

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

WRIT PETITION NO. 8252 OF 2015

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

S. M. Masud Hossain Dolon and others
.....Petitioners

-Versus-

Government of the People's Republic of Bangladesh
represented by the Secretary, Ministry of Law, Justice and
Parliamentary Affairs, Bangladesh Secretariat, Ramna,
Dhaka and others

..... Respondents

Mr. Mohammed Ziaul Hoque, Advocate in person with
Mr. S. M. Masud Hossain Dolon, Advocate in person,
Mr. Anwarul Karim, Advocate in person and
Ms. Nusrat Jahan, Advocate
.....For the petitioners.

Mr. Md. Motaher Hossain (Sazu), DAG with
Ms. Purabi Rani Sharma, AAG and
Ms. Purabi Saha, AAG
.....For the respondent no. 3.

Heard on 18.07.2016, 14.08.2016 &
22.08.2016.
Judgment on 07.12.2016.

Present:

Mr. Justice Moyeenul Islam Chowdhury

-And-

Mr. Justice Ashish Ranjan Das

MOYEENUL ISLAM CHOWDHURY, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh filed by the petitioners, a Rule Nisi was issued calling upon the respondents to show cause as to why a direction should not be given upon them to enact a specific law prohibiting use of school bags more than 10% of the body weight of the primary school children as the carrying of school bags weighing more than 10% of their body weight will have serious short-term and long-term clinical effects on their bodies and/or such other or further order or orders passed as to this Court may seem fit and proper.

The case of the petitioners, as set out in the Writ Petition, in short, is as follows:

The petitioners are regular practitioners as Advocates of the High Court Division of the Supreme Court of Bangladesh. As representatives of the people of the locality, they have come up with the instant Writ Petition in order to protect child right and child health and to redress a public wrong or public injury. Furthermore, the children of the petitioners are studying in different schools and being conscious fathers, they have invoked the writ jurisdiction of the High Court Division under Article 102 of the Constitution for securing the good health of their children. In Bangladesh, the school pupils are carrying heavy school bags due to which they suffer irreversible back problems and a growing number of children are developing irreversible back deformities because of the weight of the bags they carry to their respective schools. Pupils routinely carry their bags filled with heavy books, sports kit and packed lunchboxes. Medical experts say that almost half of the children suffer back pain by the age of 14. Health experts further say that the school children risk long-

term health complications and ultimately permanent damage if they regularly carry more than 15% of their body weight over their shoulders. Many youngsters carry as much as 20% of their body weight to and from school. According to the health experts, the maximum weight a child should carry is one-tenth (10%) of his body weight including all things like his water bottle, lunchbox etc. In case of overweight bag, the immediate ill-effects are back, neck and shoulder pain along with tingling, numbness and weakness in the hands. There may also be fatigue and an early development of poor posture. The long-term ill-effects will be strain on the neck and shoulder leading to headache, damage to the spine giving rise to problems like kyphosis-hunched back or spine bent forward; scoliosis-spine bent sideways; reducing breathing capacity due to pressure on the lungs resulting from a forward or sideways bent posture and so on and so forth. In India, a bill titled “The Children School Bag Bill, 2006” was tabled in the Rajya Sabha providing that kindergarten children should carry no bags and for older children, school bags should not be heavier than 10% of their body weight. The bill also specifies on the part of the school authorities to provide lockers; because children may bring other items, such as sports equipment and other books etc. that need to be stored. The State of Maharashtra of India has already formulated some guidelines and stated that the weight of the school bag will not be more than 10% of the body weight of the children. However, in Bangladesh, there is no specific law in this regard. In the absence of any such law, the school authorities are exercising autocracy in running their schools and the pupils are suffering health problems. The Directorate of Education makes syllabi for the primary classes, but the school authorities unhesitatingly and illegally add two or three subjects to the syllabi made by the

Directorate of Education. Anyway, the matter was discussed in our Parliament on 05.07.2015 and the Minister for Education also admitted that there are no guidelines for school bag weight. The overweight of school bag has short-term and long-term clinical effects and if the criteria for school bag weight are not set, the children will face immediate health problems. Eye-catching news-items have been published in various newspapers on this issue. This being the scenario, for securing a unique education system and for protecting child health and child right, a specific law should be framed for determining school bag weight. In the absence of any law in this respect, the school authorities force the children to bring all the books and exercise books (note books) regularly. Since the school authorities add additional subjects to the curriculum prescribed by the Government, the children are bound to carry all the books and other materials every day. The scenario is more painful and vivid in English medium schools. Forcing the children to carry heavy school books is a violation of human rights. So the respondents are duty bound to enact a specific law for school bag weight.

In the Supplementary Affidavit filed on behalf of the petitioners, it has been averred that the Directorate of Education (School), Delhi, India issued a circular on 06.05.2014 making some suggestions for reducing the weight of school bag. Besides, the Education Bureau, Hong Kong made some guidelines considering that overweight school bags would bring additional stress and fatigue to the primary and junior secondary students and as a precautionary measure, students should avoid carrying school bags which exceed 10% of their body weight for a long period of time.

The respondent no. 3 has contested the Rule by filing an Affidavit-in-Opposition. His case, as set out in the Affidavit-in-Opposition, in short, runs as follows:

The respondents are always engaged in protecting the people's interest as well as the rights of the children. As such the respondent no. 3 (Director-General, Directorate of Primary Education) issued a circular to all Government and Non-Government Primary Schools of Bangladesh prohibiting use of school bags more than 10% of the body weight of the children on 11.12.2014. However, after disposal of the instant Rule by the High Court Division, the respondent no. 3 will secure a fair and unique education system and protect the health and rights of the children in accordance with its directives. The respondent no. 3 must form a cell with a view to monitoring the compliance of the circular dated 11.12.2014.

