

IN THE SUPREME COURT OF BANGLADES IT HIGH COURT DIVISION (SPECIAL ORIGINAL JURISDIC TION)

## WRIT PETITION NO. 18163 OF 2017

## IN THE MATTER OF:

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

-AND-IN THE MATTER OF:

Babul Hossain

...... Petitioner.

-Versus-

Government of the People's Republic of Bangladesh represented by the Secretary, Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Secretariat, Ramna, Dhaka-1000 and others

.....Respondents.

, Mr. A.B.M. Hamidul Mishbah, Advocate .....For the petitioner.

Mr. Md. Motaher Hossain (Sazu), DAG with Ms. Purabi Rani Sharma, AAG, Ms. Purabi Saha, AAG and Mr. Mc. Mizanur Rahman, AAG ....For the respondents.

The 8th January, 2018.

Present:
Mr. Justice Moyeenul Islam Chowdhury
And
Mr. Justice J.B.M. Hassan

This is an application under Article 102 of the Constitution of the People's Republic of Bangladesh.

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Mr ARM Hamidal Mighbob loomed Ad.





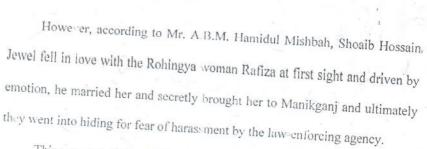
Madrasha at Jatrabari, married a Rohingya woman, namely, Rafiza at Kutupalong Refi gee Camp, Cox's Bazar within the 'special areas' as designated by the Government and as the husband Shoalb Hossain Jewel has been in I ding, his father has invoked the writ jurisdiction of the High Court Division inder Article 102 of the Constitution by filing this Writ Petition.

Mr. A.B.M. Hamidul Mishbah next submits that although the marriage could not be registered as per the law of the land, yet the fact remains that the marriage between Shoaib Hossain Jewel and the Rohingya woman Rafiza was solemnized according to the tenets of Islam and that being so, they want to live a happy conjugal life; but because fear of the law-enforcing apparatus, they are not in a position to live a normal conjugal life and in this perspective, they need protection from this Constitutional Court and as such the father of Shoaib Hossain Jewel has come up with the instant Writ Petition.

We have heard the submissions of the learned Advocate Mr. A. B. M. Hamidul Mishbah and perused the Writ Petition and relevant Annexures annexed thereto.

Indisputably the Rohingya woman Rafiza was at Kutupalong Refugee Camp, Cox's Bazar within the 'special areas' as designated by the Government. The Government has the power to make any orders with regard to all foreigners or with regard to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting their entry into Bangladesh or their departure therefrom or their presence or continued





This very act of the petitioner's son Shoaib Hossain Jewel, as we see it, is a criminal offence within the ambit of the Foreigners Act, 1946. The penalty for commission of any offence has been spelt out in Section 14 of the Foreigners Act, 1946. As this is a criminal offence, this Court can not pass any order that will amount to putting a premium on the criminality of Shoaib Hossain Jewel. Furthermore, the alleged married between Shoaib Hossain Jewe and the Myanmar national Rafiza is a blatant contravention of the Notification being No. 18513-9/2017-90/2028-2028 dated 25.10.2017 issued by the Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Secretariat, Dhaka. On top of that, as Shoaib Hossain Jewel is a law-breaker within the meaning of the Foreigners Act, 1946, he can not get any relief from this Court by way of invocation of the writ jurisdiction of the High Court Division at the instance of his father. Given this scenario, we do not find any merit in this Writ Petition for issuance of any Rule Nisi.

Accordingly, the Writ Petition is rejected in limine with costs of Tk. 1,00,000/- (one lac). The petitioner is directed to deposit the amount of Tk. 1,00,000/- (one lac) within 30 (thirty) days to the concerned Section of this court from date, failing which, necessary legal steps will be taken to realize the mount from him.

M. I. Chowdhury

J.B,M. Hassan.

Typed by: Nipa: 29.01 2018