

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

Writ Petition No. 16874 of 2012

IN THE MATTER OF:

**Human Rights and Peace for Bangladesh
(HRPB)**

..... Petitioner.

-Versus-

Bangladesh and others.

..... Respondents.

Mr. Manzill Murshid, Advocate

..... For the Petitioner.

**Mr. Md. Saiefuldin Khaled, D.A.G with
Mrs. Afifa Begum Swapna, A.A.G and
Mr. Sarwar Akhtar Masud, A.A.G**

..... For the Respondents.

Mr. A. K. M. Fazlul Haque, Advocate,

.....For the Anti-Corruption Commission.

Mrs. Halima Ferdous, Advocate

.....For the Respondent Nos. 4-7.

Heard and judgment on: 25.01.2024

Present:

Mr. Justice Md. Nazrul Islam Talukder

And

Mr. Justice Kazi Ebadoth Hossain

Md. Nazrul Islam Talukder, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule Nisi, at the instance of the petitioner, was issued calling upon the respondents to show cause as to why failure/inaction of the respondents to stop corruption and illegal loan sanction by the Janata Bank, 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 officers of the Janata Bank who are engaged in corruption and causing misuse of public money as reported in the daily Jugantar dated 22.11.2012 and/or pass such

other or further order or orders as to this court may seem fit and proper.

It may be noted that at the time of issuance, the Respondent No. 1, was directed to form a committee within seven days consisting of three members chaired by a retired Governor of Bangladesh Bank along with two others high officials serving under the Respondent Nos. 1 & 23 to investigate the allegation of corruption against Janata Bank Officials and also to prepare a guideline to stop corruption in the office of the Janata Bank in respect of loan and submit the report within three months before this court through the Registrar of the Supreme Court of Bangladesh.

The Respondent No. 2, was directed to prepare a detailed statement of remission of loan to the parties for the last 10 (ten) years and then submit it within three months before this court through the registrar of the Supreme Court of Bangladesh. The Respondent No. 3, is further directed to submit a report about the steps taken by Bangladesh Bank in performing their regulatory functions in respect of irregularities of loan of Janata Bank.

Further, Respondent Nos. 5 and 6, were directed to submit a report stating the steps taken by them against the corrupt bank officers about allegation of corruption reported in the daily Jugantar dated 22.11.2012.

The facts leading up to issuance of the Rule, are that the organization 'Human Rights and Peace For Bangladesh (HRPB)' is a non profitable registered organization and the objects of the organization is to uphold the rights of the citizen and to work for the poor people, to give legal support to the helpless people, and to build up awareness amongst the people about their rights and activities against the environment etc. Moreover, the organization is also working to protect environment and take legal steps against the activities of destroying environment as well as in case of violation of law.

It is further stated that the petitioner came to know from the news paper about the corruption in Janata Bank and he being a conscious citizen is seeking direction to take appropriate steps to stop corruption and to take action against the bank officers who are liable for corruption. The petitioner seeks to bring this application by invoking Article 102 of the Constitution as public interest litigation in order to protect the public money, which is the duty of the petitioner as a citizen. The petitioner came with the application because the people who became affected by the corruption, are unable to come to this court to enforce their fundamental rights as a citizen.

It is also stated that the matter is involved a public importance. Some corrupted officers are using their position unlawfully with the mala fide purpose for personal gain, thus the people are aggrieved generally and personally as they are being defrauded and deceived by these corrupt practices. It is stated that the matter is involved about the interest of the people, which is related to fundamental right of citizen to get protection of the public money. The affected people are unable to come to enforce their fundamental rights, hence the petitioner moved this Public Interest Litigation (PIL) before this Hon'ble Court. As it involves enormous public importance, this petition may be treated as public interest litigation.

It is stated that on 22.11.12 a news item was published in the daily Jugantar relating to the corruption in Janata Bank under the heading that “দুর্নীতির আখরা জনতা ব্যাংক, ঘুষ ছাড়া লোন মেলা না, where it was reported that some of the respondents being Bank officers by using their position obtained millions worth property by corruption. Because of influence and connection with the top level, they have created a syndicate and doing their malpractices continuously with the shelter of high officials. It was also reported that without giving any bribe, no loan has been sanctioning. Even in some cases, loan is sanctioning to the fake persons and public money is being misused.