At the outset, Mr. Mohammed Ziaul Hoque, learned Advocate appearing in person before this Court, submits that there is no specific law regarding the school bag weight of primary school children in Bangladesh and in the absence of any such law, the school authorities are exercising autocracy in running their respective schools and the children are compelled to carry heavy school bags which are even up to 20% of their body weight for which they are suffering serious health problems.

Mr. Mohammed Ziaul Hoque also submits that the overweight of the school bags has both short-term and long-term clinical effects on the children which pose a serious threat to their shoulder, lungs and bones and if the criteria for school bag weight are not set, they will go through immense health complications.

Mr. Mohammed Ziaul Hoque also submits that in the absence of any specific law, the children are forced to carry all the books and exercise books (note books) to their respective schools every day and as the school authorities add subjects of their own choice to the curriculum prescribed by the Government, the burden of school bags has become all the more unbearable to them and this act of forcing them to carry heavy school bags is a violation of human rights and that being so, the respondents are duty bound to frame a specific law in this respect.

In support of the above submissions, Mr. Mohammed Ziaul Hoque has drawn our attention to two write-ups, one is titled “Burden of the School Bag: Is Anybody Listening?” written by Seema Shukla Ojha, Assistant Professor, Department of Education in Social Sciences, National Council of Educational Research and Training (NCERT), New Delhi and the other one is headed “Back Problems Due To Heavy Backpacks in School Children” jointly written by Avantika Rai, a Research Scholar and Shalini Agarawal, an Assistant Professor, Department of Human Development and Family Studies, School for Home Science, Babashaheb Bhim Rao Ambedkar (A Central University) Lucknow, India.

Per contra, Mr. Md. Motaher Hossain (Sazu), learned Deputy Attorney-General appearing on behalf of the respondent no. 3, submits that the respondent no. 3, in consideration of the gravity of the situation arising out of heavy school bags of primary school children, issued a circular bearing Memo No. প্রাশিঅ/পরিচালক/প.ও অ./২০১৪/৫৬(১৩৯) dated 11.12.2014 (Annexure-‘1’ to the Affidavit-in-Opposition) and by that circular, he instructed all the primary school authorities to see that the primary school children do not carry school

bags more than 10% of their body weight and if this Court gives any further directions by disposing of the Rule on merit, in that event, he will implement those directions for the benefit of the primary school children.

We have heard the submissions of the learned Advocate Mr. Mohammed Ziaul Hoque and the counter-submission of the learned Deputy Attorney-General Mr. Md. Motaher Hossain (Sazu) and perused the Writ Petition, Supplementary Affidavit, Affidavit-in-Opposition and relevant Annexures annexed thereto.

Annexure-‘A’ dated 21.11.2014 is a paper-clipping of “The Daily Prothom Alo” captioned “স্কুলের ব্যাগটা বড্ড ভারী”. This news-item was published as a lead news in that newspaper on that date. The relevant portions of the news-item are worth quoting:

“ ‘স্কুলের ব্যাগটা বড্ড ভারী, আমরা কি আর বইতে পারি
এও কি একটা শাস্তি নয়, কষ্ট হয়, কষ্ট হয়
আমার কষ্ট বুঝতে চাও, দোহাই পড়ার চাপ কমাও
কষ্ট হয়, কষ্ট হয়।’

কবীর সুমনের গানে ফুটে ওঠা স্কুলগামী শিশুদের এই আর্তি
নিছক কবির কল্পনা নয়। এ এক নিরেট বাস্তবতা।

ঢাকা শিশু হাসপাতালের কয়েকজন চিকিৎসক প্রথম আলোকে
জানিয়েছেন, পিঠে ব্যথা, সোজা হয়ে দাঁড়াতে না পারার কষ্ট নিয়ে
শিশুরা তাঁদের কাছে আসছে। এদের প্রায় সবাই বলছে, স্কুলব্যাগের
ওজন বেশি। বয়ে নিতে কষ্ট হয়। বাংলা মাধ্যম, ইংরেজি মাধ্যম,
সরকারি স্কুল, বেসরকারি স্কুল—সব প্রতিষ্ঠানের শিশুদের কাছ থেকেই
তাঁরা এমন অভিযোগ পেয়েছেন।

ঢাকা শিশু হাসপাতালেরই এক চিকিৎসক শোনালেন তাঁর এক শিশু রোগীর গল্প। তাতে শিশুটির শারীরিক কষ্টের পাশাপাশি ফুটে উঠেছে অভিভাবকের অসহায়তা। ঘটনাটি এমন—

শিশুটি মাঝে মাঝেই পিঠব্যথায় কাতরায়। কোন কোন দিন ব্যথা ঘাড় বা পায়েও ছড়িয়ে পড়ে। শিশু অস্থিবিদ্যা বিভাগের চিকিৎসক দেখে শুনে বললেন, শিশুটি তার সামর্থ্যের চেয়ে বেশি ওজনের বোঝা বয়ে বেড়ায় প্রতিদিন। এই বোঝা স্কুলব্যাগের বোঝা। এই বোঝাটা কমাতে হবে।

মা-বাবা মুখ চাওয়া-চাওয়ি করেন। তারপর সাহস নিয়ে বলেন, পরামর্শপত্রে যদি বিষয়টি লিখে দেন চিকিৎসক, তাহলে স্কুল কর্তৃপক্ষকে বোঝানো সহজ হবে। চিকিৎসক সারওয়ার ইবনে সালাম তাই-ই করলেন।

বাংলাদেশের স্কুলপড়ুয়া শিশুরা ঠিক কত বেশি বোঝা বয়ে বয়ে একসময় অসুখ বাঁধিয়ে ফেলছে, তার কোনো পরিসংখ্যান নেই বলে জানিয়েছে ঢাকা শিশু হাসপাতাল কর্তৃপক্ষ। কিন্তু চিকিৎসকেরা বলছেন, পারিপার্শ্বিক পরিস্থিতি দেখে শুনে নির্দিধায় বলা যায়, সবার অসচেতনতায় প্রতিদিন বাংলাদেশের শিশুরা একটু একটু করে গুরুতর শারীরিক ক্ষতির দিকে এগোচ্ছে।

ভারতের দিল্লির এক স্কুলের ছাত্র বরণ জৈনের করণ কাহিনিটি এখানে উদাহরণ হিসেবে চলে আসে। দিনটা ছিল ২০১২ সালের ২৫ জানুয়ারি। কিছুতেই সেদিন আর ব্যাগের ভার বইতে পারছিল না সে। হঠাৎ স্কুলের সিঁড়ি থেকে পড়ে গেল। পুরো ভারতবর্ষকে কাঁদিয়ে ছেলোট মারাও গেল।

...

