



YOUR ADVOCATE

This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Query

I'm a great fan of your well informative and effective responses to various queries over the past few years in "THE DS", even my elder sister was a beneficiary of your ANSWERS hence, she invariably remembers your honor in her Duahs for you; continuous successes and immense joy in your valued life.

My queries are as under, since I'm a Bangladeshi citizen Holding Bangladeshi Passport and married to an American citizen of Bangladeshi parentage who immigrated to the USA in the early 1990s. My Husband IS Holding an American Passport he can; Read, Write & speak Bangla fluently, so is he entitled to :

1. Dual Citizenship being for married to me a Bangladeshi???

2. If yes, can he apply for his Bangladeshi Pp from the Bangladesh Consulate in New York? or is it mandatory to apply ONLY from Bangladesh???

I remember a specific case of a Lady Bangladeshi Diplomat whose westerner husband was granted Dual citizenship. Is that case specific or Blanket availability to mundane Bangladeshis like myself???

Personally I have no intention whatsoever to renounce my Bangladeshi Citizenship, at this point in time.

While thanking you very much in anticipation, I remain,

Reader

Response

Thank you for your queries regarding the rules of dual citizenship in Bangladesh for a male foreign passport holder married to a Bangladeshi woman and whether one must apply for a Bangladeshi Passport only from Bangladesh or can also do so from elsewhere.

According to the Bangladesh Citizenship (Temporary Provisions) Rules 1978, the foreigner wife of a Bangladeshi man can apply for Bangladeshi citizenship, provided she has been living in Bangladesh for two years. Unfortunately, there are no similar provisions in the Rules for the foreigner husband of a Bangladeshi woman. The Government of Bangladesh is planning to review these provisions, but till date this issue has not seen the light of any enactment i.e. any Act of Parliament or Order or Rules as such. It is difficult to predict with precision when such legislative change may be brought.

Nevertheless, if not under the ground of a spouse, your husband can still apply for Bangladeshi citizenship and/or permanent residency on general grounds under the Bangladesh Citizenship (Temporary Provisions) Rules 1978 (herein after referred to as the 'BC(TP) Rules 1978') and the Bangladesh Citizenship

(Temporary Provisions) Order 1972 (herein after referred to as the 'BC(TP) Order 1972') and he can do so under the options set out below:

Option 1: Rule 3(1) of the BC(TP) Rules 1978 provides that if a person wishes to apply for Bangladeshi citizenship within the ambit of Order 2B, Clause (2) of the BC(TP) Order 1972, s/he has to submit Form 'A' and do the following:

If the applicant is residing temporarily in Bangladesh, the application shall be submitted directly to the Government and if the applicant is residing outside Bangladesh then it shall be submitted to the



Government through the Bangladesh Diplomatic Mission or Consulate in that country or where there is no Bangladesh Mission or Consulate in that country to a Bangladesh Mission or Consulate in the country nearest to that country.

The application shall be accompanied by an affidavit affirming the truth of the statements made before a Magistrate of the 1st Class or a Notary Public and four copies of Passport size photographs duly attested by a Class-1 Gazetted Officer or a Magistrate of the 1st Class or a Notary Public.

The application shall be accompanied by Treasury Chalan of Tk. 200 or equivalent in Foreign Exchange under the heading "65-Misc.-Non-Tax Revenue-Citizenship and Passport."

The application shall also be accompanied by documentary evidence, if any, regarding remittances in Bangladesh.

It shall also be accompanied by a copy of foreign citizenship documents or birth certificate.

Moreover the concerned Government or the Bangladesh Diplomatic Mission or Consulate may, if need be, call for the submission of other documents related to, for example, when the applicant got current nationality, special qualifications of the applicant, present occupation or trade, income and its source, any relatives living in Bangladesh, knowledge about Bengali language, etc.

Option 2: Rule 4(1) of the BC (TP) Rules 1978 provides that if a person wishes to apply for Bangladeshi citizenship within the ambit of Order 4 of the BC (TP) Order 1972, s/he has to submit Form 'B' in the same manner as given in Rule 3(1) of the BC (TP) Rules 1978 above. However, a condition remains that no application will be considered under this Rule if the applicant does not declare, through affidavit, his/her citizenship status and details about leaving his/her main country of residence.

Moreover, it is mentioned in Rule 4 of the BC (TP) Rules 1978 that an application regarding acceptance of citizenship will be considered-

(a) if the applicant is a female overseas citizen married to a Bangladeshi man and is normally living in Bangladesh for two years; or

(b) if the applicant does not fall within clause (a) above, but is normally living in Bangladesh for five years.

