

Press Appellate Board
&
Bangladesh Press Council
40, Topkhana Road, Segunbagicha, Dhaka-1000.

PAB APPEAL NO: 5/2017

Dr. Chowdhury Israk Ahmed Siddiky
Son of Chowdhury Tanbir Ahmed Siddiky
of House:16, Road:62, Gulshan-2,
Dhaka-1212.

-Complainant.

VS

District Magistrate, Dhaka.

-Opposite Party

Present : The Hon'ble Chairman and the Member of Press Appellate Board:

- | | |
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| 1. Justice Mohammad Mamtaz Uddin Ahmed | Chairman |
| 2. Md Mizan Ul Alam | Member |

Petitioner	: Mohammad Moniruzzaaman, Advocate.
For Opposite Party	: Absent.
Date of Hearing	: 25/04/2018
Date of Judgment	: 22/05/2018

Judgment:

The appellant filed this appeal stating inter alia that the appellant filed application under section 12(4) of the Printing Presses and Publications (Declaration and Registration) Act, 1973 for an order directing the District Magistrate, Dhaka, the opposite party to authenticate the declaration of the applicant in relation to his proposed quarterly law journal "Quarterly Law Review", Over 60(Sixty) days have elapsed since the submission of the application for authentication before the District Magistrate, Dhaka, but, till date, the District Magistrate has not taken any step for giving declaration.

The appellant stated further that the appellant is a peace loving and law abiding citizen of Bangladesh. He is an Advocate of the Supreme Court of Bangladesh and an Assistant Professor of the University of Asia Pacific. The petitioner completed his LL.B (Hon's) from the University of Kent, UK and was called to the Bar of England and Wales from the Hon'ble Society of Middle Temple in 2004. He has also awarded the LL.M and PhD Degree from the Center for Energy Petroleum Mineral Law and Policy under the University of Dundee, Scotland, United Kingdom.

The appellant in 2014 applied for the permission to publish a law journal in the prescribed form and submitted the required documents including educational certificate, Bank statement, letter of recommendation from a newspapers and Bangladesh Bar Council dated 07/09/2014 and a declaration from the printer.

It has been stated further that on 18.01.2015, the opposite party through a Memo enquired with the bank and the newspaper that provided the applicant with an experience certificate and those were found accurate and satisfactory.

On 16.04.2015, the registration branch of the Films and Publication Department gave a clearance certificate to publish the journal in the name of 'Quarterly Law Review'.

On 11.02.2016, the Special Branch of Bangladesh Police made an enquiry about the applicant and submitted their report to the opposite party. In the report, the Special Branch of Bangladesh Police found that all the informations given by the applicant were correct and that there was no negative information given about him.

That in spite of receipt of the clearance the file has been lying with the opposite party for the last 18 months without fixing date for appearance of the appellant in person before the district magistrate for making declaration in Form-B for getting declaration for publication of the law journal. The appellant stated that the respondent in clear violation of section 7 of the Printing Presses and Publications (Declaration and Registration) Act, 1973 has been delaying the matter.

As a result it is clear that despite the applicant fulfilled all the conditions, the opposite party has failed to provide a date for Declaration.

That appellant stated that the applicant/appellant appeared 4 (four) times before the opposite party, however, he did not authenticate the declaration. He did not refuse to authenticate either but merely indicated that he would look into the matter.

The appellant sent a notice on 24.09.2017 (Annexure F) regarding the disposal of his application to authenticate the declaration for publication. However till date, there is no response from the opposite party.

In the premises the applicant being aggrieved by and dissatisfied with the failure of the opposite party to authenticate the declaration and dispose of the application has filed this appeal petition before this Board.

