

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice Obaidul Hassan, Chief Justice
Mr. Justice M. Enayetur Rahim
Mr. Justice Md. Ashfaqu Islam
Mr. Justice Jahangir Hossain

CONTEMPT PETITION NOS. 29-33 OF 2022

(From the Judgment and order dated 07.04.2022 passed
by this Division in Civil Review Petition Nos. 282, 281,
278, 277 and 280 of 2019 respectively)

Md. Nurunnabi BhuiyanContempt-petitioner (In Cont. P. No. 29 of 2022)
Md. Bazlur Rashid AkhondaContempt-petitioner (In Cont. P. No. 30 of 2022)
Iqbal Kabir ChowdhuryContempt-petitioner (In Cont. P. No. 31 of 2022)
Md. GiasuddinContempt-petitioner (In Cont. P. No. 32 of 2022)
Monir AhmedContempt-petitioner (In Cont. P. No. 33 of 2022)

-Versus-

Md. Abdullah Al Masud Chowdhury, Secretary, Security Services Division, Ministry of Home Affairs, Bangladesh Secretariat, Ramna, Dhaka and anotherContemnor-Respondents (In all the cases)
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<u>For the Petitioners</u> (in all the cases)	: Mr. Mohammad Ibrahim Khalil, Advocate instructed by Mr. Md. Zahirul Islam, Advocate-on-record
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<u>For Respondents</u> (in all the cases)	: Mr. Md. Shafiqul Islam, Advocate instructed by Mr. Md. Abdul Hye Bhuiyan, Advocate-on-record
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<u>Date of Judgment</u>	: <u>04.02.2024</u>
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J U D G M E N T

Md. Ashfaqu Islam, J: All these applications are directed for drawing up proceeding for contempt of Court against the Contemnor-respondents for deliberate violation of, and disregard to, the

Judgment and order dated 07.04.2022 passed by this Division in Civil Review Petition Nos. 277-278 and 280-282 of 2019.

Upon hearing, this Division directed the contemnor-respondent Nos. 1 and 2, Md. Abdullah Al Masud Chowdhury, Secretary, Security Services Division, Ministry of Home Affairs and Brigadier General ASM Anisul Hauge, Inspector General of Prison, Directorate of Prison to appear in person before this Division on 20.11.2023 to explain their conducts on the issue.

Pursuant to that order the contemnor-respondents appeared before this Division by filing affidavit-in-compliance but it appeared from that the order of this court has been implemented partly. Accordingly, we directed the contemnor-respondents to implement that order completely.

By submitting another affidavit-in-compliance today it is contended that as per judgment and order dated 07.04.2022 passed by this Division in Civil Review Petition No. 282 of 2019 and subsequent order

of ours, they have implemented the same in its entirety. Delay occurred in respect of compliance of the judgment and order is bonafide and unintentional for which they beg unconditional apology and praying exoneration from the charge of the contempt of court leveled against them.

Let us first digress how the law of land empowers the Supreme Court to punish somebody on the charge of contempt of court.

In aid of all its powers given under the Constitution, in order to ensure the authoritative status of the Supreme Court, the Constitution provides in article 112 that all authorities, executive and judicial, in the Republic shall act in aid of the Supreme Court.

It is generally accepted that for the sake of maintaining proper order and to ensure compliance of the directions given in judgments, the courts have an inherent power to punish any person or authority for contempt.

The power of contempt of Court is coextensive between the two Divisions of the Supreme Court which can be exercised equally under Article 108 of the Constitution. Article 108 clearly clarifies the above constitutional mandate.

Notably, Appellate Division has also power under Article 103(2)(C) of the Constitution to impose punishment on a person for contempt of that division. Therefore, general power for both the Divisions has been engrained in Article 108 of the Constitution. There is no ambiguity or lack of clarity on that score.

In the case of Bangladesh Environmental Lawyers Association (BELA) Vs. Bangladesh, 2002 22 BLD 534, A.B.M. Khairul Haque, J., as his Lordship was then, observed as follows:

"The oath of office of the Judges of the Supreme Court requires that they will preserve, protect and defend the Constitution and the laws of Bangladesh. These are not mere ornamental empty words. These glorifying words of oath eulogizes the supremacy of

judiciary. It is by now well settled that if the Government or its functionaries fails to act and perform its duties cast upon them by the laws of this Republic, the High Court Division of the Supreme Court, shall not remain a silent spectator to the inertness on the part of the Government or its officials, rather, in order to vindicate its oath of office can issue, in its discretion, necessary orders and directions, under Article 102 of the Constitution to carry out the intents and purposes of any law to its letter, in the interest of the people of Bangladesh because all powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of the Constitution."

In a recently passed decision in the case of Mohammad Harun-Or-Rashid vs. Syed Jahangir Alam LEX/BDAD/0094/2023 while convicting and punishing the current Mayor of Dinajpur Pourashava this Division came down heavily on the issue holding that the trivia and tradition of this Court are well

identified and preserved. One should not forget that the hands of the Courts are long enough to catch hold of wrong doers wherever they hide. This is an unfettered and inbuilt right attached to this Court.

The Supreme Court is one of the pillars of the State machinery and afforded the dignity and respect by everyone, even the high and mighty: and rightly so. Daily thousands of litigants throng before the Courts in search of justice. They believe in and respect the justice delivery system. Without such reverence the judgments delivered would be ineffective and the rule of law would be rendered nugatory. Citizens of the country look to the judiciary for adjudication of their legal disputes with their neighbours as well as for enforcement of their rights enshrined in the Constitution and other laws of the land. However, if the judiciary is to perform its duties and functions effectively, to live up to the expectations of the citizens of the country and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the

Courts have to be respected and protected by all and at all costs.

The contempt with which we are concerned in the instant case relates to violation and disobedience of the Court's order, which in essence means lowering the dignity of the Court or making comments calculated to undermine public confidence in the judges and the justice delivery system.

It indeed baffles us when we see that the contemnor-respondents after receiving the decision of the highest judiciary of the country slept over the matter without implementing the same. They showed very much reluctance to comply with the order of this Court until initiating contempt proceeding against them. This trend can never be accepted. However, they finally implemented the decision of this Division belatedly and beg unconditional apology and praying exoneration from the charge of the contempt of court.

In the light of the above observations, all these petitions are disposed of. The contemnors-respondents are hereby exonerated from the charge of contempt of

court. However, we strongly caution that in future not only the present contemnor-respondents but also all the authorities, executive and judicial, in the Republic shall be careful to ensure the compliance of the judgment and order of both the Divisions of the Supreme Court in totally.

CJ.

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