

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

Present:
Mr. Justice S. M. Kuddus Zaman
And
Mr. Justice A.K.M. Rabiul Hassan

WRIT PETITION NO.4902 OF 2024

In the matter of:

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

Md. Azizul Alam

... Petitioner

-Versus-

The Government of People's Republic of Bangladesh
and others

... Opposite parties

Mst. Nargis Tanjima, Advocate

... For the petitioner.

Mr. Sujit Chatterjee, D.A.G. with

Mr. Moududa Begum, A.A.G.

Mr. Mirza Md. Soyeb Muhit, A.A.G.

Mr. Mohammad Selim, A.A.G.

Mr. Zahid Ahmed (Hero), AAG

... For the respondent No.1.

Mr. Md. Khurshid Alam Khan, Advocate

.... For the Anti-Corruption Commission.

Heard and Judgment on 14.07.2024.

S.M. Kuddus Zaman, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh this Rule was issued calling upon the respondents to show cause as to why the impugned letter vide memo No.00.01.8100.722.01.042.19.868 dated 09.05.2021 issued by the

respondent No.3 should not be declared illegal, without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioner who is a businessman was served with a notice by opposite party No.2 for submission of wealth statement on 05.06.2023 and pursuant to above notice the petitioner submitted his wealth statement on 06.07.2023. During inquiry into above wealth statement opposite party No.3 Deputy Director of Anti-Corruption Commission sent a letter to the Director General, Investigation-1 of Anti-Corruption Commission on 09.05.2021 informing him that an application has been sent to the Additional Inspector General of Police, Special Branch, Dhaka for restraining the petitioner from going abroad. Pursuant to above letter of opposite party No.3 the petitioner was restrained from going to Thailand for treatment of his wife on 23.04.2024.

Mst. Nargis Tanjima, learned Advocate for the petitioner submits that the petitioner is a law abiding businessman and pursuant to the notice of the Dudak he submitted his wealth statement. But before instituting any case against the petitioner opposite party No.3 most illegally restrained the petitioner from going abroad which is unlawful and an invasion the fundamental right of the petitioner as guaranteed under Article 36 of the Constitution of the Peoples Republic of Bangladesh.

On the other hand Mr. Md. Khurshid Alam Khan, learned Advocate for the Anti-Corruption Commission submits that since the wealth statement of the petitioner was under investigation there was likelihood of his leaving the country for good. As such, opposite party No.3 has rightly issued the impugned memo on 09.05.2021 which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

Undisputedly pursuant to the notice issued by the Anti-Corruption Commission the petitioner submitted his wealth statement and no case under the Anti-Corruption Commission Act has yet been instituted against the petitioner.

We have carefully gone through the impugned memo No.00.01.8100.722.01.042.19.868 dated 09.05.2021 and found that above memo asking for stopping the petitioner from leaving the country was issued by opposite party No.3 who is a Deputy Director of the Anti-Corruption Commission.

The right to free movement including the right to leave the Bangladesh and enter into Bangladesh has been guaranteed by Article 36 of the Constitution of the Peoples Republic of Bangladesh as a fundamental right of every citizen of Bangladesh. Above right to free movement is of course subject to reasonable restrictions and those

restrictions can be imposed by a competent Court of law or a functionary of the State who is authorized by law.

The learned Advocate for the Anti-corruption Commission could not show us any law which authorizes a Deputy Director of Anti-Corruption Commission to impose restriction on a citizen of Bangladesh from the exercise of above invaluable fundamental right of free movement as guaranteed by Article 39 of the Constitutional of the Republic of the Republic of Bangladesh.

In view of the above materials on record we find substance in this petition under Article 102 of the Constitution of People's Republic of Bangladesh and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is hereby made absolute.

The impugned memo being No.00.01.8100.722.01.042.19.868 dated 09.05.2021 issued by respondent No.3 asking the Additional Inspector General of Police, Special Branch, Dhaka to restrain the petitioner from leaving Bangladesh is hereby declared illegal and without any lawful authority.

However, there is no order as to costs.

A.K.M. Rabiul Hassan, J:

I agree.