এ ক্ষেত্রে বাংলাদেশের শিশুদের অবস্থাটা আসলে কী, তা একনজরে বোঝার জন্য সার্বিক কোনো তথ্য-উপাত্ত খুঁজে পাওয়া গেল না। কৌতূহল থেকে এই প্রতিবেদক ১৫ দিন সময় নিয়ে কয়েকটি স্কুলের নার্সারি থেকে অস্টম শ্রেণিতে পড়ুয়া (বাংলা ও ইংরেজি মাধ্যম) শিক্ষার্থীদের ব্যাগ মেপে দেখেছেন। চিত্রটা এমন—ওয়ারীর কিভারগার্টেন স্কুলের এক ছাত্রের ব্যাগের ওজন ছিল সাড়ে চার কেজি। ইস্কাটনের একটি স্কুলের প্রথম শ্রেণির এক ছাত্রের ব্যাগের ওজন পাওয়া যায় তিন কেজি। ধানমন্ডির সাতমসজিদ সড়কে অবস্থিত একটি ইংরেজি মাধ্যম স্কুলের তৃতীয় শ্রেণিতে পড়া এক ছাত্রের ব্যাগের ওজন সাড়ে ছয় কেজি। নিউমার্কেট-সংলগ্ন একটি বিখ্যাত সরকারি স্কুলের চতুর্থ শ্রেণির ছাত্রের ব্যাগের ওজন ছিল সাত কেজি। শেরেবাংলা নগরের একটি সরকারী বালিকা উচ্চবিদ্যালয়ের পঞ্চম শ্রেণির ছাত্রীর ব্যাগের ওজন পাওয়া যায় সাড়ে সাত কেজি।

ধানমন্ডির একটি ইংরেজি মাধ্যম স্কুলের তৃতীয় শ্রেণির ছাত্রের ব্যাগে আটটি বই, আটটি খাতা, পেনসিল বক্স, পানির ফ্লাস্ক ও টিফিন বক্স দেখা গেছে। ওই শিশুটির অভিভাবক প্রথম আলোকে বলেন, বইয়ের চেয়ে খাতার ওজন বেশি। স্কুল কর্তৃপক্ষের নির্দেশ অনুযায়ী স্কুল থেকে খাতা কিনতে হয়। দেখা যায়, একই বিষয়ে দু-তিনটি খাতাও নিতে হচ্ছে।

ঢাকা বিশ্ববিদ্যালয় ক্যাম্পাসে অবস্থিত একটি স্কুলের ষষ্ঠ শ্রেণির ছাত্রের ব্যাগে পাওয়া গেছে সাতটি বই, সাতটি খাতা, ডায়েরি, পেনসিল বক্স, জ্যামিতি বক্স, টিফিন বক্স, পানির ফ্লাস্ক ও স্কেল। ওই ছাত্র জানায়, প্রতিদিন তাদের সাতটি বিষয়ের ক্লাস হয়।

দিল্লিতে যে শিশুটি মারা গিয়েছিল, সেই বরণ জৈন তার শরীরের ওজনের ৪০ শতাংশ বোঝা বহিছিল। কিন্তু বাংলাদেশের শিশুদের কী পরিমাণ ওজন বহন করা যুক্তিযুক্ত?

শিশুবিশেষজ্ঞ ও জাতীয় হৃদরোগ ইনস্টিটিউটের শিক্ষক আবদুল্লাহ শাহরিয়ার বলেন, একজন শিশুকে কখনো তার নিজের ওজনের ১০ শতাংশের বেশি বোঝা বহিতে দেওয়া যাবে না। ...

রাজশাহীর গভর্নমেন্ট ল্যাবরেটরি স্কুলের সহকারী শিক্ষক আজমিরা খাতুন বলেন, পাঠ্যক্রম অনুযায়ী বই আনলে ওজন বেশি হওয়ার কথা নয়। শিশুরা অনেক সময় কোচিংয়ের জন্য বই-খাতা বহন করে অথবা নোট বই, গাইড বই নিয়ে আসে। এতে ওজন বাড়ে। তবে তিনি বলেন, সপ্তাহে দুটোর বেশি বাড়ির কাজ না দেওয়ার কথা বলা হলেও কোনো কোনো শিক্ষক এ নির্দেশনা মানেন না। ফলে শিশুদের ওপর বাড়তি চাপ পড়ে।

ঢাকা বিশ্ববিদ্যালয়ের শিক্ষা গবেষণা ইনস্টিটিউটের সাবেক পরিচালক সিদ্দিকুর রহমান 'প্রথম আলোকে' বলেন, শহরের স্কুলে ব্যাগের ওজন বেশি। তথাকথিত কিডারগার্টেন ও নামকরা স্কুল কর্তৃপক্ষের সঙ্গে অনেক সময় প্রকাশনা সংস্থাগুলোর যোগসাজশ থাকে। দুই পক্ষ মিলে পাঠ্যবইয়ের বাইরে বাড়তি বই জুড়ে দেয়। তিনি বলেন, উন্নত দেশে পাঠ্যবইয়ের বাইরেও অনেক বই পড়ানো হয়। তবে সেগুলো শিশুদের প্রতিদিন স্কুলে বয়ে আনতে হয় না। শিশুরা গ্রন্থাগার থেকে বই নেয়, মনের আনন্দে পড়ে। শিক্ষক মাঝে মাঝে গল্পচ্ছলে দু-একটা প্রশ্ন করে বুঝে নেন, শিশুরা বই পড়ছে কি না।