It is stated that despite the allegation of corruption in which some of the respondents are directly involved, the higher authority is not taking action against the corrupt officers. The concerned Ministry also shows their anxiety for irregular loan sanction to some persons but no appropriate legal actions are taking against them. In the report, it was also referred some cases of loan sanction in which loan was given to fake persons and in this way hundred thousands of taka was taken away. Under these circumstances, the officers who are responsible for corruption as reported in the newspaper they should be restrained from any participation in the processes of loan sanction.

It is also stated that the fundamental rights of the citizens declared in the part III of the Constitution is to be enforced and protected by the judiciary. If the officials maintain their corrupt practice in return of bribe then people will lose hope on administration and the society will be seriously affected.

It is stated that Human Rights and Peace For Bangladesh (HRPB) is an organization working on different issues and many public interest litigations have been filed by them. In many cases the Hon'ble Court Division has passed judgment such as i) VAT collection from the patient was declared illegal, ii) directed to constitute civil vacation court during civil vacation in every

December in subordinate court, iii) directed not to set up any cattle hat on the street in Dhaka city during Eid-Ul-Azha and removing all slaughtering materials within 24 hours with a hygienic manner, iv) directed to form an inquiry commission about murder/rape/persecution/torture committed immediately after parliament election of 2001 upon the then opposition supporters and minorities, v) directed to set up food court in every city in order to prevent food adulteration, vi) directed to form an “Earthquake Preparedness and Awareness Committee” and collected the necessary earthquake rescue equipments as per their recommendation, vii) directed to protect river Buriganga, Balu, Turag and Shitalakha and to stop encroachment in the rivers and directed to remove all the structures from the inside of the rivers etc. Many others cases are pending before the Hon’ble High Court Division. The organization is always bearing all the costs of the cases by it’s own fund which is raised by the donation of the members. The organization received no fund from abroad or from any citizen of the country except the lawyer members. Due to present high volume of cases it is not possible to bear the costs of the cases filed before the Hon’ble High Court Division as public interest litigation. Under these circumstances, it is necessary to exempt the costs of the cases filed by the organization as public interest litigation. Hence a direction may be given to the office to register the application as a writ petition and also notices may be served at the costs of office.

Being aggrieved by the inaction of the respondents to take necessary steps against corruption and having no other equally efficacious remedy, the petitioner approached this court with an application under Article 102 of the Constitution of the Peoples’ Republic of Bangladesh and obtained this Rule Nisi.

At the very outset, Mr. Manzill Murshid, the learned Advocate appearing on behalf of the writ petitioner, submits that the duty and responsibility vested upon the respondents is to serve the people and initiate lawful steps and the respondents are also duty bound to obey the provisions of law but the respondents have failed to perform the duties and responsibilities as vested upon them and also failed to take steps against the corruption, hence the Respondent Nos. 6 and 7 should be restrained from doing any duties in the process for loan sanction of the Janata Bank.

He next submits that the fundamental rights of the citizens declared in the part III of the Constitution are to be enforced and protected by the judiciary; if the officials maintain their corrupt practice in return of bribe then people will lose hope on administration and the society will be seriously affected, hence the respondents should be directed to take legal action against the

corrupt practice of the bank officers serving under the Janata Bank.

He then submits that under Article 21 of the Constitution, the respondents and the concerned officials are duty bound at all time to serve the people and to perform the public duties; nevertheless, they have failed to do their duty because they have failed to take steps against the corruption as reported in the news paper.

He lastly submits that the Respondent Nos. 6 and 7 as Manager and General Manager have been entrusted by the public fund but in order to gain personal benefits, they are engaged themselves in corruption and in sanctioning loan to the fake persons, which is illegal, hence, the respondents should be directed to take appropriate action against the corrupt bank officers.

On the other hand, Mrs. Halima Ferdous, the learned Advocate appearing for the Respondent Nos. 4-7, submits that the Bank acts bona fide in granting loan within its jurisdiction and follows all circulars connected with granting loan; the writ petition was filed by the petitioner to harass the respondents and to serve purpose of getting undue facilities connecting with the impugned news and as such to secure the ends of justice, this court may discharge the Rule and grant cost against the petitioner.

She then submits that by publishing the impugned news, someone is beneficiary and takes revenge for not getting undue advantage from the Bank officials and hence this Court may discharge the Rule for securing sustainable justice.

She lastly submits that the writ petition contains the disputed question of facts, not matter of violation of any law, Rule, regulation and as such, the writ petition is not maintainable and the disputed facts may be proved by conclusive evidence and records, not by the writ petition and as such, the impugned news has not got legal effect in maintaining the writ petition, hence this Court may discharge the Rule for the ends of justice.

