

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

WRIT PETITION NO. _____ OF 2013.

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

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

3. Advocate Sarwar Ahad Chowdhury,
Supreme Curt of Bangladesh, Hall No. 2,
Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.

4. Advocate Mahabubul Islam, Supreme
Curt of Bangladesh, Hall No. 2, Supreme
Court Bar Association Bhaban, Dhaka,
Bangladesh.

.....Petitioners.

-V E R S U S-

1. The Hon'ble Speaker, Bangladesh
Zatio Sangsad, Zatio Sangsad Bhaban, Sher-
E-Bangla Nagar, Dhaka.

2. Bangladesh represented by the Cabinet Secretary, Cabinet Division, Bangladesh, Secretariat, Police Station- Shahbag, Dhaka, Bangladesh.

3. The Secretary, President Secretariat, Bangabhaban, Dhaka, Bangladesh.

4. The Secretary, Prime Minister's Secretariat, Prime Minister Office, Tejgaon, Dhaka, Bangladesh.

5. The Secretary, Legislative and Drafting Wing, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Secretariat, Police Station- Shahbag, Dhaka, Bangladesh.

6. The Secretary, Parliamentary Secretariat, Zatio Sangsad Bhaban, Sher E Bangla Nagar, Dhaka,

.....Respondents.

AND

IN THE MATTER OF:

The Amendment to the Anti Corruption Commission Act 2004 as made by the Anti Corruption Commission (amendment) Act 2013 by way of insertion section 32ক.

AND

IN THE MATTER OF:

The Discriminatory and ultra vires provisions of section ৩২ক of the Anti-Corruption Commission (Amendment) Act, 2013.

GROUNDS:

I. For that the impugned section ৩২ক of the Anti-Corruption Commission (Amendment) Act, 2013, is arbitrary in nature, discriminatory in character amounting to denial of rights to equal protection of law and right to be treated in accordance with law and hence it is violative of the fundamental rights guaranteed under Articles 26 (1) (2), 27 and 31 of the Constitution of Bangladesh. Hence it is liable to be declared to be void and illegal.

II. For that with a malafide intention of saving a group of people from corruption cases under this Act, the respondents took initiative to pass the Anti-Corruption Commission (Amendment) Act, 2013. That the section ৩২ক has been inserted in the Act of 2004 by the Anti-Corruption Commission (Amendment) Act, 2013, by which power given under sections 17(j), 20(1), (2) and 24 of the Anti-Corruption Commission Act, 2004, to the Commission has been curtailed. Hence it is liable to be declared to be void and without lawful authority.

III. For that the respondents passed the Anti-Corruption Commission (Amendment) Act, 2013, amending some sections including by insertion of section ৩২ক saving a section of people from corruption cases, which is beyond the scope of law. For that the petitioners have been left with no option but to challenge the vires of the section ৩২ক of the Anti-Corruption Commission (Amendment) Act, 2013.

IV. For that the impugned section ৩২ক of the Anti-Corruption Commission (Amendment) Act, 2013, is violative of the provisions of Articles 7(2), 26(1), (2) and 27 of the Constitution of Bangladesh and hence the impugned section has gone beyond the scope of law and is therefore ultra vires.

V. For that the law was passed for protecting the high government officials and influential persons. Hence the section 32K of the Anti-Corruption Commission (Amendment) Act, 2013, is an instrument of discrimination and is violative of Article 27 of the Constitution of Bangladesh.

VI. For that the impugned amendment is ex-facie illegal and the same is both malice in law and in fact and in violation of principles of natural justice.

VII. For that the impugned section is discriminatory, violatave and conflicting with the fundamental rights as guaranteed under Article 27 of the Constitution of Bangladesh. For that the said 32K is beyond the sprit of Article 31, by which people are treated only in accordance with law. Hence it is liable to be declared illegal and without lawful authority.

VIII. For that the independent power of the Commission as per section 24 of the Anti-Corruption Commission Act, 2004, has been curtailed by the impugned section ৩২ক of the Anti-Corruption Commission (Amendment) Act, 2013. The content of above mentioned section clearly interferes in the independent power of the Commissioners regarding filing and investigation of corruption cases.

IX. For that as per impugned section of the Anti-Corruption Commission (Amendment) Act, 2013, some high government officials may be protected in different ways from corruption cases under this Act, which ultimately frustrates the purpose of Anti-Corruption Act. Hence the impugned section may be declared illegal and without lawful authority.

X. For that there was no such provisions as like **৩২ক** in the Anti-Corruption Commission (Amendment) Bill 2011 and the proposed Anti-Corruption Commission (Amendment) Act 2012 and hence the amendment in respect of **৩২ক** in the Act is malafide and without lawful authority.

Wherefore, it is most humbly prayed that Your Lordships would graciously be pleased to;-

(A) Direct the office to register this application as a writ petition.

(B) Issue a Rule Nisi calling upon the Respondents to show cause as to why the impugned section 32ক of Anti Corruption Commission (amendment) Act 2013 (published in official Gazette on 20.11.13), should not be declared to be void and ultra vires to the Constitution of Bangladesh as being violative of the fundamental rights guaranteed under Articles 26 (1) (2), 27 and 31 of the Constitution (as of Annexure-A).

(C) Direct the office to serve notice upon the respondents at the cost of office.

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

(E) Pass such other or future 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 Court issued Rule Nisi upon the respondents and granted ad-interim order. The case was heard by the Hon'ble High Court Division and disposed of the rule with direction.