বঙ্গবন্ধু শেখ মুজিব মেডিকেল বিশ্ববিদ্যালয়ের শিশু বিভাগের প্রধান ও বাংলাদেশ পেডিয়াট্রিক অ্যাসোসিয়েশনের মহাসচিব সহিদুল্লা

বলেন, পিঠে-ঘাড়ে ব্যথার কারণ যে ভারী ব্যাগ, অনেকেই তা বুঝতে পারেন না। ফলে বাচ্চাকে অনেক দেরিতে চিকিৎসকের কাছে নিয়ে আসেন।

বেশি বোঝা বইলে কী ক্ষতি হতে পারে জানতে চাইলে শিশুবিশেষজ্ঞ আবদুল্লাহ শাহরিয়ার বলেন, দিনের পর দিন ভারী ব্যাগ বইলে শিরদাঁড়ার স্বাভাবিক অবস্থান নষ্ট হয়ে যায়। চাপ পড়তে পড়তে দুই হাড়ের মাঝখানে নরম পদার্থ শুকিয়ে যায়। এতে দীর্ঘস্থায়ী পিঠে ব্যথা, পিঠ বেঁকে যাওয়া, হাড়ে ফাটল ধরা ও শিশুর ঠিকমতো বেড়ে উঠতে না পারার মতো গুরুতর সমস্যা দেখা দিতে পারে।

করণীয় জানতে চাইলে চিকিৎসকেরা বলছেন, শিশুদের বাঁচাতে হলে শিক্ষার মান বাড়াতে হবে, বোঝা কমাতে হবে। সেটা কীভাবে হবে তা খুঁজে বের করতে হবে সংশ্লিষ্টদেরই। স্কুল কর্তৃপক্ষদের বোঝাতে হবে। অভিভাবকদের সচেতন হওয়া দরকার।

মাধ্যমিক ও উচ্চশিক্ষা অধিদপ্তরের মহাপরিচালক ফাহিমা হোসেন বলেন, জাতীয় শিক্ষাক্রম ও পাঠ্যপুস্তক বোর্ডের বইয়ের তালিকা অনুসরণ করলে এ সমস্যা হওয়ার কথা নয়। তবে তিনি জানান, কোন ক্লাসের শিশুরা কত ওজনের ব্যাগ বইবে, সে ব্যাপারে তাঁদের কোনো নির্দেশনা নেই।

চিকিৎসকেরা তাৎক্ষণিক দুটি পরামর্শ দিয়েছেন। এক. সব স্কুলে যদি নিরাপদ পানির সরবরাহটুকু করা যায়, তাহলে শিশুদের অন্তত পানির ফ্লাস্কটি বয়ে নেওয়ার কষ্টটা থেকে মুক্তি দেওয়া যায়। দুই. ব্যাগের ওজন কমাতে কিছু বই স্কুলে রাখার ব্যবস্থা করা। আর শিক্ষাবিদেদেরা জোর দিলেন, পাঠ্যবইয়ের বাইরে সম্পূরক, নোট ও গাইড বইকে ব্যাগে ঢুকতে না দেওয়ার ওপর।”

Annexure-‘B’ is a write-up titled “The ill-effects of carrying heavy schoolbags” written by one Kriti Saraswat which was downloaded from the internet. This write-up has extensively dealt with the ill-effects of carrying schoolbags by the school children. For proper and effectual adjudication of the Rule, the material portions of the write-up are quoted below:

“The vacations are over and it’s time for children to head back to school. But one of the reasons they may dread going back could be the heavy schoolbags they have to carry on their delicate shoulders. This can not only hamper their studies but also cause back and posture problems. Says Dr. Zinal Unadkat, ‘Children lose interest in coming to school with the stress of carrying heavy bags. Their mind is burdened with the weight of the books and this leads to low attention span.’

So what should be the ideal weight of schoolbags?

According to Dr. Zubeir Patel, the maximum weight children should carry is one-tenth (10%) of their body weight including all things like their water bottle, lunchbox, etc. But the trend these days seems to be 20%, says Dr. Zinal.

What happens when the weight exceeds the said limit?

‘Carrying very heavy backpacks can lead to musculoskeletal problems, especially if children carry the bag on one shoulder. It puts extra pressure on one side, tilting the spine,’ she says. Dr. Zinal also points out that keeping the bag down and then carrying it again is more dangerous for a growing spine than continuously walking with static weight.

Dr. Patel explains, ‘To carry a heavy bag, the child has to lean forward. This leads to developing a bad posture. The spine is a stack of bones called the vertebral column with the bones separated by a cartilage called the inter vertebral disk and held upright by the muscles and ligaments around it. The excess weight puts undue stress on the muscles, ligaments and disk thus damaging them. The alignment of the column is also disturbed causing it to bend, mostly forward or sideways.’

In other words, a heavy bag puts the child’s health and physical development at risk which can hamper his/her overall growth.

...

What immediate and long-term harms can it cause on the child’s health?

Immediate ill-effects:

Back, neck and shoulder pain along with tingling, numbness and weakness in the hands.

Fatigue and an early development of poor posture.

Long-term ill-effects:

Strain on the neck and shoulder leading to headache.

Damage to the spine giving rise to problems like kyphosis-hunched back or spine bent forward.

Scoliosis-spine bent sideways.

Reduced breathing capacity due to pressure on the lungs resulting from a forward or sideways bent posture.

Back pain and muscle spasms as young adults which can be traced back to heavy schoolbags.

Every bone has a growth centre or point from which growth of the bone takes place as per age.

Carrying excess weight could damage these growth centres leading to stunted or abnormal growth of the bones of the children.

