

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

WRIT PETITION NO. .... OF 2019.

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-in-Charge Advocate Sarwar Ahad Chowdhury, 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 Mahabubul Islam, Son of Late Mofiz Uddin and Norjahan Begum, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka
4. Advocate Ripan Barai, Son of Late Manohar Barai of Hall No. 2, Supreme Court Bar Association Bhaban, Shahbag, Dhaka, Bangladesh.

.....Petitioners.

**-V E R S U S-**

1. Bangladesh represented by the Cabinet Secretary, Cabinet Division, Bangladesh Secretariat, Police Station-Shahabag, Dhaka, Bangladesh.
2. The Secretary, Prime Minister's Secretariat, Prime Minister's Office, Old

Parliament Bhaban, Tejgaon, Dhaka, Bangladesh.

3. The Secretary, Ministry of Finance, Finance Division, Bangladesh Secretariat, Police Station- Shahabag, Dhaka-1000, Bangladesh.

4. The Secretary, Ministry of Finance, Financial Institutions Division, Bangladesh Secretariat, Police Station- Shahabag, Dhaka-1000, Bangladesh.

5. The Secretary, Ministry of Law, Justice and Parliamentary Affairs, Law and Justice Division, Bangladesh Secretariat, Police Station- Shahabag, Dhaka-1000, Bangladesh.

6. The Governor, Bangladesh Bank, Head Office, Motijheel Commercial Area, Dhaka-1000.

7. The Chairman, National Board of Revenue (NBR), Rajaswa Bhaban, Segun Bagicha, Dhaka-1000.

8. The Chairman, Anti-Corruption Commission (ACC), Head Office, 1 Segun Bagicha, Dhaka - 1000.

....Respondents.

AND

IN THE MATTER OF:

Section 3 of the Commissions of Inquiry Act 1956.

AND

IN THE MATTER OF:

Article 27 and 31 of the Constitution of People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Sections 45, 49 of the Bank Company Act 1991.

AND

IN THE MATTER OF:

Failure /inaction of the respondents to stop various irregularities, illegalities and corruption in case of sanctioning loan and remission of interest against Bank Loan as occurred during the last 20 years in different Private and Public Banks in Bangladesh.

AND

Failure /inaction of the respondents to recover the loan money from the lonee which was sanctioned in last 20 years by the private and public banks.

AND

IN THE MATTER OF:

For a direction upon the Respondents to form a Commission under section 3 of the Commissions of Inquiry Act. 1956 to inquiry into various irregularities, illegalities and corruption in case of sanctioning loan and remission of interest against Bank Loan as occurred during the last 20 years in different Private and Public Banks in Bangladesh, and direct the Commission to make detail recommendations to stop all irregularities, illegalities and corruption in banking sector for the purpose of establishing good governance/transparency in Banking Sectors in Bangladesh.

**G R O U N D S:**

I. For that as per the provision of Article 21 of the Constitution of Bangladesh, the duties and responsibilities vested upon the Respondents to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the Respondents have failed to perform their duties and responsibilities as vested upon them and violated the provision of the Constitution of Bangladesh and that of the Bank Company Act 1991. Hence, Your Lordships may pass necessary order to bring back good governance, accountability and transparency in banking sector of Bangladesh for the ends of justice and public causes.

II. For that there have been alarming reports for banking sector in Bangladesh that as per the above news reports 8,175 crore dollars was

siphoned out of Bangladesh in last 11 years (2005-2015: Global Financial Integrity (GFI) recent report). That the number of loan defaulters stands as of last November, 2018 at 2,68,351 persons who are liable for BDT 1,45,765.00 crores (BB CIB report), and on the other hand, as on 21.01.19, amount of default loan stands at BDT:1,11,000.00 crores. However, CPD research depicted a very shabby reports to the effect that the total money lost through Major Scams, Irregularities, & Heists in recent times in banking sectors is BDT: 22,502.00 crore. That all these reports depicted a picture that at present the banking sector is so vulnerable, non-profitable and risky and corrupt. Hence, Your Lordships may pass necessary order to bring back good governance, accountability and transparency in banking sector of Bangladesh.

