

Supreme Court of Bangladesh
High Court Division, Dhaka.

V.C. Civil Revision No. 4468 of 2014
Abdul Kader and others Vs. Government of Bangladesh and others

Present:

Mr. Justice Md. Mozibur Rahmah Miah

10.06.2020

Mr. M. Sayed Ahmed, Advocate with
Mr. Md. Mizanur Rahman Monir, Advocate

...For the added opposite-party no. 47-applicant

Mr. Md. Jahangir Alam, DAG

...For the Government

This is an application for stay of the operation of the Tender Notice bearing Memo No. 05.20.1918.003.00.008.20-218 dated 19.05.2020 as annexed as Annexure-‘X-5’ to the application which was published on 20.05.2020 to lease out “Nimshar Dainik Haat-Bazar” for 1427 B.S.

Mr. M. Sayed Ahmed, learned counsel appearing for the added opposite-party no. 47-applicant, submits that though by earlier order dated 19.02.2020 the parties were directed to maintain status quo in respect of leasing out the said Haat-Bazar for a period of 3(three) months on the heels of publishing tender notice dated 30.01.2020 but during the said period of 3(three) months, the applicant could not collect the toll due to the outbreak of COVID- 19 in this country. More so, by a letter dated 04.04.2020 the Upazilla Nirbahi Officer, Burichang, Cumilla recommended to waive toll for two months to all the 25 (twenty-five) Haats under it including the impugned Haat i.e. “Nimshar Dainik Haat-Bazar” and in exchange for that the lessees was offered to waive lease money proportionately but it was not materialized (Annexure-‘X-2’ to the application).

The learned counsel further submits that describing all those aspect this applicant made representations to the Upazilla Nirbahi Officer, Burichang, Cumilla dated 08.04.2020 and 28.05.2020 asking it to give compensation or to extend the lease period but the authority did not pay heed to the said genuine grievance. The learned counsel wrapped up his submission contending that, since this applicant could not realize the toll for the last 3(three) months due to ongoing pandemic and lockdown throughout the country so the proceedings of the impugned tender notice be stayed.

On the contrary, Mr. Md. Jahangir Alam, the learned Deputy Attorney-General appearing for the Government, opposes the contention of the learned counsel for the applicant contending that the applicant has no *locus standi* to challenge the impugned tender notice beyond his lease period which expired on 30th Chaitra, 1426 B.S as the impugned tender notice was published for the year 1427 B.S, so the applicant cannot halt the proceeding of the tender notice.

The learned Deputy Attorney-General lastly contends that, if the applicant has any grievance for not collecting toll for any unavoidable circumstances, he can file proper allegation to the respective authority, but under no circumstances can he challenge the impugned tender notice dated 19.05.2020 and thus prays for rejecting the application for stay.

I have considered the submissions so placed by the learned counsel for the applicant and that of the learned Deputy Attorney-General for the Government.

There has been no gainsaying of facts that, the lease period of this applicant expired on 30th Chaitra, 1426 B.S. But beforehand this applicant filed application for stay of the

tender notice earlier published on 30.01.2020 slated for leasing out the disputed Haat for facing some untoward incidents and this court by order dated 19.02.2020 directed the parties to maintain status quo over leasing out the said Haat for a period of 3(three) months. But within that very period of 3(three) months, since by a letter dated 04.04.2020, the Upazilla Nirbahi Officer, Burichang, Cumilla suspended to collect the toll for as many as 25 (twenty-five) Haats so invariably this applicant has also deprived of collecting toll from “Nimshar Dainik Bazar”. Further, stating all the inconvenience the applicant faced owing to outbreak of pandemic of Covid-19 and country wide shut down the applicant filed representations to the Upazilla Nirbahi Officer, Burichang, Cumilla dated 08.04.2020 and lastly on 28.05.2020 but the authority is yet to dispose of the said grievance so this applicant is entitled to have the benefit of at least 2(two) months for collecting toll which period he was asked not to realize any toll.

Given the above circumstances since admittedly the applicant could not realize any toll in his lease hold Haat for 2(two) months, so I am of the considered view that, the further proceeding of the Tender Notice bearing Memo No. 05.20.1918.003.00.008.20-218 dated 19.05.2020 published on 20.05.2020 (Annexure-‘X-5’ to the application) should be stayed for at least two months.

Hence, the very tender notice is stayed for a period of 2(two) months from date.

Accordingly, this application for stay is allowed.

The opposite-parties are hereby directed not to take any steps to lease out “Nimshar Dainik Haat-Bazar” vide impugned tender notice for next 2(two) months.

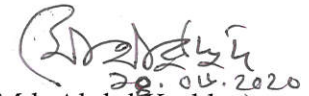
Sd/-

Md. Mozibur Rahmah Miah

Copy for kind information & necessary action to:

01. Mr. M. Sayed Ahmed, Advocate with
Mr. Md. Mizanur Rahman Monir, Advocate...For the added opposite-party no. 47-
applicant
02. Mr. Md. Jahangir Alam, DAG...For the Government.

By order of the Court

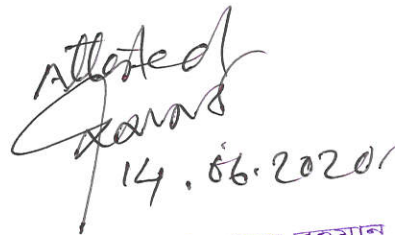

20.05.2020

(Md. Abdul Kuddus)

Bench Officer

courtannex35@gmail.com

শাঃ আবদুল কুদ্দুছ
বেঞ্চ অফিসার
বাংলাদেশ সুপ্রীম কোর্ট
হাইকোর্ট বিভাগ, ঢাকা।


14.06.2020

মোঃ মিজানুর রহমান
সহকারী রেজিস্ট্রার
(মুগা জেলা ও দায়রা জজ)
বাংলাদেশ সুপ্রীম কোর্ট
হাইকোর্ট বিভাগ, ঢাকা।