

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

Writ Petition No. 9631 of 2022.

In the matter of:

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

In the matter of:

Chowdhury Anowar Reza @
Washington

..... Petitioner.

Vs.

Government of Bangladesh and
others.

...Respondents.

Mr. S.M. Shahed Chowhdury,
Advocate

...For the petitioner.

Mr. Md. Fahad Bin Hossain with
Mr. Sayed Mahsib Hossain, Adv.

..For the respondent No.03.

Heard on 14.11.2023 and
03.12.2023

Judgment on: 05.12.2023.

Present:

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

SHEIKH HASSAN ARIF, J

1. At the instance of the petitioner, Rule Nisi was issued calling upon the respondents, including the Director General, Immigration and Passport Division, Government of Bangladesh (respondent No. 3), to show cause as to why blocking of petitioner's passport, being No. BY0682041, by respondent No. 3, should not be declared to be without lawful authority and is of no legal effect.

2. Facts, relevant for the disposal of the Rule, in short, are that the petitioner, being a citizen of this country, is engaged with business and he travels abroad for his business purposes. That some criminal cases have been filed against him in Jashore and the said cases are still pending. However, the petitioner has been granted bail in those cases and he has been appearing in those cases on dates fixed by the courts concerned. That at the time of his arrest, his said passport was seized by one Sub-Inspector of the District Detective Branch, Jashore and was blocked. The petitioner then filed application before the Special Tribunal No.8, Jashore, wherein one of his cases was pending, for release of his passport. But the Tribunal held that blocking or seizure of passport was not within the purview of that Court's jurisdiction. That, subsequently, police returned his passport to his wife after four days of his arrest. That after obtaining bail, the petitioner wanted to travel India for his treatment and, accordingly, obtained Indian Medical Visa, being MED-1 Visa No. VL-5763379, for a period from 27.01.2021 to 26.04.2021. The petitioner then approached the Benapole Land Border on 17.03.2021 for his such travel and, accordingly, paid port tax etc. upon filling up the departure

card. However, when he approached the immigration officials after such formalities, the officials concerned informed him that his passport was blocked and, accordingly, he would not be able to leave Bangladesh. Subsequently, the petitioner, on 13.03.2022, made representation to the Home Ministry for withdrawal of such embargo on his passport, but got no response. The petitioner also requested the respondent No.3 on several occasions to withdraw such embargo, but got no result. Under such circumstances, the petitioner moved this Court under writ jurisdiction and obtained the aforesaid Rule.

3. The Rule is contested by respondent No.3 by filing affidavit-in-opposition and reply to supplementary-affidavit filed by the petitioner mainly contending that petitioner made out a false case of embargo against him and that the immigration authority did not have anything to do with such alleged embargo and that immigration authority did not stop the petitioner from traveling abroad.
4. It may be noted that apart from respondent No. 3, no other respondents have entered appearance or opposed the Rule. Therefore, we may presume that in fact the

respondents have no order in their possession issued by any competent authority or Court in accordance with law putting embargo on the foreign travel of the petitioner, in particular when respondent No. 3 has denied its involvement in stopping the petitioner at the Benapole Border as against the allegation of the petitioner that he was so stopped. We are not in a position to blame any authority in the absence of specific evidence except a receipt dated 17.03.2021(Annexure-G1 to supplementary affidavit of the petitioner) issued by Bangladesh Land Port Authority showing that the petitioner paid **Tk. 47.13** as terminal charge on that date. This receipt, annexed by the petitioner, has not been denied by respondent No.3 or the authentication of the same has not been questioned by it. This being so, we are of the view that somehow, or in some way, some sort of restriction was imposed on the petitioner on 17.03.2021 for which he could not cross Bangladesh Border in order to go to India for his treatment.

5. Whichever authority/official has done it, it has violated the petitioner's fundamental rights guaranteed under Article 36 of the Constitution. It is expected that the authorities

concerned will make proper inquiry into such allegation. Since none of the respondents has given any information before this Court at the time of hearing as regards any lawful embargo on the petitioner's movement, we are of the view that he cannot be stopped by any authority from travelling abroad, unless and until his such movement is restricted by any competent authority or Court in accordance with law, and, if it is found that any official is putting such restrictions without any such authority of law, the official concerned must be taken to task for their such illegal practice.

6. With the above observations, the Rule is disposed of.

Communicate this.

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(Sheikh Hassan Arif, J)

I agree.

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(Md. Bazlur Rahman, J)