Here are some useful suggestions by Dr. Smarajit

Chakrabarty

- A backpack is usually more comfortable than a bag that puts strain on only one shoulder, but even a backpack shouldn't be overloaded.

- When buying a bag, buy a sturdy, well-designed bag with wide, padded shoulder straps that reduces pressure on the neck and shoulder area. Buy a bag with adjustable straps which can be altered as the child grows.
- Check your child's posture after he has put the bag on. If you notice that your child is leaning forward or slouching, check if the bag is too heavy or if it has been packed incorrectly.
- Make sure your child is only carrying the items he needs for school that day—remove any unnecessary books and equipment.

Other tips to reduce weight

- School authorities should make it mandatory for students to carry light bags.
- There should be lockers where students can keep their books and other things which are only needed in the classroom.
- Schools can allow students to carry one big notebook with sections for all

subjects instead of different ones for various subjects.

These are a few possible solutions that teachers and parents can implement in order to reduce the weight of their kids' schoolbags. It is important that they understand the gravity of this situation before it is too late."

Annexure-‘C’ is also a paper-cutting of “The Daily Prothom Alo” dated 27.07.2015. The news-item is captioned “ভারী স্কুলব্যাগ বহন করতে পারবে না মহারাষ্ট্রের শিশুরা”. The relevant portion of this news-item runs as under:

“ভারতের মহারাষ্ট্র রাজ্য সরকার সিদ্ধান্ত নিয়েছে, রাজ্যের স্কুলপড়ুয়া শিশুরা তাদের দেহের ওজনের ১০ শতাংশের বেশি ভারী ব্যাগ বহন করতে পারবে না। রাজ্যের সংশ্লিষ্ট বিভাগের সরকারি কর্মকর্তারা সতর্ক করে দিয়ে আসছিলেন, ভারী ব্যাগ বহনের কারণে শিশুরা ক্লান্ত হয়ে পড়ছে এবং তাদের শারীরিক ক্ষতি হচ্ছে। খবর বিবিসি ও এএফপি।”

Annexure-‘D’ is an online newspaper, namely, Banglanews 24.com dated 30.07.2015. The title of a news-item therein is “নির্ধারিত বোর্ড বই নিয়ে শিশুদের স্কুলে যাওয়ার আহ্বান”. It transpires from Annexure-‘D’ that on 05.07.2015, there were deliberations in our Parliament as to the ill-effects of carrying heavy school bags by the school children and one Member of Parliament, namely, Ms. Nurjahan Begum expressed herself on the issue as under:

“বিশেষজ্ঞ মতামতের কথা তুলে ধরে এই সংসদ সদস্য বলেন, একজন শিশুকে তার ওজনের চেয়ে ১০ শতাংশ কম ওজনের ব্যাগ

বহন করতে হতে হবে। অথচ আমরা প্রায়ই দেখি শিশুদের ব্যাগের ওজন কারও ৪ কেজি, ৬ কেজি বা গড়ে ৭ কেজি পর্যন্ত।

তিনি বলেন, আমাদের দেশে কোন ক্লাসের শিশুরা কত ওজনের ব্যাগ বহন করবে, সে ব্যাপারে কোনো নির্দেশনা নেই। যেমন কোন শিশু বোর্ড নির্ধারিত ৩টি বই থাকলেও শিশুকে বহন করতে হয় ১২ টি বই। এরপর রয়েছে ৮টি খাতা, গাইড বুক, টিফিন বক্স ও পানির বোতল। সব মিলিয়ে ব্যাগের ওজন দাঁড়ায় কমপক্ষে ৬ কেজি। যা একজন শিশুর পক্ষে নিয়মিত বহন করা কষ্টসাধ্য এবং ঝুঁকিপূর্ণ।”

Ms. Nurjahan Begum also said in the Parliament:

“গবেষণার কথা উল্লেখ করে নূরজাহান বেগম বলেন, ঢাকা শিশু হাসপাতালে উল্লেখযোগ্য সংখ্যক শিশু চিকিৎসা সেবা নিতে এসে বলেছে তাদের পিঠের ব্যাথা, সোজা হয়ে দাঁড়াতে না পারার কষ্ট, মেরুদণ্ড ব্যথার কথা।
এর কারণ হিসেবে তাদের বহন করা স্কুল ব্যাগের ওজন বেশি, বয়ে নিতে কষ্ট হয়, এই শিশুদের মধ্যে বাংলা বা ইংরেজি উভয় মাধ্যমের শিশুরা রয়েছে।”

It further appears from Annexure-‘D’ that the Minister for Education Mr. Nurul Islam Nahid felt at one with the Member of Parliament Ms. Nurjahan Begum with regard to ill-effects of carrying of heavy school bags by the children.

In 2006, a bill titled “The Children School Bags (Limitation on Weight) Bill, 2006” was introduced in the Rajya Sabha (Rajya Sabha, 2006) to provide for limitation on the weight of school bags, duties and responsibilities of the schools to ensure the compliance of the limitations so imposed and to provide

lockers in schools and to issue necessary instructions for handling and carrying of school bags by children and for matters connected therewith or incidental thereto.

For the first time, it detailed out all aspects regarding the physical load of school bag. As per the Children's School Bag Bill of 2006:

- A school bag should not weigh over 10% of the body weight.
- Nursery and kindergarten students should not carry any school bag.
- Schools should issue guidelines and instructions prescribing dimensions and the fabric for the school bag.
- The State Government should provide appropriate lockers at schools.
- Schools violating such provisions are liable to face a penalty of up to Rs. 3 lakh; a subsequent violation may lead to de-recognition.

This bill was in line with the international standard followed all over the world and had provisions not only on the weight of the bag, but also the kind of bag ideal for students and the way of handling the bag. But unfortunately this could not become a law till date.

Annexure-‘G’ is a compendium of guidelines on reducing the weight of school bags issued by the Education Bureau of Hong Kong. The Education Bureau of Hong Kong issued the following guidelines for reducing the weight of school bags for children:

- Conducting campaign on reducing the weight of school bags to draw the attention of teachers, parents and pupils to the issue.

