

In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)

Writ Petition No. 5398 of 2011

In the matter of

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh;

In the matter of

Mr. Manzill Murshid

..... Petitioner

-Versus-

Bangladesh represented by the Secretary,
Ministry of Foreign Affairs, Foreign Affairs
Bhaban, Segunbagicha, P.S: Shahbag,
District; Dhaka and others

..... Respondents

Mr. Manzill Murshid, Advocate.

.....for the Petitioner

Mr. A. B. M. Altaf Hossain, D.A.G with
Ms. Yehida Zaman, A.A.G

.....for the Respondents

Judgment dated 16.01.2012

Present:

**Mr. Justice A.H. M. Shamsuddin
Choudhury**

And

Mr. Justice Jahangir Hossain

A.H. M. Shamsuddin Choudhury, J:

The Rule under consideration was issued in following terms;

“Let a Rule Nisi be issued, calling upon the respondents to show cause as to why a direction should not be given upon the respondents to include the title “Chief Justice” before the name of The Hon’ble Chief Justice and title Justice” before the names of the Hon’ble Judges of the Supreme Court of Bangladesh, in their Passports and National ID cards and/or why such other or further order or orders, as this court may deem fit and proper, should not be passed”

Mr. Manzil Murshid an advocate of Bangladesh Supreme Court, who is also the chair of a non-governmental organization named Human Rights and Peace for Bangladesh, a conscious and conscientious

citizen, particularly committed to ensure the uninterrupted inviolability of the Majesty and Grandeur of the Supreme Court of Bangladesh, which, as one of the three organs of the state, bears the constitutional sermon to ensure the unhindered flow of the rule of law and to act as the Guardian of the Constitution, filed the instant writ petition being in a state of dismay observing that the word “Justice” does not stand figured as the prefix before the names of the Justices of either Divisions of the Supreme Court, in their passports, the voters’ identity cards and in the voters lists.

It has been averred in the petition that judges of the Supreme Court, who are important constitutional functionaries of the state, upon whom the protection and application of constitutionalism depends, are required to be addressed with due reverence home and abroad. It is averred that if the prefix “justice” is not inscribed in their passports and national identity cards, they would not be treated with the respect and decorum they are entitled to, while abroad, and inscription of the prefix “Justice” is, hence, indispensable.

The petition asserts that the prefix “Justice” appears before the names of the High Court and the Supreme Court judges in India Pakistan and Srilanka in their passports. The petition further avers that if this prefix does not appear in their passports, the Supreme Court Judges will be required to prove their position and status in order to avail VIP facilities, with serious embarrassment and predicament, while their passports will prove their status and position if the said prefix remain figured.

None of the respondents filed any affidavit to rebut the petitioner’s assertion, claim or contention.

As the Rule ripened to hearing, Mr. Manzil Murshid himself appeared to carry us through his averments.

He lacked no force whatsoever in submitting that the prefix “Justice” forms part of the name of a Supreme Court Judge in the same way the word “Dr” is part of the name of physician or one who holds a doctoral degree and hence presence of this prefix in their passports and ID cards are not mere pieces of decoration but are warrants of necessity.

Mr. Murshid went on to proffer that this is an universal practice and deviation from this practice amounts to breach of law because by deleting this prefix their names are not being fully reflected.

He concluded his submission with the contention that as a confirmed Judge remains entitled to be addressed Justice all his life and this prefix remains part of his nomenclature till he breaths his last, the authorities should be directed to record this prefix not only before the names of sitting Justices, but also before the names of those who have retired and they should also be accorded with VIP facilities all along.

None appeared to lay any countervailing contention on behalf of any of the respondents.

Mr. A B M Altaf Hussain, the learned Deputy Attorney General, present in the Court though, was unable to assist as he was without instruction.

The questions we are to address are (1) whether the respondents are obliged to figure the prefix “Justice” before the names of the sitting Justice of both the Divisions of the Supreme Court in their passports, (2) whether this prefix must also be figured in their voter identity cards and voters’ list, (3) whether the respondents shall trail the same norm in respect to all to retired justices of the Appellate Division of the Supreme Court and those retired Justice of the High Court Division who were appointed under Article 95 of the Constitution (4) whether the respondents shall accord the same VIP facilities to the retired Justices as they accord to the sitting Justices.

As Mr. Manzil Murshid argued, the prefix Justice is just not the title or a piece of decoration, it becomes part of the name of a Justice in the same way the prefix “Dr” becomes part of the name of a physician or a person who holds a doctoral degree or as the prefix “Right Honourable”, “Arch-Bishop” or “Bishop” becomes part of the postulants’ name. This is a norm that is practiced word wide: certainly within the commonwealth. In the UK such Judges, who are also members of the Privy Council, (All the judges of the UK Supreme Court and many judges of the Court of Appeal are admitted into the Privy Council) are as per the Common Law provisions addressed as “Right Honourable” which become. part of their names and remains so for life even after they cease to hold the office which earned them P.C. Membership.

