

In the Supreme Court of Bangladesh  
High Court Division  
(Special Original Jurisdiction)  
Writ Petition No. 3916 of 2006

In the matter of:

An application under Article 102 of the Constitution of the Peoples Republic of Bangladesh.

And

In the matter of:

Articles 27, 31 and 32 of the Constitution of Peoples Republic of Bangladesh, the Merchant Shipping Ordinance, 1983 (Ordinance No. XXVI of 1983), the Territorial Water and Maritime Zone Act, 1974 (Act No. XXVI of 1974) and the rules of 1977 made thereunder, the Bangladesh Environment Conservation Act, 1995 (Act No. 1 of 1995) and rules of 1997 made thereunder, the Coast Guard Act, 1994 (Act No. XXVI of 1994), the Basel Convention of the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989, Import Policy Order, 2003-2006, letters of respondent Nos. 1 and 8 dated 22 February, 2006 reference being Naupama/Jahaj/8(3)/2005-54 and No. 064/Cns/Ship/Scr-p/1734 (2) respectively and other applicable laws, rules and regulations,

And

In the matter of:

Bangladesh Environmental Lawyers Association (BELA) being represented by its Director (Progrms) Syeda Rizwana Hasan, having office at House No. 15A, Road No. 3, Dhanmondi R/A, Dhaka-1205

... Petitioner

-Versus-

1. Bangladesh, represented by the Secretary, Ministry of Shipping, Bangladesh Secretariat, P.S. Ramna, Dhaka.
2. Bangladesh, represented by the Secretary, Ministry of Industries, Bangladesh Secretariat, P.S. Ramna, Dhaka.
3. Bangladesh, represented by the Secretary, Ministry of Commerce, Bangladesh Secretariat, P.S. Ramna, Dhaka.

4. Bangladesh, represented by the Secretary, Ministry of Labour and Employment, Bangladesh Secretariat, P.S. Ramna, Dhaka.
5. Bangladesh, represented by the Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S. Ramna, Dhaka.
6. The Director General, Department of Environment, Poribesh Bhaban, E-16 Agargaon, Sher-e-Bangla Nagar, P.S. Tejgaon, Dhaka.
7. The Director General, Coast Guard, Head Quarter, DOSH, Baridhara, Dhaka.
8. The Director General, Department of Shipping, 141-143 Motijheel C/A, Dhaka.
9. The Chief Inspector of Explosives, Department of Explosives, Segunbagicha, P.S. Ramna, Dhaka.
10. The Chief Inspector of Factories & Establishment, 4 Rajuk Avenue, Motijheel, Dhaka.
11. The Deputy Commissioner, Office of The Deputy Commissioner, P.S. Kotwali, Chittagong.
12. The Collector of Customs, Custom House, Saltgola, P.S. Bandar, Chittagong.
13. The Chairman, Chittagong Port Authority, Bandar Bhaban, P.S. Bandar, Chittagong.
14. The Director, Department of Environment, Chittagong Division, 237 Nawab Sirajuddoula Road, Chok Bazar, Chittagong.
15. The Principal Officer, Mercantile Marine Department, CGO Building Agrabad Commercial Area, Chittagong.
16. President, Bangladesh Ship Breakers Association, Kabir Super Market (First Floor), 149 Gosail Dangan, Agrabad Double Mouring, Chittagong.

17. M. A. Quashem, Proprietor, National Steel Madambibirghat, Sitakunda, Chittagong.

18. L. S. P. Tankers Corporation Munraia, Liberia Owners of M.T. Alfaship represented by its agent JF (Bangladesh) Ltd. Agrabad, Chittagong.

.. Respondents.

Presents:

Mr. Justice Md. Awlad Ali

And

Mr. Justice Zinat Ara

The 3<sup>rd</sup> day of May, 2006

Dr. Kamal Hossain with

Mr. Tanjib-ul-Alam, ... for the Respondents.

Mr. Mohd. Abdul Baset, D.A.G. ... for the respondents.