We have examined the order sheet and the peon book. The appeal was registered on 03.12.2017. The notice to the respondent was sent on 06.12.2017 by registered post fixing 03.01.2018 for filing written statement/written objection. The respondent did not file written statement/written objection. Then another notice dated 04/01/2018 was sent through peon fixing 07.02.2018 for filing written statement/written objection and notice was received on 07.02.2018 but no written statement/written objection filed by the respondent. In such circumstances, 21.03.2018 was fixed for ex-parte disposal of the Appeal. Thereafter for ends of justice the Appeal was withdrawn from the list of ex-parte hearing and then another notice dated 25.03.2017 was sent to the Respondent for filing written statement/written objection and the notice was sent through peon as well as by registered post and email but this time the respondent has not submitted written statement/ written object. Failing to receive response from the Respondent the Appeal was fixed on 25.04.2018 for ex-parte disposal of the Appeal. This notice was served on 19.04.2018 but the respondent did not turn up for contesting the

Appeal on 25.04.2018 and then the appeal was taken up for hearing ex-parte and heard the learned Advocate appearing for the appellant.

Mohammad Moniruzzaaman learned Advocate, appearing for the appellant has taken us through the appeal petition and the annexures.

Learned Advocate submitted that the opposite party is under a legal obligation to authenticate the declaration of the application. As such the opposite party may be directed to provide a date for authentication of the declaration and dispose of the application of the petitioner.

Learned Advocate next submitted that failure of the opposite party to authenticate the declaration for publication of the law journal is violation of section 7 of the Printing Presses and Publication (Declaration and Registration) Act, 1973 and as such the action of the opposite party is without lawful authority and of no legal effect.

He further submitted that the opposite party being a person performing the function in connections with the affairs of the Republic is under a duty to act fairly, reasonably and judiciously, and as such, the opposite party may be directed to administer a Declaration for the publication of the law journal.

That Learned Advocate again submitted that the impugned inaction of the opposite party to dispose of the application of the petitioner violates Articles 27, 31 and 42 of the Constitution.

He submitted that despite the applicant fulfilled all the conditions of being the publisher of the law journal, the inaction of the opposite party in not disposing of the application is arbitrary, unreasonable and an act of highhandedness on his part. There is no lawful reason for delaying the authentication of the declaration for publishing the law journal.

We have examined the annexures. The appellant has furnished several documents such as certificate of Enrolment as an advocate, permission to practice in the high court division; Experience certificate from the publishers of the weekly Holiday, Bank Certificate and declaration from the printer and a Duplicate Form from the Magistrate, Dhaka. He has also submitted a letter of recommendation from the Bangladesh Bar Council dated 07.09.2014.

Annexure 'D' a clearance certificate to publish the journal in the name of "Quarterly Law Review" and Annexure 'E' is a police inquiry report of the Special Branch of Bangladesh Police. The Police report dated: 11.02.2016 in verbatim is reproduced below:

উপর্যুক্ত বিষয় ও সূত্রের বরাতে জানানো যাচ্ছে যে, আবেদিত ইংরেজী ত্রৈমাসিক **Quarterly Law Review** পত্রিকার প্রকাশক ও সম্পাদক ডক্টর ব্যারিস্টার চৌধুরী ইশরাক আহমদ সিদ্দিকী, পিতা- চৌধুরী তানবীর আহমদ সিদ্দিকী, স্থায়ী ও বর্তমান ঠিকানা: সড়ক নং-৬২, বাড়ী নং- ১৬, গুলশান -২, ঢাকা মেট্রো এর সম্পর্কে নগর বিশেষ শাখা, ঢাকা কর্তৃক অনুসন্ধান করানো হয়েছে। অনুসন্ধানে প্রদত্ত নাম ঠিকানা সঠিক পাওয়া গিয়েছে। তার শিক্ষাগত যোগ্যতা এলএলবি(অনার্স), এলএলএম, তার স্বভাব চরিত্র ভাল। তিনি ২০০৯ সাল হতে ২০১৩ সাল পর্যন্ত সাপ্তাহিক হলিডে পত্রিকায় বিশেষ প্রতিনিধি হিসেবে দায়িত্ব পালন করেছেন বলে জানা যায়। তিনি কোন রাজনৈতিক কর্মকাণ্ডে জড়িত নন। তবে তার বাবা চৌধুরী তানবীর আহমদ সিদ্দিকী বিএনপি'র স্থায়ী কমিটির সাবেক সদস্য ছিলেন। বর্তমানে তিনি বিএনপি হতে বহিস্কৃত। পত্রিকাটি প্রকাশনার বিষয়ে ডিএফপি'র ছাড়পত্র রয়েছে এবং নিয়মিত প্রকাশ করার জন্য প্রয়োজনীয় অর্থ সম্পদ প্রকাশকের রয়েছে মর্মে অনুসন্ধান জানা যায়। সংশ্লিষ্ট থানা, নগর বিশেষ শাখা, ঢাকা এবং অত্রাফিসের রেকর্ডে তার বিরুদ্ধে বিরূপ কোন তথ্য পাওয়া যায়নি।