Mr. A. K. M. Fazlul Haque, the learned Advocate appearing for the Anti-Corruption Commission, submits that since allegation of corruption has been published in the newspaper against some of the respondents that is officers of the Janata Bank, this matter may be inquired by the Anti-Corruption Commission for ends of justice.

Mr. Md. Saiefuddin Khaled, the learned Deputy-Attorney General for the respondents, submits that according to the allegation of corruption as published in the Daily Jugantor against some officers of Janata Bank, this matter may be looked into by the Anti-Corruption Commission in order to see whether the

allegations made against them are true or false and that there is no bar to holding inquiry into the allegation as surfaced in the newspaper.

We have gone through the writ petition filed by the petitioner under Article 102 of the Constitution of the People's Republic of Bangladesh. We have also perused and examined the materials annexed with the writ petition and the affidavit-in-opposition. We have also heard the learned Advocates for the respective parties at length and considered their submissions with the best of our wit and wisdom.

It appears from the record that on 22.11.12 a news item was published in the daily Jugantar relating to the corruption in Janata Bank under the heading that “দুর্নীতির আখরা জনতা ব্যাংক, ঘুষ ছাড়া লোন মেলা না, where it was reported that some of the respondents being Bank officers by using their position obtained millions worth property by corruption. Because of influence and connection with the top level, they have created a syndicate and doing their malpractices continuously with the shelter of high officials. It was also reported that without giving any bribe, no loan has been sanctioning. Even in some cases, loan is sanctioning to the fake persons and public money is being misused.

It is stated that despite the allegation of corruption in which some of the respondents are directly involved, the higher authority is not taking action against the corrupt officers. The concerned Ministry also shows their anxiety for irregular loan sanction to some persons but no appropriate legal actions are taking against them. In the report, it was also referred some cases of loan sanction in which loan was given to fake persons and in this way hundred thousands of taka was taken away. Under these circumstances, the officers who are responsible for corruption as reported in the newspaper they should be restrained from any participation in the processes of loan sanction.

It is also stated that the fundamental rights of the citizens declared in the part III of the Constitution is to be enforced and protected by the judiciary. If the officials maintain their corrupt practice in return of bribe then people will lose hope on administration and the society will be seriously affected.

It is pertinent to note that the legal and constitutional duty and responsibility vested upon the respondents is to serve the people and initiate lawful steps and the respondents are also duty bound to obey the provisions of law but the respondents have failed to perform the duties and responsibilities as vested upon them and also failed to take steps against the corruption.

It is a well settled principle of law that the fundamental rights of the citizens declared in the part III of the Constitution are

to be enforced and protected by the judiciary. If the officials maintain their corrupt practice in return of bribe then people will lose hope on administration and the society will be seriously affected.

It is noteworthy to mention that under Article 21 of the Constitution, the respondents and the concerned officials are duty bound at all time to serve the people and to perform the public duties. Nevertheless, they have failed to do their duty because they have failed to take steps against the corruption as reported in the newspaper.

From the record it is found that the Respondent Nos. 6 and 7 as Manager and General Manager have been entrusted by the public fund but in order to gain personal benefits, they are engaged themselves in corruption and in sanctioning loan to the fake persons, which appears to be illegal.

Having considered all the facts and circumstances of the case and the submissions advanced by the learned Advocates for the respective parties, our considered view is that since an allegation of corruption in the Janata Bank has been published in the newspaper against some of the respondents that is some of the officers of the Janata Bank, the Anti-Corruption Commission may hold an inquiry into the allegation of corruption and there is no bar to hold inquiry into the allegation of corruption following the provisions of the Anti-Corruption Commission Act, 2004 and the Anti-Corruption Commission Rules, 2007.

Resultantly, the Rule is made absolute.

In consequent thereof, the failure/inaction of the respondents to stop corruption and illegal loan sanction by the Janata Bank, is declared illegal and without lawful authority and is of no legal effect.

The Anti-Corruption Commission is directed to take appropriate legal steps to hold inquiry into the allegation of corruption against the officers of the Janata Bank who are engaged in corruption and have caused misuses of public money as reported in the Daily Jugantar dated 22.11.2012, within 6 (six) months from the date of receipt of this Judgment ad order.

The Anti-Corruption Commission is further directed to take appropriate legal steps against those officers of Janata Bank if prima-facie case of corruption is found against them.

Let a copy of this judgment and order be communicated to the concerned respondents, at once.
