

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

Suo Motu Rule No. 3 of 2024

AND

IN THE MATTER OF:

The State

....Contempt-Petitioner

Versus

Mr. Hasan Shahid Ferdous, Ex-District and
Sessions Judge, Rangpur, now at 290/2/1-A,
Khilgaon, Dhaka and others

....Contemnor-Respondents

Ms. Nasima K. Hakim, DAG with

Mr. Md. Hafizur Rahman, AAG,

Mr. Md. Ali Akbor Khan, AAG,

Mr. Elin Imon Saha, AAG and

Mr. Ziaul Hakim, AAG

....For the State

Mr. Abul Quasem Md. Mostafa, Advocate

....For the Contemnor-respondent Nos. 1
and 4

Mr. Md. Oziullah, Advocate with

Mr. Azimuddin Patwary, Advocate

....For the Contemnor-respondent No. 7

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice Md. Akhtaruzzaman

Judgment on 30.07. 2024.

Md. Iqbal Kabir, J:

By an office note of the Hon'ble Chief Justice of Bangladesh this matter has been placed before this Bench. On perusal, it appears that one Mr. Md. Moynul Haque, Additional District and Sessions Judge, 1st Court, Rangpur during his service tenure therein from 04.09.2012 to 01.09.2014 delivered judgments of 259 cases/suits/appeals/revisions in open Court, but did not write up the judgments. Subsequently, on 01.09.2014, he was attached to the Law and Justice Division in the Ministry of Law, Justice and Parliamentary Affairs. Later on, he died but

till to date, those judgments are not written and no steps to that effect have been taken by the concerned District Judge(s).

During the tenure, Mr. Hasan Shahid Ferdous was the District and Sessions Judge of Rangpur. He acted in Rangpur judgeship from 25.09.2011 to 04.10.2014. Thereafter, Mr. Md. Manjurul Basit was the District and Sessions Judge from 20.01.2015 to 12.07.2016; Mr. Humayun Kabir was the District and Sessions Judge from 18.07.2016 to 25.02.2018; Mr. ABM Nizamul Haque was the District and Sessions Judge from 04.03.2018 to 30.01.2019; Ms. Rasheda Sultana was the District and Sessions Judge from 31.03.2019 to 06.02.2020; Mr. Md. Shahenoor was the District and Sessions Judge from 28.05.2020 to 17.02.2022 and Mr. Md. Shahidul Islam was the District and Sessions Judge from 24.04.2022 to 31.12.2023. But none of the aforesaid District and Sessions Judges took any steps to write up the judgments of those cases delivered by Mr. Md. Moynul Haque.

At this juncture, this Court issued the Suo Motu Rule thereby directing the above-named District and Sessions Judges to explain their position in not taking appropriate steps for writing up the judgments of the aforementioned cases left by Mr. Md. Moynul Haque, the then Additional District and Sessions Judge, Rangpur within a certain period to the Registrar General of this Court.

Notices have been served upon the respondents. Thereafter, Respondent Nos. 1, 4 and 7 entered their appearance through their engaged Counsels. The other respondents made their reply through the Registrar General.

From the reply, it appears that none of the aforesaid District and Sessions Judges took any steps to write up the judgments of those cases delivered by Mr. Md. Moynul Haque since it was not brought to their knowledge from any quarters. It is further mentioned that at the time of his

departure from Rangpur on 01.09.2014 Mr. Moynul Haque did not submit any statement as per 'Note' annexed to Rule 141 of Chapter 9 of Civil Rules and Orders Vol. 1, as such, respondents were not aware of the facts that the aforesaid Additional District and Sessions Judge had left the station without writing up those judgments.

Respondent No.1 claims that at the relevant time being the head of the judiciary in Rangpur district ought to have looked into the matter. Had the matter been brought to the notice of this respondent either by the Bar or any quarters or from the concerned Court, this respondent certainly would have taken appropriate legal steps for writing up those judgments. However, he begs unconditional apology for the acts that he did and was not able to take appropriate measures to address the issue promptly. He further states that if it was informed to him he would have taken every possible measures to ensure that all the judgments were written and documented. However, he expressed sincere remorse and apology for his failure to identify and rectify the issue during his tenure.

It is also noted that most of the respondent's regrettably admitted that neither the presiding Additional District and Sessions Judge of the said 1st Court, Rangpur nor any other associated personnel from the Court or the Bar Association, nor any litigants, brought this matter to their attention during their respective tenure. Therefore, as the head of the judiciary in Rangpur district, they failed to bring the issue before the appropriate authority or to solve the problem. For that reason, they have also acknowledged their oversight and admitted that it was not their intention to be negligent about the issue. It has been further stated that they have tried their best to uphold the principles of diligence and integrity in discharging their duties with utmost sincerity and dedication.