Option 3: Other than the above you may consider Rules 4A or 4B of the BC (TP) Rules 1978, which contain the provisions for application for Bangladeshi citizenship by Foreign Traders/Business persons/Investors and application for Permanent Residency by the same respectively.

If the Government is satisfied after considering the Form and all the documents submitted, and is satisfied that your spouse is not incapable of getting Bangladeshi citizenship by or under any law, he will be given Bangladeshi citizenship (or right to permanently live in Bangladesh) and a certificate shall be issued to this effect (Rules 7 and 8 of the BC (TP) Rules 1978).

Note that such an order is appealable. Therefore if there is any dissatisfaction with the order of the Government an appeal can be made within 30 days of receiving such order.

In light of the above discussion, you are advised to go to the Home Ministry, Immigration Department, and talk to the concerned officers in detail about the situation and collect the form(s) prescribed by them.

I hope the abovementioned opinion has been helpful and wish you all the best.

For detailed query contact: omar@legalcounselbd.com.

HUMAN RIGHTS MONITOR



More data needed on abandoned children, trafficking

Better monitoring is needed

CHILDREN in Bangladesh who have been abandoned by their parents are vulnerable to traffickers, but tackling the problem is hampered by the lack of data on missing children, say aid workers.

"We rescued a child from a brothel after receiving a call from a customer of that brothel who said the girl requested him to rescue her," said Rahena Chowdhury, a social worker for Aparajeyo Bangladesh, a national child rights organization.

"I don't remember my parents' name or address, but I remember they used to love me very much and I miss being at home," said 14-year-old Mossamat Monira Begum.

Monira was picked up on the streets and sent to a Madrassah, a religious Islamic school, at the age of eight. She fled from the school after being sexually harassed and now stays at a shelter in Dhaka owed by Aparajeyo Bangladesh.

"I don't want to stay without my parents any more. I want to return as soon as possible," said six-year-old Jharna Begum, who lives at the same shelter. Jharna went missing after she was separated from her parents when the government demolished a city slum in Dhaka. Children can stay at the shelter, where they also get an education, until the age of 18. "While they are here, we keep looking for their parents with the help of law enforcing agencies," said Ruksana Begum, manager of the Aparajeyo shelter.

Unreported

Thousands of children trafficked from Bangladesh to other countries go unreported each year, say aid workers and



government officials.

"We cannot be certain about the actual number," Michael McGrath, country director of Save the Children Bangladesh, told IRIN. "The only reliable statistics [on missing children] are those that refer to the number of children 'rescued' each year, and the number of cases opened against traffickers or traffickers convicted each year. Each of these figures is very small."

A group of "missing" children at a shelter in Dhaka

However, according to Abdul Quader, programme manager at the UK-based NGO Plan International, an estimated 200,000 Bangladeshi girls were lured under false pretences into the sex industry in neighbouring countries over

the past 10 years. Others put the figure even higher. Little data is available on missing children in Bangladesh; police and media reports are the main source of information.

"Lack of awareness among the masses and an absence of a nationally integrated reporting system triggers a large number of missing children going unreported," said Shabnaaz Zahreen, a child protection specialist at the UN Children's Fund (UNICEF) in Dhaka.

"Many close acquaintances of missing children do not report the missing to police," Zahreen said, adding that the "reasons for not reporting a missing [child] could be founded in poor economic conditions of parents, whereas the split-up of parents in rural areas have seen children being abandoned by

their parents."

According to Nasima Begum, director-general of the Department of Social Service, "more coordination efforts between the Home Ministry, the Ministry of Social Welfare, the Bangladesh Bureau of Statistics and non-government agencies should take place in order to bolster the quality of data-gathering on missing and abandoned children in Bangladesh."

While the government is making progress in some data collection areas, for instance its attempt to register birth data online to combat high levels of child marriage, "there is clearly a need for more accurate monitoring systems, so that we can have reliable statistics," said McGrath from Save the Children.

Helpline

In 2010 the government, in collaboration with UNICEF and the Dhaka City Corporation, established a toll-free child helpline to fight child-trafficking.

Zannatul Ferdous Nishu, a social worker at Aparajeyo Bangladesh, said that since 2011 the NGO had rescued 312 children thanks to the helpline. "Any person can call 1098, a toll free number, to report a missing child," he said.

According to the US State Department's 2012 Trafficking in Persons report, Bangladeshi children are trafficked internally for commercial sexual exploitation, domestic servitude, and forced and bonded labour, including forced begging. Bangladesh does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so, the report said.

