

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

WRIT PETITION NO. OF 2018.

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 Advocate Ripan Barai, Son of Late Manohar Barai of 31 Central Road, P.S-New market, Dhaka 1205, Bangladesh and Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

1. Bangladesh represented by the Secretary, Health Services Division, Ministry of Health and Family welfare, Bangladesh Secretariat, Abdul Gani Road, Shahbag Dhaka-1000.

2. The Secretary, Medical Education and Family Welfare Division, Ministry of Health and Family welfare, Bangladesh Secretariat, Abdul Gani Road,Shahbag, Dhaka-1000

3. The Director General (D.G.), Directorate General of Health Services (DGHS), Mohakhali, Dhaka-1212, Bangladesh.

4. The Chairman/Vice Chairman, Bangladesh Medical and Dental Council, 203 Shaheed Syed Nazrul Islam Shoroni, (86 Bijoyagar), Dhaka-1000, Bangladesh.

5. The Police Commissioner, Dhaka Metropolitan Police, 36 Minto Road, Dhaka, Bangladesh

6. The Chief Executive Officer, Dhaka North City Corporation, Nagar Bhaban, Gulshan Center Point, Plot No# 23-26, Road No# 46, Gulshan-2, Dhaka-1212.

7. The Executive Magistrate, RAB Forces, RAB Head quarter, Kurmitola, Dhaka, Bangladesh.

8. The Officer in Charge (O.C.), Mohammadpur Police Station, Address: Block # E, Mohammadia Housing estate, Sat Mosjid Road, Dhaka, Bangladesh.

.....Respondents.

AND

IN THE MATTER OF:

Articles 27, 31 and 32 of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

Failure of the respondents to stop operation of 15 (fifteen) hospitals at Mohammadpur area, Dhaka City with a view to giving medical treatment to patients without having permission of the competent authority and failure of the respondents to save life of common people.

GROUND S

I. For that the respondents are the experienced public servant and very much aware of the rules and instructions of the government. But they have failed to take steps against the steps taken by the hospital authority.

II. For that the duty and responsibility vested upon the administration to serve the people and they are duty bound to obey the provisions of law. 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. It is the duty of the public servants to act legally but no law has been allowed them to do anything in an unlawful manner. But the respondent has failed to perform the duties and responsibility.

III. For that Medical treatment is one of the fundamental human rights of citizens, which can be obtained from hospitals. But 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 medical treatment through hospitals as well as medicine for the safety of the citizen. But the respondents here failed to ensure proper operation of such hospitals, which affects right to life of the citizens as is guaranteed as a fundamental right in article 32 of the Constitution.

IV. For that as per the reports, these hospitals don't have valid licenses nor have operations instruments nor have sufficient nurses or doctors. Most important they don't have proper medical instruments, which are a must for them. That treatments in private hospitals of Bangladesh are very expensive for the poor but in spite of that the respondents did not ensure proper operation such hospitals in accordance with law: The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance 1982. In that context, Your Lordships may pass necessary order for the ends of justice.

V. For that the inaction of the respondents affects the rights of the common people as guaranteed in article 27 and 31 of the Constitution of Bangladesh. Hence, Your Lordships may pass appropriate orders for the ends of justice.

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 failure/inactions of the respondents to stop operation of 15 (fifteen) hospitals at Mohammadpur area, Dhaka City, with a view to giving medical treatment to patients, should not be declared illegal and without lawful authority.

And

Why a direction should not be given upon the respondents to take appropriate legal steps against the persons responsible for operation of those hospitals without having valid required licenses.

b) Pending hearing of the Rule direct the respondent No. 3 and 7 to shut down operation of 15 unlicensed hospitals at Mohammadpur, Dhaka City, as reported in

“The Daily Banikbarta” on 20.04.2018 (as of annexure-A)

c) Pending hearing of the Rule directs the Respondent No. 3 to appear in person before the Hon’ble court on 14.10.18 at 10.30 am and explain how 15 hospitals are running at City in the presence of controlling authority of Director General of Health Services.

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.