From the record, it appears that respondent No. 3, Mr. Humayun Kabir took charge as District and Sessions Judge, Rangpur on

18.07.2016 and was in function till 25.02.2018. During his tenure he came to know about the issue and thereby took initiatives. In his reply to the Rule Mr. Humayun Kabir stated:

“জনাব মোঃ মঈনুল হক কর্তৃক ২৫৯ টি মামলার রায় না লিখার বিষয়ে আমার সময়কালে কর্মরত অতিরিক্ত জেলা ও দায়রা জজ, ১ম আদালত, রংপুর জনাব সি এম এ আলিম আল রাজী হতে অবহিত হলে আমি তাঁকে উক্ত মামলা সমূহের তালিকা প্রস্তুত করে প্রয়োজনীয় ব্যবস্থা নিতে বললে তিনি উক্ত ২৫৯ টি মামলার শ্রেণী, ধারা, নিষ্পত্তির তারিখ ইত্যাদি তথ্যসহ ৩টি তালিকা প্রস্তুত করেন এবং তাঁর কোর্টের পরিদর্শন রিপোর্টে বিষয়টি উল্লেখপূর্বক উক্ত মামলাসমূহের তালিকা জেলা ও দায়রা জজ, রংপুর এর কার্যালয়ে প্রেরণ করেন। এ সময় উক্ত ২৫৯ টি মামলার রায় ঘোষণাকারী অতিরিক্ত জেলা ও দায়রা জজ জনাব মোঃ মঈনুল হক রংপুরে কর্মরত ছিলেন না। এ পরিস্থিতিতে বিষয়টি আমি যথাযথ কর্তৃপক্ষকে অবহিত করা প্রয়োজন মনে করি এবং সিভিল রুলস এন্ড অর্ডারস, পার্ট-১ এর রুল ৯২৮(২) এবং ক্রিমিনাল রুলস এন্ড অর্ডারস (ভলিউম-১) ৪৮০ এর বিধান মোতাবেক তৎসময়ে (১৯/১১/২০১৬ খ্রিঃ তারিখে) অনুষ্ঠিত জুডিসিয়াল কনফারেন্স, ২০১৬ এর প্রতিবেদনের ৬ ও ৭ নং পৃষ্ঠায় উল্লিখিত ফৌজদারী ও দেওয়ানী মামলার নিষ্পত্তিকৃত ও বিচারার্থীন মামলার তথ্যাদি অংশে উক্ত বিষয়টি উল্লেখপূর্বক ২৫৯ টি মামলার তালিকা সংযুক্ত করে উক্ত প্রতিবেদন বিগত ০১/১২/২০১৬ খ্রিঃ তারিখের স্মারক নংঃ জেঃজেঃরং-৫৬৭/২০১৬ তারিখ ০১/১২/২০১৬ খ্রিস্টাব্দ মূলে মাননীয় রেজিস্ট্রার জেনারেল, বাংলাদেশ সুপ্রীম কোর্ট, ঢাকা বরাবরে গ্যারান্টিযুক্ত দ্রুত ডাক সার্ভিস (জিইপি) যোগে প্রেরণ করি এবং ০১/১২/২০১৬ খ্রিঃ তারিখে জেঃজেঃরং-৫৬৭(১)/২০১৬ স্মারক মূলে উহার অনুলিপি সদয় অবগতি ও প্রয়োজনীয় ব্যবস্থা গ্রহণের নিমিত্ত মাননীয় সচিব, বিচার বিভাগ, আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয় বরাবরে জিইপি যোগে প্রেরণ করি।

মহোদয় সংশ্লিষ্ট ঘটনাটি আমার কর্মকালীন সময়ে (১৮/০৭/২০১৬ খ্রিঃ তারিখ হতে ২৫/২/২০১৮ খ্রিঃ তারিখ পর্যন্ত) ঘটে নাই। তা ছাড়া সংশ্লিষ্ট বিচারক জনাব মোঃ মঈনুল হক তৎসময়ে রংপুরে কর্মরত ছিলেন না। জনাব মোঃ মঈনুল হক, সাবেক অতিরিক্ত জেলা ও দায়রা জজ, রংপুর বিগত ০১/০৯/২০১৪ তারিখ হতে বিচার বিভাগ, আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়ে সংযুক্ত ছিলেন। তথাপিও আমি আমার দায়িত্ববোধ থেকে আন্তরিক মনোভাব নিয়ে উপরে উল্লিখিত মতে ২৫৯ টি মামলার শ্রেণী, ধারা, রায় নিষ্পত্তির তারিখ, ফলাফল ও সিআরপিসি এর ৩৪২ ধারা আছে কি না ইত্যাদি তথ্য উল্লেখকরতঃ মোট ০৩ টি তালিকাসহ প্রতিবেদনের ৬ ও ৭ পৃষ্ঠায় জনাব মোঃ মঈনুল হক কর্তৃক ২০১২ খ্রিঃ তারিখ হতে ২০১৪ খ্রিঃ তারিখ পর্যন্ত মোট ২৫৯ টি মামলার রায়ের ফলাফল ঘোষণা করলেও তিনি ঐ সকল মামলার রায় লিখে না যাওয়ার বিষয়টি উল্লেখপূর্বক কর্তৃপক্ষের সদয় নজরে এনেছি।”