Source: IRIN (<http://www.irinnews.org/>).



LAW WEEK

Court accepts case against seven-year old girl

A seven-year-old stood in the dock at a Dhaka court yesterday, accused of committing theft and assaulting another child of her age. Her mother and two brothers, co-accused in the case, were also in the dock. The court of Senior Judicial Magistrate Afroza Sheuly took into cognisance the charges against the girl, Sampa, her mother Aniccha Begum and brothers Jasim and Wasim. And it granted them bail. Lawyers and litigants on the court premises were shocked to see a child accused in a criminal case. Asked about the case, President of Dhaka Bar Association Borhan Uddin said, "A girl of seven cannot be accused of criminal offence, and she cannot be brought under trial as per provisions of the Penal Code ... The charges against a seven-year-old cannot be punishable." Sampa is a student of class one at Chhoto Tasulla Government Primary School at Nawabganj in Dhaka district. She along with the other accused surrendered to the court yesterday in response to an earlier court order. According to the prosecution, on August 1 Sampa and eight-year-old Akash, son of Mohammad Aziz, while bathing in a pond picked a quarrel. At one stage, the girl hit Akash in the eye, causing a minor injury. This led to clashes between the two families. Aziz filed the case with the Chief Judicial Magistrate's Court, Dhaka, on August 29. And the court issued summons asking the four to appear before it on October 7. Sampa's father Abdur Rahman told this correspondent that his neighbour Aziz filed the case concealing the actual age of his daughter, who is now seven. But the complainant mentioned that she is 12, he added. Rahman broke down in tears, saying, the case was filed only to harass his family members. - *The Daily Star*, September 7.

Destiny officials granted bail

A Dhaka court yesterday granted bail to 16 officials of Destiny Group till submission of probe reports in two money laundering cases. Earlier on August 6, another Dhaka court had granted bail to five high-ups of the same company including its managing director. After hearing both the prosecution and the defence for over two hours, Metropolitan Magistrate Harun-or-Rashid passed the order upon a bond of Tk 50,000 each with two guarantors. During the hearing, Special Public Prosecutor Mosharraf Hossain Kajol told the court that a magistrate has no jurisdiction to hear any petition. "The magistrate has violated the provisions of Money Laundering Prevention Act, 2009 by granting the accused bail in the cases," Kajol claimed while talking to The Daily Star following the court's order. "Only judge of a special judge's court can hear any petition submitted by both the prosecution and the defence. A metropolitan magistrate is not a special judge", he added. - *The Daily Star*, Sept, 6.

'Constitution can resolve crisis'

Eminent jurist Dr Kamal Hossain said yesterday the constitution contains provisions that can resolve the ongoing crisis between parliament and the judiciary, and it does not need amending the constitution. If there is any allegation against a High Court judge, it can be referred to the Supreme Judicial Council for trial, he told journalists at his law chamber in the capital. "I will request the Speaker and others concerned to think over the matter [crisis]. Opinions from different organs of the state, and from legal experts may be solicited to settle the crisis within the purview of law without further debate," said Dr Kamal. The crisis surfaced again as a number of ruling alliance lawmakers on Tuesday accused in parliament two HC judges of violating the constitution and demanded that they be removed for delivering a controversial judgment on the Speaker's June 18 ruling. - *The Daily Star*, Sept, 5.

Govt okays Ordinance

The cabinet yesterday finally approved the draft of Grameen Bank Amendment Act 2012 to turn the ordinance into a law in the current session of parliament. The approval came 11 days after President Zillur Rahman promulgated an ordinance amending the Grameen Bank Ordinance, 1983. Cabinet Secretary M Musharraf Hossain Bhuiyan briefed newsmen after the meeting. According to the proposed amendments, the chairman of Grameen Bank in consultation with the board of directors will form a selection committee to prepare a three-member panel for appointing a managing director of the bank, he said. The board, with an approval from the Bangladesh Bank, will appoint the MD from the panel, he added. The cabinet secretary said Finance Minister AMA Muhith had apprised the cabinet of the progress in appointing a MD for the bank. On August 23, the government issued a gazette notification to constitute a search committee for choosing a MD for the bank. Frustrated at the government's action, Noble laureate and former MD of Grameen Bank Prof Muhammad Yunus described 'August 23' as a black day. Earlier on August 2, the cabinet approved in principle the draft of the Grameen Bank Ordinance. - *The Daily*

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: Law Desk, 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: