

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 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 Asaduzzaman Siddique, 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 Sarwar Ahad Chowdhury,
Supreme Curt of Bangladesh, Hall No. 2,
Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.
4. Advocate Mahabubul Islam, Supreme
Curt of Bangladesh, Hall No. 2, Supreme
Court Bar Association Bhaban, Dhaka,
Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the
Secretary, Ministry of Health and Family
welfare, Bangladesh Secretariat, P.S.
Shahbag, Dhaka, Bangladesh.

2. The Chairman, the National Drug Advisory Council, Ministry of Health and Family welfare, Bangladesh Secretariat, Dhaka, Bangladesh.

3. The Director General (DG), Health Directorate, Mohakhali, Dhaka, Bangladesh.

4. The Director General, the Directorate of National Consumer-Rights Protection, 1 Kawranbazar, TCB Bhaban (8th Floor), Dhaka, Bangladesh.

5. The Director, Directorate of Drug Administration, Motijheel C/A, Dhaka-1000, Bangladesh.

6. The President, Bangladesh Aushad Shilpa Samity/Bangladesh Association of Pharmaceutical Industries (BAPI), House # 41 (1st floor), Road # 4, Block-F, Banani, Dhaka-1213.

7. The Secretary General, Bangladesh Aushad Shilpa Samity/Bangladesh Association of Pharmaceutical Industries (BAPI), House # 41 (1st floor), Road # 4, Block-F, Banani, Dhaka-1213.

.....Respondents.

AND

IN THE MATTER OF:

Inaction and failure of the respondents to control the price of life saving medicine and failure to take steps to control the sale of drugs and medicine at a higher price, which are affecting the right to life of the citizen Bangladesh.

AND

IN THE MATTER OF:

Violation of the provisions of law under section 11, 19 of the Drugs (Control) Ordinance, 1982 and section 6 of the Essential Commodities Act, 1957 and

section 21, 40 of the Consumer-Rights Protection Act. 2009.

GROUND:

I. For that the duty and responsibility vested upon the Drug Administration to control the price of essential drugs has not been complied with in accordance with law. It is the duty of an officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as vested upon them. Hence respondents may be directed to take necessary steps to take immediate steps to control the price of essential drugs and sale of them at fair piece publish in the official gazette approved by the government.

II. For that the life saving drugs and medicines are selling at higher price in violation of section 11 of the Drugs (Control) Ordinance 1982 and hence a direction may be given upon the respondents to take appropriate steps for controlling the price of essential drugs/medicine and not raising the price arbitrarily.

III. For that as per section 3 of the Essential Commodities Act, 1957 the respondents are obliged to control the prices at which any essential commodity including medicine and drugs may be bought or sold in any area and hence a direction may be given upon the respondents to take appropriate steps for controlling the price of essential drugs for the protection of fundamental rights of the citizen of Bangladesh.

IV. For that the sale of essential drugs at higher rate is contrary to law and rules as framed in section 40 of the Consumer-Rights Protection Act 2009 and hence a direction may be given upon the respondents to take appropriate steps for controlling the price of essential drugs and for not raising the price arbitrarily.

V. For 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. Under the present situation the provision of Article 21 of the Constitution of Bangladesh has been violated.

VI. For that disregard to laws and legal provisions and failure to ensure proper steps the respondents have caused enough threat to the life of the citizen and adversely affecting the right to life as ensured by the Constitution of Bangladesh. Under these circumstances the respondents are legally bound to take all necessary steps to stop sale of drugs at higher rate and to control price of drugs and medicines at a rate prescribed by the government in the official Gazette. Hence a

direction may be given upon the Respondents to control price of essential drugs and medicines at a rate prescribed by the government.

VII. For that without any precautions to save the health of the citizen, the respondents have sent the life of the people in a dangerous situation, which is violation Article 18(1) of the Constitution of Bangladesh. Moreover the right to life is a fundamental right guaranteed under Article 32 of the Constitution of Bangladesh but it is violating by way of non-access to drugs and medicines by the lower and middle class people.

Wherefore, it is most humbly prayed that Your Lordships would graciously be pleased to;-

(A) Direct the office to register this application as a writ petition.

(B) Issue a Rule Nisi calling upon the Respondents to show cause as to why the inaction and failure of the respondents to control the price of life saving drugs and medicines and failure to take steps to control the sale of drugs and medicines at a higher rate which are punishable under section 19 of the Drugs (Control) Ordinance, 1982 and under section 6 of the Essential Commodities Act, 1957 and section 40 of the Consumer-Rights Protection Act 2009, should not be declared illegal and without lawful authority.

(C) Direct the respondent no. 1 to submit the full particulars of the Drug Control Committee formed under section 4 of Drug Control Ordinance 1982 and National Drug Advisory Council formed under section 24 of Drug Control Ordinance 1982, within 7 (seven) days.

(D) Pending hearing of the rule direct the respondents to take immediate steps within 48 hours to stop further sale under latest increase price of drug/medicine and continue the sale of drug/medicine at the previous price and file a compliance report within two weeks before this Hon'ble Court

through Registrar of the Supreme Court of Bangladesh about the steps taken by them.

(E) Direct the respondents no 3 and 4 to submit a report within two weeks before this Hon'ble Court through Registrar of the Supreme Court of Bangladesh stating the steps taken by them to control the price hike of the drug/medicine.

(F) Direct the office to serve notice upon the respondents at the cost of office.

(G) Upon hearing the cause if any shown makes the rule absolute.

(H) Pass such other or future order or orders as your Lordships may deem fit and proper.

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.