

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

WRIT PETITION NO. OF 2007.

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

For a direction upon the Respondents to take legal action against the persons who forced to get hilla marriage and to take necessary steps to stop activities against the provision of law by the fatwabaz at the village of Doshtika, District- Bogura.

AND

IN THE MATTER OF:

1. Human Rights and Peace For Bangladesh (HRPB) Represented by it's President, Manzil Murshid, 36 Mirpur Road, P.S. Dhanmondi, Dhaka, Bangladesh.
2. Advocat Asaduzzaman Siddique, Secretary, Human Rights and Peace for Bangladesh (HRPB), Hall No.2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
3. Advocate Md. Sarwar Ahad Chowdhury, Organizing Secretary, Human Rights and Peace for Bangladesh (HRPB) of 3/14 Bashbari Bosila Road, Mohammadpur, P.S: Mohammadpur, Dhaka.

.....Petitioners.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Home Affairs, Government of Bangladesh, Bangladesh Secretariat, Ramna, Dhaka.

2. The Inspector General of Police, Police Head Quarter, P.S. – Ramna, Dhaka, Bangladesh.

3. The District Magistrate, Bogura, District-Bogura, Bangladesh.

4. The Police Super, Bogura, District-Bogura, Bangladesh.

5. Upozila Nirbahi officer, Bogura Sadar, District- Bogura, Bangladesh.

6. The Officer in Charge, Sadar Thana, District- Bogura, Bangladesh.

.....Respondents.

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 provisions 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 get hill marriage are liable to be punished under section 508 and 506 of the Bangladesh penal code. 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 t by the respondents. Hence a direction may be given upon the Respondent.

iii. For that the facts as reported in the news paper there was no talaq between the parties but forced to get hilla marriage, is totally illegal and against the sprit of law. The persons who gave fatwa for such kinds of hilla marriage, they are liable to be prosecuted under the law. The law enforcing agency has failed to do their job as vested upon them, hence a direction may be given upon them to take necessary steps against the violators of the law.

iv. 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 issue:-

1. A Rule Nisi calling upon the Respondents to show cause as to why the respondents should not be directed to take legal action against the violators of the law at Doshtika Village, Bogura Sadar, District-Bogura and why direction should not be given upon the Respondents to take proper steps to stop activities of the fatwabaz at Dostika village, Bogura against the provision of law and pass such other and further order or orders as may seem fit and proper to your Lordships.
2. Direct the respondent NO.1 to make an investigation and find out the persons who are liable for the illegal act at Distika village, Bagura Sadar, Bogura and submitted a report before this Hon'ble Court within 30 (thirty) days.
3. Make the Rule absolute upon hearing the cause if any shown by the Respondent.

Present Status

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

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