From the above, it appears that the respondent No. 3 informed the matter to the Registrar General and the Secretary, Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs through office Memo being No. জেঃজেঃরং-৫৬৭/২০১৬ dated 01.12.2016 along with a list of the description of the cases.

However, after receiving the letter from the respondent No. 3, neither the then Registrar General of the Supreme Court of Bangladesh

nor some other Register Generals worked in Bangladesh Supreme Court, took any initiatives on the matter. Similarly, the then or the present Secretary, Law and Justice Division of the Ministry of Law, Justice and Parliamentary Affairs also did not pay any heed on the matter. Being high officials they have ignored the matter and was reluctant and busy with other issues though they under the law were duty bound to address the matter with almost sincerity. Their conduct appears to unacceptable.

It is noted that respondent No. 7, District and Sessions Judge Rangpur, came to know about the issue while someone applied for certified copy of one of the judgments. Thereafter, at the instance of respondent No. 7, the Additional District and Sessions Judge presently working in Rangpur judgeship submitted a report to him through a letter bearing Memo No. 451(ka)/2023 containing a detailed list of 259 cases stating that during his tenure in Rangpur Judgeship Mr. Moynul Haque though declared results in 259 cases but did not write up the judgments. Having received such report from the concerned court, Respondent No. 7 as District and Sessions Judge, Rangpur sent a letter vide Memo No. 350/2023 dated 30.11.2023 to the Registrar General of the Supreme Court of Bangladesh seeking proper directions.

From the above-noted fact, it appears that except respondent Nos. 3 and 7 most of the respondents as well as the Registrar General of the Supreme Court of Bangladesh and the Secretary, Law and Justice Division, Ministry of Law, Justice, and Parliamentary Affairs were not diligent as well as reluctant in performing their official duties on the above noted matter though they under the law were duty bound to act with utmost care, caution, and due diligence.

However, from the materials on record, it appears that most of the contemnor-respondents wanted to establish that they were not aware of the facts thereby did not take any initiatives to dispose of the matter but

being the head of the district judiciary those excuses cannot be accepted and be considered under the merciful consideration.

It is pertinent to note that Chapter 43 of the Civil Rules and Orders (Vol.I) and Chapter XXVIII of the Criminal Rules and Orders (Vol.1) deal with for inspection and monitoring the Courts and tribunals subordinate to the District and Sessions Judges for smooth functioning of the Courts as well as to find out the causalities happened therein. At this juncture, it is expected that the District and Sessions Judges should inspect every Courts and tribunals subordinate to him regularly following the existing rules and practices.

Chapter 9 of Civil Rules and Orders (Vol. 1) and Chapter X of Criminal Rules and Orders (Vol.1) provides that judgment should be pronounced in open Court with date and signature. Thus it is presumed that every judgment should properly be drawn up and kept in the record so that the litigant people can get copy of that judgment. Unfortunately, due to the negligence and unethical activities made by the concerned Judge, this occurrence took place and the litigant people did not get proper justice.

In the premises noted above, this Court is directed the District and Sessions Judge, Rangpur to distribute the above-mentioned 259 cases (List prepared by respondent No. 3) among the Additional District and Sessions Judges working Rangpur judgeship under him within 2(two) weeks from the date of receipt of this order. The concerned Judge(s) is also directed to write up the judgments within 6(six) months from the date of receipt of the case files from the District Judge apart from their regular judicial works. There is no need of taking hearing from the parties. The concerned Judge would prepare the judgments relying upon the materials on record keeping in mind the results of the cases pronounced by Mr.

Moynul Haque which had been forwarded in the Court diary and cause list.

Soon after completion of preparing the judgments, the District and Sessions Judge, Rangpur is directed to send a report to that effect before the Registrar General for information of this Court.

With the above observations and direction, the Rule is disposed of.

The Registrar General, Bangladesh Supreme Court is directed to communicate the order at once.

There will be no order as to costs.

Md. Akhtaruzzaman, J:

I agree.