

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 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 Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Eklas Uddin Bhuiyan Advocate Supreme Court of Bangladesh, Hall No.-2, Supreme Court Bar Association Bhaban, District-Dhaka, Bangladesh.

..... Petitioners.

-V E R S U S-

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

2. The Inspector General of Police (IGP), Police Head Quarter, Fulbaria, Ramna, Dhaka, Bangladesh.

3. The Director General, Rapid Action Battalion (RAB), RAB Head Quarter, Uttara, Dhaka, Bangladesh.

4. The Deputy Inspector General of Police (DIG), Chittagong Division, Post and District-Chittagong, Bangladesh.

5. The Police Commissioner, Dhaka Metropolitan Police (DMP), DMP Head Quarter, Eskaton, Dhaka, Bangladesh.

6. The Commander, RAB -1, Uttara, Dhaka, Bangladesh.

7. Assistant Commissioner (A.C.) of Police, Gulshan Circle, Bhatara Police Station, Baridhara, Dhaka, Bangladesh.

8. The Officer In-Charge (O.C), Gulshan Police Station, Gulshan, Dhaka, Bangladesh.

.....Respondents.

AND

IN THE MATTER OF:

To formulate the guideline in order to stop arrest by false warrant and for a direction upon the respondents to take legal action against the police personals who has violated the provision of law and failed to perform their duties as vested upon them under Article 21 and 31 of the Constitution of Bangladesh.

GR O U N D S

I. For that Article 35 (5) of the constitution of Bangladesh has provided a provision that ‘no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. More over section 29 of the police Act 1861 has provided punishment for police officer who shall offer any unwarrantable personal violence to any person. The police have violated the principal of law, hence they should be punished.

II. For that the duty and responsibility vested upon the law enforcing agency to protect persons and property of any citizen of the country. The respondents are also duty bound to obey the provision of law. It is the duty of a police officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as per the constitution. Hence they are liable to be punished for their illegal act.

III. For that the duty and responsibility vested upon the law enforcing agency to protect the citizen of the country and property of the citizen. The respondents are also duty bound to obey the provisions of law. It is the duty of a police officer to act legally but no law has been allowed them to treat the citizen in an unlawful manner. But they have failed to perform the duties and responsibility as per the constitution.

IV. For that as per Article 31 of the constitution of Bangladesh no one is allowed to take any action except in accordance with law. According to the news report police violated the provision of Article 31 of the Constitution of Bangladesh.

VI. For that duty and responsibility vested upon the law enforcing agency to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the police have failed to perform the duties and responsibility as vested upon them and also failed to protect the rights of the citizen, which is illegal. Under these circumstances the respondents are liable to take immediate steps against the police personal who has violated the provision of law and initiate legal action against them. The respondents are legally bound to form an enquiry committee to find out the real involvement of the police personal in the incident.

Wherefore it is most humbly prayed that your Lordships would graciously be pleased to: -

- a) A Rule Nisi calling upon the Respondents to show cause as to why a direction should not be given upon the respondents to formulate the guideline in order to stop arrest by false warrant and why a direction should not be given upon the respondents to take legal action against the police personals who has violated the provision of law and failed to perform their duties as vested upon them under Article 21 and 31 of the Constitution of Bangladesh in respect of arrest of Arif Niazi.
- b) Pending hearing of the rule Direct the respondent no. 1 to form an independent inquiry committee consisting of high officials within 7 days to find out the name of the police personals who are liable for the incident as reported in the news paper and submit a report before this Hon'ble Court within 30 (thirty days).
- c) Pending hearing of the rule direct the respondent no. 8 to submit a report stating the fact that how he arrested Arif Niazi.

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 Rule is pending before the Hon'ble High Court Division.
