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

**Writ Petition No. 3916 of 2006.**

In the matter of:

An application for addition of party,  
and

In the matter of:

Bangladesh Environmental Lawyers Association (BELA)  
..... petitioner

-Versus-

Bangladesh and others

..... Respondent

Mr. A.F. Hassan Arif with  
Ms. Syeda Rizwana Hassan and  
Mr. Iqbal Kabir Advocates

..... for the petitioner.

Mr. Habibul Islam Bhuiyan with  
Mr. Khan Md. Golam Azam

..... for the respondent No.16 & 17.

Mr. M. Hafiz Ullah with

Present: Mr. Alamin Sarker Advocates ..... for the respondent No.18.

Mr. Justice Syed Muhammad Dastagir Husain  
and

Mr. Justice Mamnoon Rahman.

Heard on: 23.5.2006, 24.5.2006, 25.5.2006  
and Judgment On: 06.07.2006.

**Mamnoon Rahman: J.**

In an application under Article 102 of the Constitution of the People's Republic of Bangladesh, Rule was issued 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 to take immediate steps for banning importation of any of the 50 ships (Annexure-C) to enter into territorial waters of Bangladesh or such other or further order or orders passed as to this Court may seem fit and proper.

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The short facts relevant for the disposal of this Rule are that: The petitioner is an Association Registered under the Societies Registration Act, 1860 bearing registration No. 1457 (17) dated 18th February, 1992; That the Petitioner BELA has been active from 1991 as one of the leading organizations with proven, documented and well recognized expertise and achievements in the field to environment, ecology and relevant matters of public interest; The environment and ecology of Bangladesh are being continuously endangered and threatened by various activities originating from private and public sources; Amongst the primary causes and sources of environmental degradation, pollution of the natural resources e.g., air, water, soil, etc. on which survival of life is dependent, have perhaps exceeded all norms and standards of human cognition; that amongst the industrial operation that inflict adverse impact on both natural and working environment the ship-scrapping operations, popularly known as ship breaking being undertaken on the beach of the Bay of Bengal in Sitakunda, Chittagong perhaps tops the list; that at the international arena, ship breaking operations are under severe criticism for being hazardous to the environment and the labourers; Following such criticism, abandoned ships are increasingly being recognized as hazardous wastes and as such have been subjected to special import license needed for import of hazardous wastes under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989 (hereinafter referred to as Basel Convention) that Bangladesh has acceded on 1 April, 1993; To assist the countries to effectively monitor and regulate movement of hazardous ships in accordance with the Basel Convention, the internationally reputed environmental campaigner Green Peace has prepared a list of 50 ships that, despite repeated requests, have failed to submit any inventory of hazardous wastes and / or provide any statement from credible organization as to

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decontamination. Among the hazardous ships the vessel M.V. Alfa is included: In recent times, attempted import in to Bangladesh of extremely hazardous ships as listed by the Green Peace for breaking purposes has given rise to serious concern amongst the environmentalists and also some statutory agencies; In the meantime one ship breaker intends to import S.S. Norway which was ultimately abandoned by the importer of the basis of the pressure of the petitioner and the initiatives taken by the government. Further, following direction from the Hon'ble Prime Minister, respondent No.1 vide its letter dated 22 February, 2006 required respondent Nos.8, 13 and 14 to take immediate effective steps to ensure that no such hazardous ship enters Bangladesh and subsequent to the instruction issued from the officer of the respondent No.1, respondent No.8 vide letter dated 22 February, 2006 issued a letter to the Governor, Bangladesh Bank requesting him to instruct all banks to ensure that no objection certificate is obtained from respondent No.8 before opening L/C for importing any ship to Bangladesh; Despite the same another company opened letter of credit to import M. T. Alfa Ship to import the same into Bangladesh for the purpose of ship breaching which is also declared as hazardous and despite all effort made by the petitioner the ship entered into territorial waters of the country. Hence the Rule.

The respondent No. 16, 17 and 18 entered appearance and contested the Rule by the filing affidavit-in-opposition. It has been stated in the affidavit in opposition that the ship is not a hazardous one and the same was imported after decontamination by the competent authority and the same is not at all risky for the environment of the country.

After lengthy hearing of this Rule the respondents ultimately submits that they have decided not to break the ship in Bangladesh and the ship has already left the

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territorial waters of the country and in such circumstances they prays for discharge of the Rule as the same become infructuous the learned Advocate for the petitioner did not opposes the said prayer.

We have heard the learned Advocates, perused the application, affidavit in opposition and the annexures. On perusal of the same it appears that despite refusal by the different statutory authorities the ship in question has entered into territorial waters of the country and admittedly the said ship is a hazardous one, which is a serious threat to the environment of the country. It is a matter of grave concern that despite opposition from by different authorities how such ships entered into the territorial water of a sovereign country. However, as the ship has already left the territorial waters of Bangladesh in the meantime, we are refrain from entering into the merit in the case. However, we are of the view that the government should take immediate steps to frame necessary rule and regulation so that such type of ships which are threat to the environment of the country may be prevented from entering into territorial waters of the country in any manner. As it appears from the annexures filed by the petitioner that the government is very much aware of the same and has already initiated different procedures.

With these observation the Rule is disposed of.

**Mamnoon Rahman**

**Syed Muhammad Dastagir Husain, J:**

I agree.

**S.M.D. Husain**

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Read by: 17.01.22

Exam. by: 17.01.22

Readied by:

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12.01.22  
মোঃ আবদুল মোমেন  
প্রশাসনিক কর্মকর্তা

12.01.22  
মোঃ আবদুল মোমেন  
সুপারিনটেনডেন্ট

প্রত্যায়িত অবিকল প্রতিলিপি  
12.01.22  
সহকারী রেজিস্ট্রার  
বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ  
(১৮-৭২ ইং সনের ১নং আইনের)  
৭৬ ধারামতে ক্ষমতা প্রাপ্ত

“দেওয়ানি মাহকুমতুল হক ট্রাঙ্ক নিয়ন্ত্রণ বোর্ডের বিদায়”