

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 its Secretary,
Advocate Asaduzzaman Siddiqui, Hall No. 2,
Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.

2. Advocate Aklas Uddin Bhuiyan, Hall No.
2, Supreme Court Bar Association Bhaban,
Ramna, 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 (D.G.), Health
Directorate, Mohakhali, Dhaka, Bangladesh.

3. The Senior Assistant Secretary,
Hospital-Division, Ministry of Health and
Family Welfare, Bangladesh Secretariat,
P.S. Shahbag, Dhaka, Bangladesh.

4. The President/ Secretary, Bangladesh
Medical and Dental Council, 203 Syed

Nazrul Islam Shoroni, (86 Bijoyagar),
Dhaka-1000, Bangladesh.

5. The Director, Rajshahi Medical
College Hospital, Post and District-Rajshahi,
Bangladesh.

6. The Registrar, Rajshahi Medical
College Hospital, Post and District-Rajshahi,
Bangladesh.

.....Respondents.

AND

IN THE MATTER OF:

Inaction/failure of the respondents to ensure better and safe treatment, quality and effective medical services to the patient and to take necessary steps to stop surgery/operation in the hospitals by any ward boy or anyone who is not a surgeon/medical officer.

G R O U N D S

I. For that the duties and responsibilities vested upon the respondents to perform their duties for the people. The respondents are also duty bound to obey the provisions of law. It is the duty of the respondents to perform the duties in accordance with law, but they have failed to perform their duties and responsibilities as vested upon them under Article 21 of the Constitution of Bangladesh. Hence respondents may be directed to take necessary steps immediately to ensure better and safe treatment, quality and effective medical services to the patients that no one/ward boy other than a surgeon/medical officer may participate any operation/surgery in hospital.

II. For that the medical services and treatment for the citizens is very important for their normal life living. So, at this stage there is no alternative without taking necessary steps to ensure better and safe treatment, quality and effective medical services to the that no one/ward boy other than a surgeon/medical officer may participate any operation/surgery, otherwise the people will suffer seriously.

III. For that disregard to laws and legal provisions and failure to ensure proper steps the respondents have caused enough threat to the life of the citizens and adversely affecting to the right to life. Under these circumstances, the respondents are legally bound to take all necessary steps for ensuring better and safe treatment, quality and effective medical services to the patients that no one/ward boy other than a surgeon/medical officer may participate any operation/surgery. Hence a direction may be given upon the Respondents to take appropriate and necessary steps in this regard.

IV. For that without any precautions to save the life of the citizen, the respondents have sent the life of the people 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. Moreover the right to life is a fundamental right guaranteed under Article 32 of the Constitution of Bangladesh, but it is violating by way of inaction and negligence of the respondents in the government hospitals.

V. For that the poor people of our country is unable to get medical services and treatment from the private hospitals and clinics due to their excessive rates. Normally most of the poor people are rushing to the government hospitals to get medical services and treatment. So it is very important to ensure better and safe treatment, quality and effective medical services to the patients that no one/ward boy other than a surgeon/medical officer may participate any operation/surgery. Otherwise, most of the poor people could be deprived of from the better and safe medical services and treatment which will materially affect to their right to life.

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 inaction/failure of the respondents to ensure better and safe treatment, quality and effective medical services to the patient in hospital, should not be declared illegal and without lawful authority and why a direction

should not be given upon the respondents to take appropriate steps so that no one other than a surgeon/medical officer may participate any operation/surgery in hospital.

c) Pending hearing of the rule directs the respondent 1-3 to issue proper instructions to the head of all hospitals to monitor and ensure surgery by the proper persons and to maintain healthy and save operation theatre in the hospital and file a compliance report within two weeks before this court.

d) Pending hearing of the Rule direct the respondent no 5 and 6 to appear in person on 05.03.2014 at 10.30 am before this Court and explain their conduct.

e) Pending hearing of the Rule direct the respondent no 1 to form a committee within one week for investigation about the allegation of operation by ward boy in Rajshahi Medical College Hospital as reported in Amader Shomoy on 09.02.14 and submit the report within 4 weeks before this court.

f) Direct the office to serve notices upon the respondents at the cost of office.

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

h) 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 Court issued Rule Nisi upon the respondents and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.