Let a Rule Nisi issue calling upon the Respondents to show cause as to why their failure to prevent entry of the Vessel M.T. Alfaship into the territorial waters of Bangladesh and the arrival of the said Vessel without approval of the respondent No. 8 should not be declared to be without legal authority and is of no legal effect and why the respondents should not be directed to secure departure of the Vessel M. T. Alfaship from the territorial water limit of Bangladesh and take immediate steps for banning importation of any of the 50 ships (Annexure-C) to enter into territorial waters of Bangladesh or such other of further order or orders passed as to this Court may seem fit and proper.

Pending disposal of the Rule, the Respondent Nos. 7,8,12 and 13 are directed not to allow the said Vessel to move further towards Chittagong Port and enter into inner water limit of Bangladesh for a period of 2 (Two) months.

The Rule is made returnable within 3 (Three) weeks.

Md. Awlad Ali

Zinat Ara

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4. Bangladesh, represented by the Secretary, Ministry of Labour and Employment, Bangladesh Secretariat, P.S. Ramna, Dhaka.
5. Bangladesh, represented by the Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S. Ramna, Dhaka.
6. The Director General, Department of Environment, Poribesh Bhaban, E-16 Agargaon, Sher-e-Bangla Nagar, P.S. Tejgaon, Dhaka.
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10. The Chief Inspector of Factories & Establishment, 4 Rajuk Avenue, Motijheel, Dhaka.
11. The Deputy Commissioner, Office of The Deputy Commissioner, P.S. Kotwali, Chittagong.
12. The Collector of Customs, Custom House, Saltgola, P.S. Bandar, Chittagong.
13. The Chairman, Chittagong Port Authority, Bandar Bhaban, P.S. Bandar, Chittagong.
14. The Director, Department of Environment, Chittagong Division, 237 Nawab Sirajuddoula Road, Chok Bazar, Chittagong.
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18. L. S. P. Tankers Corporation Munraia, Liberia Owners of M.T. Alfaship represented by its agent JF (Bangladesh) Ltd. Agrabad, Chittagong.

.. Respondents

Presents:

Mr. Justice Syed Muhammad Dastagir Husain

And

Mr. Justice Mamnoon Rahman

The 8<sup>th</sup> day of May, 2006

Mr. M. Hafizulah with

Mr. Md. Al-Amin Sarker .... for the Respondents.

This is an application for addition of party being added as respondent No. 18 in the instant writ Petition.

The Learned Advocate for the applicant submits that the vessel M.T. ALFASHIP, is owned by applicant namely LSP Tankers Corporation, Monrovia, Liberia represented by JF (Bangladesh) Ltd., and the applicant is a necessary party for the proper adjudication of the case and if he is not allowed to be added he will suffer irreparable loss and he will be seriously prejudiced.

The application is opposed.

Heard the learned Advocate, perused the application considering the facts and circumstances and the Statements made in the application, we are inclined to allow the same. Office is directed to amend the cause title and add the applicant as respondent No. 18 Service of notice upon the added respondent is dispensed with and the added respondent is at liberty to file affidavit in opposition, if so advised.

Accordingly the application is allowed.

S.M.D. Hussain  
Mamnoon Rahman

The 16<sup>th</sup> day of May, 2006

Mr. A. F. Hasan Arif with

Mrs. Syeda Rizwana Hasan ..... for the Petitioner

Mr. Habibul Islam Bhuiyan ... for the Respondent Nos. 16 & 17

Mr. M. Hafizullah with

Mr. Md. Al-Amin Sarker ... for the added respondent No. 18

Let the applications for direction filed on behalf of the Respondent Nos. 16 and 18, supplementary affidavit, affidavit in reply be kept with the record to be considered at the time of hearing.

The learned Deputy Attorney General is directed to take necessary instructions from Respondent No. 1 to 5 to contest the instant writ petition. The petitioner is also directed to serve necessary copies to the Deputy Attorney General.

Since the Respondent Nos. 16 and 18 appeared by filling power, Service upon the other respondents are dispensed with and the Office is directed to make the case ready for hearing.

Let it appear in the list for hearing 22.5.2006 top subject to part heard.

S.M.D. Husain

Mamnoon Rahman