III. For that all these incidents of misappropriation, embezzlement, money laundering, loan default, non-recovery of principal and interest amount, remission of interest, bad loan, written off loan, crisis in liquidity, capital inadequacy, mismanagement, cronyism, malpractices, irregularities, corruption, scandals, scams, robberies and thefts in the banking sector have directly affected the depositors as well as the common people of Bangladesh since the said lost money is public money and owned by the common people. In spite of those scenario, the wrong-doers responsible for the scams/irregularities have been at large under the open sky and thereby similar incidents of scams/irregularities at different banks have been occurring one after another. According to various reports, these incidents have become regular in the banking sector due to lack of good governance, transparency and accountability in the banking sector. Hence a direction may be given by Your Lordships to form a commission.

IV. For that as per section 3 of the Commissions of Inquiry Act 1956, the Government may appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified, and the Commission so appointed shall make the inquiry and perform the functions accordingly. Though all the above mentioned incidents has been occurred in banking sector, so there is public importance, since it involves the public causes and issues and public money as well. Hence, Your Lordships may pass necessary order to form a commission.

V. For that the Central Bank, and the other private & public commercial banks are the custodians of public money of common people of Bangladesh but the public money is not safe in banks for the stated reasons. The Bangladesh Bank has power under section 45 and 49 of the Bank Company Act 1991 to address the situation but no stringent steps is visible. More so, the respondents did not take any positive and stringent measures so that banking sector may be saved from illegal internal and external snatchers and their gross

irregularities, malpractices, corruptions and scams. Hence, Your Lordships may pass necessary order to form a commission.

VI. For that the failure/inactions of respondents have attacked the interest of the common people and thereby they are not treated in accordance with laws as per the provisions of article 27, 31 of the Constitution of Bangladesh. Though the respondents are under obligation to perform their public duties in accordance with laws, they did not take any positive steps to that effect. Hence, Your Lordships may pass necessary order to bring back good governance, accountability and transparency in banking sector of Bangladesh for the ends of justice and public causes.

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 /inaction of the respondents to stop various irregularities, illegalities and corruption in case of sanctioning loan and remission of interest against Bank Loan as occurred during the last 20 years in different Private and Public Banks in Bangladesh  
AND

As to why failure /inaction of the respondents to recover the loan money from the loanee which was sanctioned in last 20 years by the private and public banks, should not be declared illegal and without lawful authority,

AND

Why a direction should not be given respondents to stop various irregularities, illegalities and corruption in case of sanctioning loan, remission of interest against Bank Loan and to recover the loan money from the loanee which was occurs in last 20 years in the private and public banks, Bangladesh.

b) Pending hearing of the Rule, direct the Respondent no. 1-6 to form a Commission under section 3 of the Commissions of Inquiry Act 1956 within 30 days comprising of persons as mentioned in paragraph No. 11 to inquiry into various irregularities, illegalities and corruption in case of sanctioning loan and remission of interest against Bank Loan as occurred during the last 20 years in different Private and Public Banks in Bangladesh,

- c) Direct the Commission to make detail recommendations to stop all irregularities, illegalities and corruption in banking sector for the purpose of establishing good governance/ transparency in Banking Sectors in Bangladesh.
- d) Pending hearing of the rule direct the respondent no. 3, 4 and 6 to provide all logistic supports to the commission during the inquiry.
- e) Pending hearing of the rule direct the respondent no. 6 to collect the names and addresses of the loan defaulter above taka one corer, from the different banks of Bangladesh.
- f) Pending hearing of the rule direct the respondent no. 6 to submit a detail report about money laundering to different countries and report about what steps has been taken to recovery that money.

### **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. After hearing the parties rule was disposed of with some directions.

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