

ASK and BLAST vs Bangladesh and Others [Beggar's Rehabilitation Case]

Writ Petition No. 3015 of 2011

The Government issued a notification on 23.9.2010 requesting submission of expressions of interest to engage NGOs for beggars' survey in the Dhaka Metropolitan City under the *Bhikkhuk Punorbashon and Bikolpo Kormoshongsthan Kormosuchi* (Beggars Rehabilitation and Alternative Employment Programme). The Bangladesh Legal Aid and Services Trust (BLAST) and Ain O Salish Kendro (ASK) filed a Writ Petition No. 3015 of 2011 challenging the validity of the aforesaid programme.

Facts

Under the "Beggar Rehabilitation and Alternative Employment Programme" the Government engaged ten NGOs to participate in registering persons as beggars, and classifying them into different categories. These would classify people as beggars who are seasonal/irregular, occupational, women, children, aged 1-12, aged 12-50, elderly, and aged 50. These categories are clearly overlapping and the classification therefore appears incoherent as the survey is to be conducted in a day which was not practically possible and seasonal beggars on various occasions, i.e. Shab –e- Barat, Eid –ul –Adha and during Monga period could not be taken in the list.

Argument

The petitioners argued that this classification into such age groups will also result in the identification of infant and children of the country as beggars in the official documents of the government which is in derogation of the fundamental principles of state policy. Further, although there are existing provisions under law for persons with disabilities and children, instead, under this programme, they risk being classified permanently as 'beggars' and compelled to undergo 'rehabilitation'. This survey, thus, definitely impinges on their dignity of life.

In addition, the petitioners argued begging is an offence punishable under section 81 of the Dhaka Metropolitan Police Ordinance. On 02.02.2011 the High Court had earlier issued a suo moto rule and directed the police authorities to rigorously enforce this law against begging in Dhaka city. In these circumstances, any individual who registers themselves as a beggar will be in violation of the law, and face the risk of arrest or detention. This is a violation of their fundamental rights – particularly the right to life, personal freedom, and the freedom of occupation, as well as a violation of their most fundamental right to human dignity. Additionally, this is a violation of the constitutional right, guaranteed under Article 35 (4), to freedom from self-incrimination. Such a survey clearly contravenes human rights and basic freedoms guaranteed under the Constitution and under international human rights treaties to which Bangladesh is a party.

Order and Direction

On 30.11.2011, a High Court Division bench, comprising of Mr. Justice Mirza Hossain Haider and Mr. Justice Muhammad Khurshid Alam, issued a rule on the Government seeking an explanation on the legality of the aforesaid programme. Upon hearing Mr. Khondokar Shahriar Shakir, Advocate, for the petitioners and upon consideration of the petition, the Court directed the respondents to show cause as to why the impugned notification dated 23.09. 2010 and the proceeding taken by the respondents for implementing the aforesaid programme should not be declared to have been issued without lawful authority and to be of no legal effect. And since the impugned notification has already been implemented partly, the prayer for passing an interim order of stay was not considered.

Current Status

This case is now pending for hearing.

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