

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

Writ Petition No. 13558 of 2019.

In the matter of:

An application under Article 102(2)(a)(i) & (ii) of the Constitution of the People's Republic of Bangladesh.

In the matter of:

Md. Mehedi Hasan

..... Petitioner.

Vs.

The Government of Bangladesh, represented by its Secretary, Ministry of Home Affairs, Bangladesh Secretariat, Shahbag, Dhaka-1000 and others.

...Respondents.

Mr. Md. Faruk Hossein, Advocate

...For the petitioner.

Mr. Amit Talukder, D.A.G with Mr. MMG Sarwar (Payel), A.A.G with Mr. Md. Nasim Islam, A.A.G with Mr. Prince-Al-Masud, A.A.G with Mr. Md. Rayhan Kabir, A.A.G

.....For the Respondent No.1.

Mr. A.M. Masum, Advocate

..For the respondent No.02.

Present:

**Mr. Justice Sheikh Hassan Arif
And
Mr. Justice Md. Bazlur Rahman**

Heard and judgment on: 11.12.2023.

SHEIKH HASSAN ARIF, J

1. At the instance of the petitioner, Rule Nisi was issued calling upon the respondents to show cause as to why the inordinate delay in delivering the passport of the petitioner under Delivery Slip No. 880100000176710 dated 07.03.2019 (Annexure-A), should not be declared to be

without lawful authority and is of no legal effect and as to why the respondents should not be directed to deliver the said passport in favour of the petitioner.

2. Facts, relevant for the disposal of the Rule, in short, are that the petitioner, being a citizen of Bangladesh, applied for passport. Accordingly, a Delivery Slip, being No. 880100000176710 dated 07.03.2019 (Annexure-A), was issued in his favour mentioning the tentative collection date, being 28.04.2019, of the said passport. Thereupon, when the petitioner approached for taking such delivery, he was not given the passport. Accordingly, the petitioner made representation to the office concerned in Sirajgonj by representation dated 17.10.2019, but got no response. Thereafter, on a notice demanding justice by the petitioner being served on the respondents, he was informed by the Sirajgonj Passport Office, vide letter dated 03.11.2019, that some criminal cases were pending against him and that the police clearance in respect of the petitioner was not submitted in his favour. Under such circumstances, the petitioner approached this Court under writ jurisdiction and obtained the aforesaid Rule.

3. By filing supplementary-affidavit, petitioner now states that three criminal cases are pending against him and that there is no restraint order in the said criminal cases preventing him from travelling aboard or from obtaining passport for any such travel.
4. The Rule is opposed by the Director General, Directorate of Immigration and Passport, Agargaon, Sher-E-Bangla Nagar, Dhaka, 1207 (respondent No. 02) through learned advocate Mr. A. M. Masum. Learned advocate, appearing on behalf of respondent No. 2, submits that according to his instructions, three criminal cases are pending against the petitioner. However, he has failed to show this Court as to whether any restraint order has been passed by the Courts concerned wherein the said criminal cases are pending.
5. It is apparent from materials on record that there is no order of any competent Court restraining the petitioner from obtaining any passport or from travelling aboard. Therefore, it is patent illegal to restrict his movement as the same is an assault on his fundamental right guaranteed under Article 36 of the Constitution. This

position has been confirmed by this Court repeatedly in various judgments including in **Ruhul Kabir Rizvi Vs. Bangladesh, 69 DLR-335** and **Durnity Daman Commission Vs GB Hossain, 74 DLR (AD)-1**. This being the legal position, we find no option but to hold that refusal, or delay, in issuing passport in favour of the petitioner on the date mentioned in his Delivery Slip (Annexure-A) is nothing but an illegal exercise of power not permitted by law and the same is violative of petitioner's fundamental rights guaranteed under Article 36 of the Constitution as the same has indirectly imposed travel restrictions on him.

6. In view of above, we find merit in the Rule and as such the same should be made absolute.
7. In the result, the Rule is absolute. Thus, the Respondent-authorities, including the respondent No. 2 and its local office (respondent No. 3), are directed to issue passport in favour of the petitioner within 07 (seven) days from receipt

of the copy of this order as against his Delivery Slip No.
880100000176710 dated 07.03.2019.

Communicate this immediately.

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(Sheikh Hassan Arif, J)

I agree.

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(Md. Bazlur Rahman, J)