

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

WRIT PETITION NO. .... OF 2011.

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Public Interest Litigation (PIL).

AND

IN THE MATTER OF:

Dr. Mahmuda Khatun, Daughter of Munshi Nurul Haque of Labsha, Post-Labsha, Police Station- Shatkhira, District- Shatkhira, Bangladesh.

.....Petitioner.

**-V E R S U S-**

1. Bangladesh represented by the Secretary, Ministry of Cultural Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
2. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
3. The Wakf Administrator of Bangladesh, Wakf Bhaban, 4 New Eskatan Rad, Dhaka, Bangladesh.
4. The Director General (Joint Secretary), Archeological Directorate, F-4A, Agargaon, Sher-E-bangla Nagar, Dhaka-1207, Bangladesh.
5. The Deputy Commissioner, Satkhira, Polce Statin-Satkhira, District- Satkhira, Bangladesh.
6. The Officer in Charge (O.C.), Satkhira Sadar Thana, District-Satkhira, Bangladesh.
7. Mr. Amirul Haque, Secretary, Masjid Committee, Village -Labsa, Police Station- Satkhira, District- Satkhira.

.....Respondents.

AND

IN THE MATTER OF:

For a direction upon the respondents to implement the provisions of Section 12(c) of the Antiquities Act. 1968 and to protect the natural existence of a historical importance mosque namely Labsha Mosque (situated at village -Labsa, P.S. Satkhira, District-Satkhira) as per article 24 of the Constitution of Bangladesh.

### **GROUND S**

I. For that the duty and responsibility vested upon the administration to perform the duties for the people. The respondents are also duty bound to obey the provision of law. It is the duty of an officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as vested upon them under section 12 of The Antiquities Act 1968. Hence respondents may be directed to take necessary and immediate steps to stop the construction which is rendering the beauty of the monument Labsha Mosque and hampering its preservation which is certainly without any lawful authority and illegal.

II. For that the Labsha Mosque is having a historical importance; it must be preserved by the Government as per the provisions of Article 24 of the Constitution of Bangladesh. So at this stage there is no alternative to stop the illegal and unlawful construction activity unless it will be very difficult to demolish the buildings once it is build.

III. For that disregard to laws and legal provisions and failure to ensure proper steps the respondents have caused enough threat to the Labsha Mosque's very existence. Under these circumstances the respondents are legally bound to take all necessary steps to take necessary steps to stop construction activities. Hence a direction may be given upon the Respondents to take appropriate steps to stop these constructions.

IV. For that without any precautions to save the historical place, the respondents has sent the Labsha Mosque in a dangerous situation, which is violation section 12 of The Antiquities Act 1968. Moreover it is the duty of the government to impose restriction as per section 12 of The Antiquities Act 1968 in case of any constructions but violating the provisions the law construction within and near the perimeter of the protected immovable antiquity is continuing, which is illegal.

V. For that section 12 (c) of the Antiquities Act 1968 imposes a duty upon the Government to restrict any sort of construction activity near the listed antiquities by anyone. It is the duty of the Government

to organize protection and preservation of the antiquities. But in the case of Labsha Mosque, the Government has failed to perform his duties; hence the respondents may be directed to take appropriate steps to stop the illegal and unlawful construction activity near the Labsha Mosque.

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 inaction of the respondents to take necessary steps to stop any kind of building construction adjacent to the Labsha Mosque, should not be declared illegal and without lawful authority,

AND

Why a direction should not be given upon the respondents to implement the provisions of section 12 of Antiquities Act. 1968 in case of construction near Labsha Mosque.

b) Pending hearing of the Rule directs the Respondent No. 5-7 to take steps within 48 hours to stop ongoing construction activities adjacent to boundary of the Labsha Mosque and submit a compliance report within 2(two) weeks before this court.

c) Pending hearing of the rule directs the respondent no. 7 to refrain him from any construction near Labsha Mosque and any activities to destroy the Labsha Mosque.

d) Upon hearing the cause if any shown makes the rule absolute.

e) Pass such other or further order or orders as Your Lordships may deem fit and proper.

**Present Status:**

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble High Court Division issued Rule Nisi. Thereafter the Hon'ble Court was pleased to pass judgment and made the rule absolute.

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