for arranging effective and quality medicine for the safety of the citizen. But without keeping in mind about the Constitutional

obligations the respondents failed to take any steps to stop production of less quality or adulterated medicine and ultimately the peoples are depriving from proper medicine.

II. For that due to less quality or adulterated medicine, the lives of the people fall in a dangerous situation, which is violation of Article 18(1) of the Constitution of Bangladesh. That according to the provision of Article 18(1) of the Constitution, the State shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties. Hence the respondents may be directed to take immediate steps to stop production of antibiotic and cancel the license of the Pharmaceuticals Industries which were recommended by the expert committee.

III. For that the respondents are always duty bound to serve the people and to perform their duties. But they have failed to perform their duties because of their inactions; they did not take any steps against the manufactures of drugs/medicine that are producing less quality medicine. Inaction of the respondents to stop production of less quality drugs/medicine has caused serious sufferings to public health. Hence, a direction may be given upon the respondents to cancel the license of Pharmaceuticals Industries as recommended by the expert committee.

IV. For 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. According to the prevailing situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

V. For that the respondents being the responsible persons and the responsible bodies, they are duty to abide by laws and regulations. But the respondents have failed to perform their duties and responsibilities lawfully and so the inactions of the respondents have gone beyond the scope of law. Hence the inactions of the respondents to cancel the license of Pharmaceuticals Industries as per the expert report may be declared illegal and without lawful authority.

VI. For that the life of human being is dependent on drugs and medicine as they save life from being decayed and death. That it is so pertinent and necessary to life that it has become a basic need of people around the globe. That it is the common responsibility of all to keep the people's health safe and sound within everybody's means. That as per the reports of the dailies, some drugs manufacturers have made the life of common people uneasy and have brought sufferings to the life of the common people due to gain inconsiderate profit personal to them only by producing less quality drugs/medicine. Hence, the common people suffer a lot, which has severe impact on public health.

VII. For that in every moment the life of the citizen are depending on medicine available in the market but due to some inconsiderate manufacturers of drugs/medicine the peoples are suffering for adulated medicine. That it is necessary to stop illegal production of antibiotic/drugs/medicine to save the health of the citizen otherwise the people will suffer a lot, which would have a severe bad impact on the life of the citizen and violated the fundamental rights guaranteed by the Constitution of Bangladesh.

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 the inaction and failure of the respondents to cancel the license of 20 pharmaceuticals industries (as stated in para 6 of the writ petition) which are producing life saving drugs & medicine such as antibiotic, storied, hormone, anti cancer drug etc. without maintaining quality control, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to cancel the license of 20 pharmaceuticals industries (as stated in para 6 of the writ petition) due to their failure to produce life saving drugs & medicine such as antibiotic, storied, hormone, anti cancer drug etc. without maintaining quality control,

AND

Why a direction should not be given upon the respondents to cancel the license of production of Antibiotic(Non Penicillin, Penicillin and Cephalosporin group) by the Pharmaceuticals Industries (as stated in Para No. 7 of the Writ Petition) which caused threat to right to life of the citizen of Bangladesh.

b) Pending hearing of the rule direct the respondents no. 1-4 to take immediate steps within 72 hours to stop production of Antibiotic(Non Penicillin, Penicillin and Cephalosporin group) by the Pharmaceuticals Industries (as stated in

Para No. 7 of the Writ Petition) and file a compliance report within two weeks before this Hon'ble Court through Registrar of the Supreme Court of Bangladesh about the steps taken by them and the respondents no. 7 and 8 may be directed to provide all kinds of support in that effort.

c) Directs the respondent no. 1 and 4 to ensure stop production of all life saving drugs & medicine such as antibiotic, storied, hormone, anti cancer drug etc. by the 20 pharmaceuticals industries (as stated in para 6 of the writ petition) within 7 days without any failure and submit a compliance report through affidavit within 2 weeks and the respondents no. 7 and 8 may be directed to provide all kinds of support in that effort.

d) Direct the office to serve copies and notices upon the respondents at the cost of office.

e) Upon hearing the cause if any shown makes the rule absolute.

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.