- Conducting random check on the weight of school bags and informing parents, if bags are found overweight.
- Mobilizing parents to help weighing school bags to arouse awareness of the issue.
- Using other learning materials to replace textbooks in the learning of some topics.
- Reducing the use of workbooks and replacing them by loose-leaf worksheets. Keeping pupils' new exercise books and issuing them to pupils only when needed.
- Setting the maximum number of assignments for each subject as part of the homework policy.
- Allotting a tutorial period in the timetable for pupils to complete part of their homework at school.
- Scheduling PE and Art and Craft lessons for different days.
- Allowing pupils to wear sportswear instead of school uniforms for days with PE lessons.
- Encouraging the use of drinking-fountains and advising pupils not to bring drinking water to school.

It is in the write-up "Burden of the School Bag: Is Anybody Listening?" by Seema Shukla Ojha that now it has become a routine activity in print and electronic media to discuss the load of school bag with the start of every academic session in schools. In this connection, a case was filed in Delhi Court in 2012 following which a committee was formed by the Directorate of Education (DOE) to bring out some measures, which would reduce the weight

of school bags (DOE, 2014). DOE accepted that “school children are carrying very heavy bags to school which is affecting their health adversely and that these small children need to be necessarily spared from such burden”. It issued the following guidelines for reducing the weight of school bags for children:

- The school principals and teachers should frame a well-designed time-table for each section of the class so that children do not have to carry too many books or note-books to the school each day and also ensure that the co-curricular activity periods are held along with the other periods on daily basis there by having an equitable distribution of weight of school bags.
- Sensitization of teachers and parents should be done to create awareness of the potential problem of heavy school bags and to make them aware of the health issues, which can arise due to heavy weight of school bags.
- The school should teach correct lifting and carrying techniques as part of their health education programmes and encourage pupils to take responsibility for health and back care.
- Parents should be requested to buy a child-friendly bag which is comfortable to use, that is to say, light in weight. It needs to be reinforced at every level i.e. Principal, Faculty Heads, Teachers and Parents.
- The student should be discouraged from bringing reference books and other books to school especially in senior classes.

- Parents should remind and guide their children to pack the school bag daily according to the timetable and bring only the prescribed books and discourage their ward from carrying unnecessary items to the school.
- Staggered homework schedule should be planned.

DOE also instructed all concerned to ensure that the school bags of the children are not heavy and the same should be monitored on regular basis.

In the write-up “Burden of the School Bag: Is Anybody Listening?”, it has been further mentioned:

“Children tottering to school with heavy school bags are a common sight. This sight is not common to metropolitan cities alone, it can be seen in small towns and the bigger villages too. Several studies (Dochrell, Kane & O’keefe, 2006; Greenberger, 2001; Melville, 2001; Orr, 2000; Parker-Pope, 2002; Puckree, Silal & Lin, 2004) have proved that heavy load on the back badly affects the health of the children. Some children may develop a permanent stoop due to the heavy pressure on their spinal cord, which would lead to permanent damage to their physical structure and back muscles. It is a medically proven fact that lifting heavy burdens for a long time or distance is not good for anyone, especially children. In the

tender age, bones are delicate and excessive weight can misalign the spine leading to offensive skeletal and muscle maturity. Carrying a heavy bag on the back often results in ache in the back and shoulders. Forward bending at the back makes the work of breathing harder. Children carrying bags weighing more than 10 per cent of their body weight have been found to have poorer lung function. A survey conducted by the Associated Chambers of Commerce and Industry of India in the metros during March-April 2012 had also revealed that nearly 58 per cent of children below the age of 10 suffer from mild back pain, caused by their 'heavy burden', which can progress to chronic pain (Prakash, 2012, p.1-2). Though the survey was conducted in the metro cities, the plight of children is not different in small cities and towns.

The American Academy of Paediatrics provides recommendation regarding the weight and packing of school bag (American Academy of Paediatrics, 2014). It gives the following tips regarding the issue:

- Chose a backpack with wide, padded shoulder straps and a padded back.

- Pack light. Organize the backpack to use all of its compartments. Pack heavier items closest to the centre of the back.
- The backpack should never weigh more than 10 to 20 percent of your child's body weight.
- Always use both shoulder straps. Slinging a backpack over one shoulder can strain muscles.
- If your school allows, consider a rolling backpack. This type of backpack may be a good choice for students who must tote a heavy load. Remember that rolling backpacks still must be carried upstairs, and they may be difficult to roll in snow.

Growing weight of school bag and its effect on health of the children has become a matter of grave concern for every parent. School authorities have also been expressing their concern over the issue; but nothing is actually being done to lessen the burden of school bags. Unfortunately, our schooling system has failed to understand the short

and long-term harmful effects of this practice such as making the young children carry heavy bags. Another dilemma that we face today is that the teachers are not specific regarding their daily class work, which makes the child carry all the text and notebooks to school every day.

...

There is need for schools to prepare their timetables thoughtfully and effectively. Along with books, children are required to carry their sports and other equipment with them. So if schools provide lockers, children can leave sports equipment, and some books and notebooks in school itself. The school should inform students in advance which books will be needed and which can be left at home and also teach the child to put down the bag when waiting at the bus stop, in the assembly, and to use both straps of the bag, etc. Some schools have already adopted ways to reduce the weight of school bags. There are schools, which don't send all the books back home; but send only those books, which the students are required to study at home. In some other schools, children are required to carry only white sheets to take notes. They file them in the subject-wise files

kept at home. There are a few other schools where lockers have been set up. It is high time to look at this issue seriously and find a common solution.

Apart from the above-mentioned suggestions, some more solutions for this backbreaking burden can be:

- Using loose sheets for homework.
- Individual lockers for students in school.
- Class work notebooks to be kept in school.
- Consecutive period for one subject.

...

There is an urgent need to enact legislation for the whole of the country to save the children from carrying heavy loads on their back. The integration of ICT into education may significantly impact the problem of heavy school bags. However, in the meantime, it is necessary to consider potential strategies to alleviate the problem to whatever degree is possible.”

Now let us address the write-up captioned “Back Problems Due to Heavy Backpacks in School Children” by Avantika Rai and Shalini Agarawal. The abstract of this write-up is that students and backpacks are a common sight

today. Backpacks are in various sizes, colors, fabrics, and shapes and help children of all ages express their own personal sense of style. Many packs feature multiple compartments that help students stay organized while they carry their books and papers from home to school and back again. Backpacks may strain muscles and joints and cause back pain if they're too heavy or are used incorrectly. Many students carry school backpacks that exceed 10 percent to 15 percent of their body weight, which put them at risk for back pain and related disorders. Improper backpack use can also lead to poor posture. Girls and younger kids may be especially at risk for backpack-related injuries, because they're smaller and may carry loads that are heavier in proportion to their body weight. Carrying backpacks increases the risk of back pain and possibly the risk of back pathology. The incidence of school children carrying heavy backpacks is extremely high. The daily physical stresses associated with carrying backpacks cause significant forward lean of the head and trunk. It is assumed that the daily intermittent abnormal postural adaptations could result in pain and disability in school-going children. The American Occupational Therapy Association (AOTA) and the American Academy of Paediatrics advise that students should carry no more than 15% or 10-20% of their bodyweight.

However, in that write-up (Back Problems Due To Heavy Backpacks in School Children), it has been clearly and unambiguously stated:

“Heavy school backpacks may deform natural curves in the back. If the curves are interrupted in the lower and middle back, the result is muscle strain and irritation to the rib cage or spine joints. Much of this suffering is brought by bad habits

initiated during our younger years may be because of carrying overweight backpacks to school.

The improper use of backpacks can lead to muscle imbalance that could turn into chronic back and neck problems later in life. In the UK, the average backpack weight is 15-20% of their body weight, and some children carry backpacks as heavy as 30% to 40% of their body weight. Many children carry bags over just one shoulder or very low on their backs. This greatly increases the risk of pain and injury. Local authorities have asked schools to check that backpacks are not overweight and are worn properly and over both shoulders. Students at all levels carry schoolbags packed with textbooks, notebooks, library books, geometrical and mathematical instruments, snack boxes, lunch packs and water bottles and so on. The backpack is one of the several forms of manual load carriage that provides versatility and often used by hikers, soldiers, as well as by school children. The backpack is an appropriate way to load the spine closely and symmetrically, while maintaining stability.

...

Overloaded book bags aren't only responsible for back injuries, although that is the main concern but heavy book bags have also been found to cause neck pain, shoulder strain, headache and a general exhaustion. Book bags that weigh too much may also be to blame for some ankle injuries as they cause their carriers to walk improperly under their oppressive weight. Backpacks can cause pain in the head, neck or face, as well as the hands, the wrists, the elbows, the shoulders, the feet and the ankles. A badly worn backpack can change posture and gait when walking and this compounds the problems. (Singh and Koh 2009) revealed that it is critical to understand the effects of increased backpack weight on children due to their developing bodies. Too much load on the body changes static and dynamic posture as the body tries to overcome the posterior shift in the center of mass.

...

The American Occupational Therapy Association, the American Academy of Orthopaedic Surgeons and the International Chiropractic Paediatric Association suggest that the load should not be more than 10%, the

American Physical Therapy Association suggests 15%, and the American Association of Chiropractors suggests 5-10% (Cavallo et al 2002).

...

According to the American Occupational Therapy Association, heavy backpack worn over one shoulder might cause your child to lean to one side, causing his spine to curve and causing him pain. He can prevent spine curvature, and rounded shoulders, by using both straps and distributing the weight of his backpack evenly across both shoulders.

A study was conducted to assess the prevalence of back pain among school children due to carrying heavy backpacks. Repetitive loading on the spine is known to be a risk factor for lower back pain. The researcher investigated the weight of backpacks carried by 237 children aged between 11-12 years from a school in Milan, Italy, for 3 weeks. The median average load that the children carried was 9.3kg, and the median maximum load was 11.5kg, ranging up to 16.3kg. No limits for the weight of backpacks in schools have been established, but these weights are beyond the allowed load limits for adults. Rates of

lower back pain in children are increasing, and these results suggest that a reduction in backpack weight is advisable. (Hong Y, Cheung 2003)

...

According to the American Occupational Therapy Association, backpack straps can apply pressure to the blood vessels and nerves in your child's shoulder and neck. The pressure can cause pain and tingling in his arms, hands, legs and neck. Well-padded straps can prevent too much pressure.

...

According to the American Occupational Therapy Association, a backpack worn improperly can cause strain or damage to back and stomach muscles. If the backpack is worn loosely, the weight can pull your child backward. If it is not the right size for your child, it will cause uneven distribution of weight and deform the posture of your child and create many problems related to posture. To protect against muscle strain, adjust shoulder straps, including the waist belt if the backpack has one, and ensure that the backpack rests against your child's lower back.”

In order to reduce the injuries from heavy backpacks, certain recommendations have been made in the write-up “Back Problems Due To

Heavy Backpacks in School Children". The recommendations are in the following terms:

- “Backpacks should not be heavier than 10% of the children’s body weight when packed.
- Make sure that backpacks are light in weight, sturdy and sized-matched to the children. They should not be larger than children’s. Ensure that the priority is on comfort, back and shoulder protection rather than good looks and cheap price.
- Always choose a backpack with wide and well-padded shoulder straps and with padding at the rear of the backpack which comes into contact with the back and shoulders.
- Always remember that the shoulder straps should be adjustable. The bottom of the backpack should rest on children’s hips- not on their bottom.
- Use both shoulder straps-never sling the backpack over one shoulder and use hip straps, if available.
- Don’t carry the backpack low on the back-
A study of 10 healthy children aged 12-14

showed that those who carried the backpack low on the back created more pressure on the back and shoulders. So it should be properly positioned high on the back.

- Backpack should balance the load. It should be a balanced, stable and symmetrical load held close to the spine. Parents should make sure that the load is distributed properly.
- Show your child the correct way to put on the backpack properly.
- Make sure that children pack their backpacks properly. The various items should be secure and not move around the back.
- Backpacks should have many compartments so that the children can put the heaviest item in the largest compartment near the body.
- When a well-designed bag is positioned correctly, the back and abdominal muscles, which are amongst the strongest muscles in the body, support the weight of the backpack. If the weight is not too heavy, the

weight is evenly spread over the body and
can be supported.

...Awareness should be created among health care professionals, teachers and parents to restrict backpack load less than 10% of bodyweight by using school locker shelves. Improper use of backpacks is not healthy for anyone, especially for children who are more susceptible to injury because their bodies are growing and developing. Students, staff, and families need to be educated about backpacks' contribution to back pain and taught appropriate interventions to reduce injury.”

From the foregoing discussions, it is ex-facie clear that the primary school children carrying bags more than 10% of their body weight are exposed to various health hazards and complications as detailed above. Nobody questions the health problems or hazards arising out of carrying of heavier school bags. But even then, no concrete or tangible steps have been taken by the authorities concerned to reduce the weight of school bags of the primary school children effectively as yet. Of course, a circular bearing Memo No. প্রাশিঅ/পরিচালক/প.ও অ./২০১৪/৫৬(১৩৯) dated 11.12.2014 was issued by the respondent no. 3 calling upon the school authorities to advise the primary school children not to carry school bags weighing more than 10% of their body weight. This circular was issued way back on 11.12.2014. Now we are at the fag-end of 2016. The common sight of our kids carrying heavier bags is still there in our country. But as ill luck would have it, no monitoring cell has been set up either by the

respondent no. 3 or by any of the respondents in order to monitor the weight of the school bags of the primary school children. It is widely believed and conceded that the primary school children both in Bangla and English medium schools are carrying school bags more than 10% of their body weight. This is, no doubt, a menace to their health and exposes them to various health-related complications and problems as adverted to hereinbefore. What is of paramount importance in this regard is this: if any school authority fails to comply with the circular dated 11.12.2014 (Annexure-‘1’ to the Affidavit-in-Opposition), then what punitive action will be taken thereagainst by the respondent no. 3? We regret to say that this Annexure-‘1’ is conspicuously silent about the punitive mechanism for errant school authorities. That being so, we feel constrained to hold that this circular dated 11.12.2014 is a sketchy and incomplete circular. Against this backdrop, this circular has failed to have the intended effect upon the primary school authorities.

What we are driving at boils down to this: burdening the primary school children with school bags weighing more than 10% of their body weight amounts to subjecting them to cruel treatment. This is a manifest violation of Article 35(5) of our Constitution. Needless to say, this is also a violation of human rights. Under the circumstances, we can not remain oblivious and unmindful of the cruelty and violation of human rights that are being perpetrated upon our kids.

The learned Deputy Attorney-General Mr. Md. Motaher Hossain (Sazu) concedes to the health hazards and various health-related injuries arising out of carrying of heavier school bags by the primary school children. But none the less, the authorities concerned have failed to live up to the expectations of the

people by their signal failure to rise to the occasion and to take necessary remedial measures in this regard.

Our children are the hopes and aspirations of the country. If they are rendered physically disabled or stunted or challenged at their budding stage, we shall stand nowhere. Precisely speaking, our posterity will be a sickly posterity. All of us should be alive to this situation. This is undoubtedly a public injury. This public injury, as we see it, should be remedied at the earliest in order to save our children from being bogged down in various types of diseases and health-related problems. In this connection, we are reminded of an off-quoted maxim— “Health is wealth”. The maxim means that our good health is the real wealth of our life which gives us good physique and mind and enables us to face all the challenges of life. Good health promotes a good mental, physical and social health. If our children are not healthy, there is no question of their shaping up as healthy citizens of the country and eventually the entire nation will suffer.

The views and opinions expressed in Annexure-‘A’ dated 21.11.2014, Annexure-‘B’ dated 24.06.2013, Annexure-‘C’ dated 27.07.2015 and Annexure-‘D’ dated 30.07.2015 are all based on researches, experiments and surveys. This being the panorama, we should all come forward to save our kids from health impairment on priority basis.

Admittedly there is no specific law regulating prohibition of use of school bags more than 10% of the body weight of the primary school children. We have already observed that in the absence of any such law, our kids are exposed to health hazards and as a matter of fact, they are suffering various health ailments. So the enactment of a specific law to that effect is indispensably necessary.

In view of what have been stated above and regard being had to the facts and circumstances of the case, we find merit in the Rule. The Rule, therefore, succeeds.

Accordingly, the Rule is made absolute without any order as to costs. The respondents are hereby directed to take immediate necessary steps so that a specific law is enacted prohibiting use of school bags more than 10% of the body weight of the primary school children within a period of 6(six) months from the date of receipt of a copy of this judgment. However, as an interim measure, that is to say, till enactment of a specific legislation in this regard, the respondent no. 3 is directed to issue a new circular in supersession of the earlier one (Annexure-‘1’ to the Affidavit-in-Opposition) embodying therein the provisions relating to the establishment of a monitoring cell and providing for a punitive mechanism in case of failure to comply with the terms thereof by the primary school authorities within a period of 30(thirty) days from the date of receipt of a copy of this judgment. The respondent no. 5, being the Secretary of the Administrative Ministry of the respondent no. 3, shall bear all the responsibility in this respect.

Let a copy of this judgment be transmitted to each of the respondents at once for information and necessary action.

ASHISH RANJAN DAS, J:

I agree.