

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

Present:

Mr. Justice M. Enayetur Rahim

And

Mr. Justice Md. Mostafizur Rahman

WRIT PETITION NO.11794 OF 2019

IN THE MATTER OF:

Md. Waliullah Apu

----- Petitioner

-VERSUS-

Government of the People's Republic of Bangladesh and
others.

----- Respondents

Mr. Tapan Kumar Das, Advocate

-----For the petitioner

Mr. Tushar Kanti Roy, DAG with

Ms. Urbashi Barua Simi, AAG and

Mr. Md. Samiul Alam Sarkar, AAG

.....For the Respondent Govt.

The 29th October, 2019.

By filing an application under Article 102 of the Constitution of the People's Republic of Bangladesh the petitioner has challenged the order of conviction and sentence dated 18.09.2019 passed by Respondent No.4, Executive Magistrate, RAB Head Quarter, Dhaka in Mobile Court Case No.517 of 2019 convicting the petitioner and sentencing him to suffer an imprisonment for a period of 06(six) months.

Heard the learned Advocate for the petitioner, perused the application and annexures thereto.

We have also heard the learned Deputy Attorney General.

It is the main contention of the petitioner that the Respondent No.4 the Executive Magistrate conducting Mobile Court convicted and

sentenced him on 18.09.2019 in Mobile Court Case No.517 of 2019 and sent him to jail. On behalf of the convict on 22.09.2019 an application was filed before the Respondent No.4 for supplying the necessary certified copies including the order of conviction and sentence but till date the certified copies were not supplied to the petitioner.

In the above premises, the petitioner having found no other alternative efficacious remedy filed this writ petition challenging the order of conviction and sentence.

In the Mobile Court Act, 2009 there is specific provision for appeal against the order of conviction and sentence. Thus, we have no hesitation to hold that the application under article 102 of the Constitution of Peoples Republic of Bangladesh is misconceived one and not maintainable.

However, it surprises us that the concerned Executive Magistrate, who conducted the Mobile Court failed to supply the certified copy of the order of conviction and sentence to the petitioner till date though application was filed on 19.09.2019 for the same. This inordinate delay in providing the certified copy of the relevant documents of Mobile Court Proceeding is very unfortunate and undesirable.

In view of the above, we are inclined to direct the Respondent No.4, the Executive Magistrate conducting Mobile Court to provide certified copies to the petitioner as prayed by him within a period of 05(five) days from date.

It is pertinent to mention here that in our today's list there are another 04(four) writ petitions in similar nature, wherein the convict's are not getting certified copies of the order of conviction and sentenced passed by the Executive Magistrate conducting Mobile Court and a good number of Writ Petitions on the same plea are also awaiting for hearing.

Taking notice of the above scenario, we are also constrained to direct the 1) Secretary, Cabinet Division, 2) the Secretary (সুরক্ষা ও সেবা), Ministry of Home Affairs and all the 3) District Magistrate to take necessary steps for providing the certified copies of the documents and order passed by the Executive Magistrate acted under Mobile Court Act,2009 to the concerned person/convict within a period of 05(five) days from the date of receiving the application for the same.

Let the order be Communicate to-

- 1) the Secretary, Cabinet Division,
- 2) the Secretary (সুরক্ষা ও সেবা), Ministry of Home Affairs and
- 3) the District Magistrates,
- 4) Director General, RAB,
- 5) Executive Magistrate, Mobile Court, RAB, Head Quarter, Dhaka.

With the above observations and directions this application is disposed of.

However, there is no order as to costs.