(Once a person is admitted as a Privy Councilor, he can not be stripped of this membership even if he himself wishes to, unless he takes up an employment under the Crown: that is the reason John Stonehouse, who as a Cabinet Minister, was admitted to the Privy Council, had eventually to take the notional job of the Stewart of Chiltern Hundred under the Crown to qualify for removal from PC Membership, which became desirable after he was convicted of serious fraud related offences.)

The same rule applies to officers of the armed forces. These pre-fixes are not mere designations, they are parts of their names.

When the President issues notices for publication in the official gazettes naming such people who are appointed as Judges of the High Court and the Appellate Divisions under power conferred by Articles 95, 96 of the Constitution, the President name them in these notices with the pre-fix “Justice”. Such notices have the force of law as contemplated by Articles 152 of the Constitution. When the President appoints the Chief

Justice of Bangladesh pursuant to Article 95 of the Constitution, he names the incumbent with the same pre-fix.

This practice, which has been prevalent and has pervaded through the sub-continent ever since the establishment of the Charter High Court in the Fort Williams, has, as, a custom and usage of long standing, assumed the status of law by virtue of Article 152 of the Constitution.

It is, therefore, axiomatic that the respondents' actions in not using the prefix "Justice" before the names of the sitting Judges of both the Divisions of the Supreme Court of Bangladesh in their passport, voters' identity cards and voter's lists are clearly violative of law and is therefore bereft of lawful authority. It is also in sharp deviation from the universal practice.

The petitioner's assertion that the respondents act in foundrance of law by failing to print the prefix "Justice" before the names of the sitting Judges of both the Divisions of the Supreme Court in their passports, are thus, impregnated with wholesome substance.

The same rule applies so far as the voters' identity cards and lists of the sitting Judges of the Supreme Court (both the Divisions) are concerned. The next question is whether the same rule applies in respect to the retired Judges of the High Court and the Appellate Divisions.

Again, like a Privy Councilor, a confirmed Judge of the High Court Division appointed under Article 95 of the Constitution and a Judge of the Appellate Division can never be stripped of the said pre-fix from their names, as, by long prevailing custom and usages, such a Judge holds on to this prefix even after he retires.

A fortiori, retired Appellate Division Judges and retired High Court Division Judges who were appointed under Article 95 cannot be stripped of the said pre-fix, nor can they themselves renounce their position even if they so desire, after they proceed to retirement.

We do, hence, find force in the petitioner's contention that the respondents need to be directed to use the pre-fix "Justice" before the names of all retired Appellate Division Judges and such retired High Court Division Judges who were appointed under Article 95 of the Constitution.

On the third question, the Judges of both the Divisions of the Supreme Court hold office under the Constitution and their offices carry a coveted degree of dignity which is inseparable from the dignity of the Supreme Court itself, wherefore they enjoy VIP status during their tenure.

It follows that they should not be deprived of such degree of dignity even after retirement as that will undermine the dignity of the Apex Court.

Those retired Justice must, therefore, be allowed to continue with VIP status, where applicable, such as, in the airports and other public places. As all the issues noted above have been resolved in the affirmative, the Rule deserves to draw an absolute order, wherefor the same is made absolute.

Resultantly, all the respondents are directed as follows: -

- (1) The pre-fix: “Justice” must be printed in the passports, the voters’ identity cards and the voters’ lists before the name of the Chief Justice of Bangladesh and before the names of all the sitting Judges of the Appellate Division and the High Court Division.
- (2) The pre-fix “Justice” must be printed in the passports, the voters identity cards and the voters’ lists of all the retired Chief Justices, all the retired Appellate Division Justice and all such retired High Court Division) Judges who were appointed under Article 95 of the Constitution.
- (3) VIP status has to be accorded at the airports and other Government controlled places/venues to all the retired Chief Justices, all the retired Judges of the Appellate Division and all such retired judges of the High Court Division who were appointed under Article 95 of the Constitution.

Although the petitioner prays that the prefix “Justice” should be figured before the names of the Chief Justice of Bangladesh, all the sitting Judges of both the Divisions of the Supreme Court, all the retired Appellate Division Judges and before such retired Judges of the High Court Division as have been narrated above, in their voters’ identity cards and voters’ list, and we are swayed to the conclusion that this pre-fix must also be scripted before their names in their voter’s identity cards and voters’ lists, unfortunately the petitioner did not implead the Election Commission, which body print the voters’ identity cards and voters’ lists. As such, we cannot direct the Election Commission. Surely the petitioner will look into the matter if the Election Commission do not change their stance in the light of this Judgment and Order.

There is no order on cost.
