

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

WRIT PETITION NO. OF 2014.

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 it's Secretary,
Advocate Asaduzzaman Siddique, Hall No.
2, Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

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

2. The Deputy Commissioner, Dhaka, Post
and P.S. –Kotwali, District-Dhaka.

3. The Police Commissioner, Dhaka
Metropolitan Police, Eskaton Road, Dhaka,
Bangladesh.

4. The Director General, Department of
Narcotics Control, 441, Tejgaon Industrial
Area, Dhaka-1208.

5. The Director (Operation), Department
of Narcotics Control, 441, Tejgaon
Industrial Area, Dhaka-1208.

6. The Inspector, Gulshan Circle,
Department of Narcotics Control, 441,
Tejgaon Industrial Area, Dhaka-1208.

7. The Inspector, Banani Circle, Department of Narcotics Control, 441, Tejgaon Industrial Area, Dhaka-1208.

8. The Administrator, Dhaka North City Corporation, DNCC head Office, Gulshan Dhaka, Bangladesh.

9. The Editor, Jugantor, 244 Progoti Shoroni, Kuril(Bishwa Road), Baridhara, Dhaka-1229.

.....Respondents.

AND

IN THE MATTER OF:

Failure of the respondents to take appropriate legal steps against 40 (Forty) Restaurants/Hotels at Gulshan-Banani along with their owners for keeping and selling of foreign brand alcohol/bear illegally and operating mini bars in the guise of Restaurants/Hotels without any proper authority and license.

AND

IN THE MATTER OF:

For implementation of the provisions of law of Narcotics Control Act 1900 (as amended in 2004).

GROUND S:

I. For that those forty restaurants/hotels at Gulshan-Banani have been operating illegal mini bars in the guise of their normal business of restaurants without any license and/or approval from the Department of Narcotics. That those forty restaurants/hotels have been selling bear, alcohol to the common people without any legal license. Hence, their activities are illegal and the respondents are liable for their failure to take any legal actions against them.

II. For that the respondents have not taken any legal actions against them but have listed them as illegal only. Hence, they have failed in performing their responsibilities.

III. Fro that those forty bars are also engaged in offering vulgar dance at night that attracts the young and old people. That the impact of consuming alcohol /bear and enjoying vulgar dance ultimately lead those people go astray and bring about different corruptions in the society.

IV. For that under Article 21 of the constitution the respondents and concern officials of the administration are duty bound at all time to

serve the people and to perform the public duties. Nevertheless, they have failed to do their duty because they have failed to take steps as per the provisions of law and rules.

V. For that as per rule 6 of the Narcotics Control Rules 1999, no one excepting any retail license holder can sell any narcotics/alcohol/bear, things or plants to anyone. The rule imposes bar on wholesale of any narcotics/alcohol/bear, things or plants excepting by some licensed persons.

VI. For that as per section 9 of the Narcotics Control Act 1990 (as amended in 2004) cultivation, production, buy, sale and preservation etc of any kinds of narcotics excepting alcohol is prohibited subject to getting any approved license.

VII. For that as per section 10 (1) of the Narcotics Control Act 1990 (as amended in 2004) a license is required for any kinds of cultivation, production, buy, sale and preservation etc of any alcohol and the Director General or his authorized person is empowered to issue such license as per section 11 of the above Act. That those forty hotels/restaurants have no license for selling any kinds of bear, alcohol and /or operating bars in the guise of their hotel business. Hence, they are doing illegal activities.

VIII. For that as per section 22 of the Narcotics Control Act 1990 (as amended in 2004) a person is liable to imprisonment as well as for punishment for violation of any provisions of section 9 and 10 of the said Act and for doing any activities under section 9 and 10 without having a license.

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 failure of the respondents to take appropriate legal actions against 40 (Forty) Restaurants/Hotels at Gulshan-Banani along with their owners for keeping and selling of foreign brand alcohol/bear illegally and operating mini bars in the guise of Restaurants/Hotels without any license as reported in the daily 'Jugantor' on 23.11.14, should not be declared illegal and without lawful authority.

And

Why a direction should not be given upon the respondents to act as per the provisions of Narcotics Control Act 1990 (as amended in 2004) and Narcotics Control Rules 1999 for violation of the provisions of the Act

and the Rules and take legal action against the persons who are liable for operating mini bars in the guise of Restaurants/Hotels at Gulshan and Banani, in accordance with laws.

b) Pending hearing of the rule directs the respondent Nos. 3-5 to take effective steps within 24 hours to stop all the activities of keeping and selling bear/alcohols/wine in the name of operating mini bars by the said forty restaurants/hotels at Gulshan-Banani and submit a report about the steps taken by them before the Hon'ble court through affidavit within 10 (ten) days from the order.

c) Pending hearing of the rule directs the respondent Nos. 3-5 to take legal action as per the provisions of Narcotics Control Act against the persons who are selling bear/alcohols/wine by operating mini bars in the guise of hotels/restaurants at Gulshan and Banani, Dhaka, Bangladesh.

d) Pending hearing of the rule directs the respondents 9 to authenticate the report prepared and published on 23.11.14 in Jugantor about selling bear/alcohols/wine by operating mini bars in the guise of hotels/restaurants at Gulshan and Banani through the affidavit within 2 (two) weeks from date.

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

F) 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 and ad interim order upon the respondents. The case is pending before the Court