Section 7 and section 12 (3) (4) being relevant for the purpose of disposal of the appeal are quoted below:

The printer and publisher of every newspaper shall appear in person or by agent authorized in this behalf in accordance with the rules, before the District Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe, in duplicate originals, a declaration in Form B.

12(3). If the District Magistrate refuses to authenticate the declaration, the person making the declaration may, within forty-five days of such refusal, prefer an appeal to the [Press Appellate Board] whose decision thereon shall be final.

12(4). If the District Magistrate fails to authenticate the declaration within sixty days of the making thereof, the person making the declaration may prefer an application to the [Press Appellate Board] praying for an order directing the District Magistrate to authenticate the declaration, and the [Press Appellate Board] shall make such order on such application as it may deem fit.

On examination of the application for authentication it appears that applicant/appellant has supplied all necessary documents. It appears further that the appellant sent notice on 24.09.2017 urging respondent to fix a date for appearance of the applicant to sign Form B as contemplated under section 7 of the Act but failed to receive any reply from the respondent.

We have heard the submissions of the learned Advocate appearing for the appellant. Perused the annexures annexed to the Appeal petition and the relevant papers filed in this connection.

We find that the District Magistrate has utterly failed to exercise the jurisdiction vested by law. His action in the matter is deprecated. The inaction in respect of this application of the Magistrate is ex-facie illegal.

The respondent admittedly is performing the functions in connection with the affairs of the Republic and as such is under duty bound to act in accordance with law but the respondent has failed to perform functions as such.

Upon scrupulous scrutiny of the materials furnished by the appellant including the police report we have found that the appellant has fulfilled all the conditions as laid down in section 12(1) and (2) for the purpose of the authentication of the declaration of the law journal and also fulfilled the conditions as contemplated under section 7 of the Printing Presses and Publications (Declaration and registration) 1973.

In view of our discussions made above and the reasons assigned it is clear that the respondent District Magistrate, Dhaka has acted illegally in not authenticating the declaration to publish the Quarterly law journal title 'Quarterly Law Review'.

Before parting with the case, we feel constrained to observe that the respondent has not only failed to act in accordance with law but also failed to make response to the notice of this Board which is a legal body and acts under the law. He cannot act whimsically disregarding the established law of the country. This Appellate Board expects that the respondent will act in accordance with law in future. He should note nobody is above the law.

In the result, the appeal is allowed. The opposite party/respondent the District Magistrate, Dhaka is directed to authenticate the declaration of the applicant (Dr. Chowdhury Ishraq Ahmed Siddiky) in order to publish the quarterly law journal titled 'Quarterly Law Review' within 15 (fifteen) days from the receipt of the order positively.

Communicate the order to the District Magistrate, Dhaka.

Singed/-

Justice Mohammad Mamtaz Uddin Ahmed
Chairman
Press Appellate Board
&
Bangladesh Press Council

I agree.

Singed/-

Md Mizan Ul Alam (Joint Secretary)
Ministry of Information
Member
Press Appellate Board