

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

WRIT PETITION NO. _____ OF 2012.

IN THE MATTER OF:

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

AND

IN THE MATTER

Public Interest Litigation.

AND

IN THE MATTER

Md. Shah Tazul Islam Rumel, Son of Late Shah Abdul Hai of Sultanshi, Post-Moshajan, P.S. Hobigonj Sadar, District- Hobigonj. At present Rahman Vila, 30 Sayaia Toru, Lamabazar, Sylhet Sadar, District- Sylhet, Bangladesh.

..... Petitioner.

-V E R S U S-

1. Bangladesh represented by the Secretary Ministry of Home Affairs, Bangladesh Secretariat, P.S.: Ramna, District: Dhaka.
2. The Inspector General of Police (IGP) Police Bhaban, Phulbaria, P.S.; Ramna, District- Dhaka.
3. The Divisional Commissioner, Sylhet, Post and District- Sylhet, Bangladesh.
4. The Deputy Commissioner, Hobigonj, Post and District- Hobigonj, Bangladesh.
5. The Deputy Inspector General of Police (D.I.G), Sylhet, Post and District- Sylhet
6. The Police Super, Hobigonj, Post and District- Hobigonj, Bangladesh.
7. The Upazila Nirbahi Officer, Hobigonj Sadar Upazila, Post and District- Hobigonj.
8. The Officer in Charge, Hobigonj Sadar Thana, Post and District- Hobigonj.

.....Respondents.

AND
IN THE MATTER OF:

Enforcement of fundamental rights under Article 28, 31, 36 and 41 of the Constitution of Bangladesh.

AND
IN THE MATTER OF:

For a direction upon the Respondents to take appropriate steps upon the fatwabaz who are creating obstruction to the normal movement of the villagers during their walking in the road towards Sultanshi Abasik Area, Hobogonj Sadar, having wearing shoe and cap on the head.

GROUNDS

I. For that the duty and responsibility vested upon the law enforcing agency to protect citizen from the unlawful activities. The respondents are also duty bound to obey the provision of law. It is the duty of a police officer to investigate the case where provision of law has been violated. But they have failed to perform the duties and responsibility as per the law. Hence direction may be given upon the respondents to take legal action against the violators of the law.

II. For that the persons who forced to the normal movement of the citizen are liable to be punished under the provision of law. More over as per Article 21 of the constitution of the Peoples Republic Of Bangladesh duty of every citizen and public servant is to observe the constitution and law but failed it by the respondents. Hence a direction may be given upon the Respondent.

III. For that the practice of Fatwa against the existing law and failure of the authorities to take any action against them or to prevent or punish the perpetrators of Fatwa results in the violation of existing applicable laws, human rights. It is contrary to the laws of Bangladesh and against the Constitution.

IV. For that the Fatwa in respect of such incident as the Facts and circumstances reported in news paper resulted in inhuman, having no authority under the law to force another person against their wish.

V. For that the provisions as provided under Article 28, 31, 36 and 41 of the Constitution of Bangladesh, the right to free movement and religious rights of every citizens are guaranteed as a fundamental rights, which can not be violated. The respondents are duty bound to protect the fundamental rights of the citizen but their inaction is liable to be declared illegal and without lawful authority.

VI. For that the practice of Fatwa against the existing law and failure of the authorities to take any action against them or to prevent or punish the perpetrators of Fatwa results in the violation of existing applicable laws, human rights. It is contrary to the laws of Bangladesh and against the Constitution.

Wherefore it is most humbly prayed that your Lordships would graciously be pleased to: -

A) Issue a Rule Nisi calling upon the Respondents to show cause as to why the inaction/failure of the respondents to take appropriate legal action against the fatwabaz, should not be declared illegal and without lawful authority,

AND

Why a direction should not be given upon the respondents to take appropriate legal action who are creating obstruction to the normal movement of the villagers during their walking in the road towards Sultanshi Abasik Area, Hobogonj Sadar, having wearing shoe and cap on the head.

B) Pending hearing of the Rule direct the respondent No. 3 to make an investigation and find out the persons who are liable for the illegal act and submit a report before this Court within 15 (fifteen days).

C) Pending hearing of the Rule direct the respondent No. 6-8 to ensure the normal movement of the villagers during their walking in the road towards Sultanshi Abasik Area, Hobogonj Sadar, having wearing shoe and cap on the head in the month of Mohram by way of deploying police force within 24 hours and submit a compliance report before this Court within 7 (seven days).

D) Make the Rule absolute upon hearing the cause if any shown by the Respondent.

E) Pass such other and further order or orders as may seem fit and proper to your Lordships.

Present Status:

The case was moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble High Court Division issued Rule Nisi and passed ad interim order upon the respondents. The case is pending before the Court
