

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

Writ Petition No. 6069 of 2012.

In the matter of:

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

-And-

In the matter of:

A.K.M. Mahbub Morshed.

..... Petitioner.

Vs.

Chairman, The First Labour Court, 4 RAJUK Avenue, Sramo Bhaban, 4th Floor, Dhaka and others.

..... Respondents

Mr. Muhammad Nazrul Islam, Advocate with
Mr. Abdul Baten, Advocate

..... For the petitioner.

Heard on 06.03.2014, 15.05.2014 and
Judgment on: 29.05.2014.

Present:

Mr. Justice Sheikh Hassan Arif

And

Mr. Justice Mohammad Ullah

Sheikh Hassan Arif, J:

ডায়েরী নং ৪২৩
তারিখ ২২/২/১৪
কলকারখানা ও প্রতিষ্ঠান পরিদর্শন অধিদপ্তর
গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

Rule Nisi was issued calling upon the respondents to show cause as to why the initiation of BLL Criminal Case No. 26 of 2012 by the respondent No.4 under Sections 303 (Uma), 307 and 352 of the Bangladesh Labour Act, 2006, pending before the 1st Labour Court, Dhaka, should not be declared to be without lawful authority and is of no legal effect.

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Mahmudul Hasan
Assistant Bench Officer
Supreme Court of Bangladesh
High Court Division, Dhaka.

কলকারখানা ও প্রতিষ্ঠান পরিদর্শন অধিদপ্তর
প্রধান কার্যালয়, ঢাকা
তারিখ: ২২/২/১৪
অতিরিক্ত মহাপরিদর্শক
মুখ্য মহাপরিদর্শক (প্রশাসন ও উন্নয়ন শাখা)
মুখ্য মহাপরিদর্শক (স্বাস্থ্য শাখা)
মুখ্য মহাপরিদর্শক (সেফটি শাখা)
মুখ্য মহাপরিদর্শক (সামগ্রিক শাখা)
স্টাফ অফিসার টু আই ডি

সি.ক. (A) ১৬
Re. put up
immediately
Sup

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Short facts, relevant for the disposal of the Rule, are that the petitioner is the Assistant Vice President (AVP) and Branch Manager of Islami the Bank Limited, Tangail Branch, Tangail. In the course of performance of duties under the relevant provisions of Law, the Inspector of Shops and Establishment, vide notice dated 25.01.2012 (Annexure-A), requested the petitioner to supply various information and its records regarding classification of workers, the service book of the workers and the schedule of works of the workers etc. as approved by the Inspector of Shops and Establishment as maintained by the said branch in compliance with the provisions of Sections 4(1), 5, 6(1), 9, 111(8), 118, 325(1), 12, 13, 14 and 15 of the Bangladesh Labour Act, 2006 ("the said Act"). Upon receipt of the said notice, the petitioner, vide its letter dated 26.01.2012, expressed its inability to supply those information and papers on the ground that all the records of the said branch were being maintained and controlled by the Head Office. Thereupon, the Inspector of Labour, Tangail filed BLL Case No. 26 of 2012 before the First Labour Court, Dhaka alleging, *inter alia*, that on 15.01.2012, the Inspector visited the said Branch and requested the petitioner to comply with the relevant provisions of Labour law and to supply records and documents in compliance with the said law, but the petitioner did not do so and as such violated the provisions under Sections 4(1), 5, 6(1), 9(1), 303(Uma), 319(3), 149 of the said Act and Rules 10,12,13,14 and 15 of the Shops and Establishment Rules, 1970 and, thus, he is liable to be punished under Sections 303(Uma), 307 and 352 of the Bangladesh Labour Act, 2006. Upon such Complaint, the Labour Court took cognizance and issued summons upon the petitioner vide order dated 13.02.2012, whereupon the petitioner appeared before the Labour Court and obtained bail. Thereafter, the petitioner filed an application before the Labour Court under Section 241 A of the Code of Criminal Procedure for discharge, but

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M. A. Hudaib
Assistant Bench
Labour Court of Bangladesh
High Court Division, Dhaka

the Labour Court, vide order dated 15.04.2012, rejected the said application and fixed on 07.05.2012 for framing of charge. The Labour Court, finally, vide order dated 07.05.2012, fix 03.06.2012 for framing charge. At this stage, the petitioner moved this Court and obtained the aforesaid Rule. At the time of issuance of the Rule, this Court, vide order dated 28.05.2012, stayed further proceedings of the said BLL case pending before the First Labour Court, Dhaka.

Mr. Muhammad Nazrul Islam, learned advocate, along with Mr. Abdul Baten, learned advocate, appearing for the petitioner, submits that though a notice vide Annexure-A was issued upon the petitioner and, accordingly, the petitioner expressed his inability to supply those information and records vide letter dated 26.11.2012 contending that all the records were maintained and controlled by the Head Office, the Inspector, most arbitrarily and without giving any further opportunity to the petitioner to arrange those documents and to arrange compliance of the relevant provisions of Law, filed the impugned BLL case just to harass the petitioner for collateral purpose. This being so, he submits that, the impugned BLL Case should be quashed by this Court. In support of his submission, learned advocate refers to a decision of this Court in **Kazi Rokanuddin vs. Labour Court, 16 BLC (2011)-892**.

The Rule is not opposed by any one.

We have examined the decision of this Court in **Kazi Rokanuddin's case** as referred to by learned advocate for the petitioner. However, we are of the view that the facts and circumstances and the issues of that case are

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Assistant Bench Officer
Supreme Court of Bangladesh
High Court Division, Dhaka.

different from the present one and as such the said decisions is not at all applicable in the facts and circumstances of the present case.

applicable in the facts and circumstances of the present case.

—இந்திய அரசு உறுப்பினர் இ: டி. சீதாராம் அய்யர் Assistant
vice President

It appears from the annexures to the writ petition that the petitioner, vide Annexure-A, was asked to supply relevant documents and information regarding compliance of the relevant provisions of the said Act. However, though learned advocate admits that the petitioner was the head and in charge of that particular Branch of Islami Bank, he, for reasons best known to him, expressed his inability contending that all the records were maintained and controlled by the Head Office. Since the admitted position is that the petitioner was the person in-charge of that particular Branch, which is admittedly a work place, it was the responsibility of the petitioner to supply those records, documents and information about compliance of relevant provisions of law to the Inspector of Shops and Establishment, as, according to the said Act, the Inspector was entitled to inspect the said work place and seek information regarding compliance of the provisions of Labour Law. Since without arranging those information from the Head Office or seeking further time from the Inspector for arrangement of those records and for compliance of the relevant provisions, the petitioner did not comply with the direction of the Inspector, we do not see any illegality on the part of the Inspector to file this impugned BLL case alleging violation of several provisions of concerned law. This being so, we do not find any merit in the Rule and as such the same should be discharged.)

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Supreme Court of Bangladesh
High Court Division, Dhaka.

In the result, the Rule is discharged. The order of stay granted earlier by this Court, thus, stands recalled and vacated.

MOHAMMAD ULLAH, J:

S. H. Arif.

I agree.

Mohammad Ullah.

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Mahmudul Hasan
Assistant Bench Officer
Supreme Court of Bangladesh
High Court Division, Dhaka.

1. Chairman, The First Labour Court, 4 Rajuk Avenue, Sramo Bhaban, 4th Floor, Dhaka.
2. Registrar, The First Labour Court, 4 Rajuk Avenue, Sramo Bhaban, 4th Floor, Dhaka.
3. The Chief Inspector of Factory and Establishment, Labour House, 4 Rajuk Avenue, Palton, Dhaka-1000.
4. Nessar Uddin Ahmed, Inspector, Shops and Establishments, Industries and Establishments Inspector Bureau, Office of Inspector of Shops and Establishments, Zilla Sadar Road, Akaur Takur Para, Tangail.

For information and necessary action.

By order.

Superintendent

Assistant Registrar

Typed by: Alam: 27.08.2014.

Read by:

Exam.by:

Readied by:

27.08.14
27.8.14
9/11/14

9/11/14