

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

Present:

Justice Sheikh Abdul Awal

And

Justice S.M. Iftekhar Uddin Mahamud

Writ Petition No. 2013 of 2000

In the matter of:

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

And

In the Matter of:

Nuruz Ali being dead his heirs Ali Akkas and
others

..... Petitioners.

-Versus-

The Secretary, Ministry of Environment and
Forest and others.

..... Respondents.

Ms. Jaya Bhattacharjee, Advocate

..... For the Petitioners

Mr. Mohammad Humayun Kabir with

Mr. Mohammad Kawser, Advocates

.... For the Respondent No. 2.

Mr. Md. Mohsin Kabir, D.A.G with

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G with

Ms. Shahin Sultana, A.A.G with

Mr. Md. Manowarul Islam Uzzal, A.A.G with

Mr. Md. Moklesur Rahman, A.A.G

..... For the Government.

Heard on 18.11.2025, 08.12.2025 and

Judgment on 08.12.2025.

Sheikh Abdul Awal, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, the Rule Nisi was issued calling upon the respondents to show cause as to why the impugned notification (proggapan) published in Bangladesh Gazette Addl. Copy) dated 3.12.98 Issued from the Ministry of Environment and Forest Affairs Annexure-C and letter

No.1451/17-5 dated 10.2.2000 purported to have been signed by Divisional Forest Officer, Sylhet Forest Division cancelling the license and stopping the saw mill of the petitioner (Annexure-D) should not be declared to have been passed without any lawful authority and of no legal effect and as to why the license of the petitioner of Saw Mill should not be ordered for renewal and/or such other or further order or orders passed as to this court proper may seem fit and proper.

The relevant facts as stated in the writ petition briefly are that the petitioner applied for license for establishing of Saw Mill in his locality and accordingly on consideration of his Trade License and documents, the Division Forest Officer, Sylhet Forest Division allowed the petitioner for establishing a Saw Mill in his name within the village- Satgaon and accordingly the petitioner obtained license of saw Mil, vide Mamo No. 1717/17-5 dated 10.3.97 for the period of one year i.e. till 30.6.97 with certain terms and condition. Thereafter, the license was renewed by the Forest Department till 30.06.1999. At the time of granting license the petitioner deposited Tk. 20,000/- as security money.

In this backdrop, all on a sudden a letter vide memo No.1451/17-5 dated 10.2.2000 issued by the Divisional Forest Officer, Sylhet, Forest Division pursuant to notification dated 3.12.1998 cancelling the License No.1717/17-5 dated 10.3.97 of the petitioner with a direction to stop the function of Saw Mill.

Being aggrieved by the aforesaid impugned order dated 10.2.2000 issued by the Respondent No. 2 the petitioner preferred this Writ Petition and obtained the present Rule.

Ms. Joya Bhattacharjee, the learned Advocate appearing for the petitioner submits, it on record that the petitioner after exhausting all the legal formalities obtained license and established Saw Mill in 1997 in accordance with law and he has been running his Saw Mill till now. The learned Advocate further submits that the petitioner established his Saw Mill more than 10 K.M. away from forest land although the respondent No. 2, Divisional Forest Officer, Sylhet Forest Division abruptly without hearing the petitioner cancelled the petitioner's license of sawmill beyond the scope of law and as such, impugned notification/memo is liable to be declared to have been made without lawful authority and is of no legal effect.

Mr. Mohammad Humaun Kabir, the learned Advocate appearing for the respondent No. 2, Divisional Forest Officer, Sylhet Forest Division on the other hand, at the very outset relying on a judgment passed in Civil Petition for Leave to Appeal No. 379 of 2007 submits that in the light of the decision of our apex Court the impugned order passed by the respondent No.2 is well founded in law bearing on the subject.

Mr. A.K.M. Rezaul Karim, the learned Deputy Attorney General appearing for the Government-Respondent No.1, on the other hand, referring Annexure-4 in the affidavit in opposition dated 24.11.2025 submits that the authority after thorough investigation found that the sawmill was established

by the petitioner within 5.39 kilometer from the forest land and that the respondent No.2, Divisional Forest Officer, Sylhet Forest Division rightly and justly cancelled the license of the petitioner.

Having heard the learned Advocate for the respective parties and the learned Deputy Attorney General and having gone through the materials on regard including the writ petition, affidavit in opposition along with annexures as filed thereto.

To cut-short the matter at the very outset we like to put hereunder a few lines from the judgment of our apex Court passed in Civil Petition for Leave to Appeal No. 379 of 2007 which reads as follows:

“Rule 8 being reasonable and not arbitrary it is very much in conformity with the Constitutional provisions as enshrined in Article 40 of the Constitution. Rule 8 lays down reasonable provisions which enable the owner of the Saw Mills within the restricted area to close down the saw Mills within 180 days from the date of the commencement of the Rules, 1998. Rule 8(2) provides that on the date of the commencement of the Rules, 1998 all existing Saw Mills which are in operation without contravention of the provisions of the said Rules shall be deemed to have been established under the provisions of the same. Proviso to Rule 8(2) enables the owners of the existing Saw Mills to apply for license as per Rules, 3 and 4 of the rules within 30 days from the date of the commencement of the Rules failing which penal sanction in the form of the closure of the Saw Mills will be imposed. All these provisions contained in

the Rules, 1998 are very much reasonable. Saw Mills (License) Rules, 1998 have been framed as per provision of section 41 of the Forest Act, 1972 as amended with lawful authority and the said Rules are not ultra-vires to Article 40 of the Constitution.”

From a plain reading of the above quoted decision it appears that Rule for establishing Saw Mills are very much reasonable and not ultra-vires to Article 40 of the Constitution.

Further, it appears from the “Annexure-4” of the affidavit in opposition that after thorough investigation into the matter the Divisional Forest Officer, Sylhet submitted a report stating the exact position and distance of the sawmill from forest which is as follows:

সূত্রাক্ত ১নং পত্র মূলে মহোদয়ের দপ্তরের নির্দেশনার প্রেক্ষিতে অত্র দপ্তরের সূত্রাক্ত ২নং পত্র মূলে বর্ণিত রিট পিটিশনের রিটকারী জনাব নুরুজ আলী, পিতা মোজাফফর উল্লাহ, গ্রাম-সাতগাঁও, পোঃ-সাতগাঁও, উপজেলাঃ-শ্রীমঙ্গল, জেলাঃ-মৌলভীবাজার এর করাত-কলের অবস্থান এবং, করাত-কলের হালনাগাদ তথ্যসহ বিস্তারিত প্রতিবেদন দাখিল করার জন্য রেঞ্জ কর্মকর্তা, মৌলভীবাজার রেঞ্জকে অনুরোধ করা হয়। **তৎপ্রেক্ষিতে** রেঞ্জ কর্মকর্তা, মৌলভীবাজার রেঞ্জ স্মারক নং- ২২.০১.০০০০.৬৭৯.১৭.০০০০.২৫.৭৫১, তারিখ-২১/১১/২০২৫খ্রিঃ মূলে জানান যে, ২১/১১/২০২৫ খ্রিঃ তারিখ অত্র বন বিভাগের জনাব খন্দকার আবুল কালাম আজাদ, সার্ভেয়ার সহ রিটকারীর করাত- করাত-কলের অবস্থানের ভূমির দাগ নং-২৭২৬, মৌজা-আলীসায়কুল সরেজমিনে পরিদর্শন করে জিপিএস রিডিং ও করাত-কলের অবস্থানের নিকটতম সংরক্ষিত বনভূমির জিপিএস রিডিং নেয়া হয় এবং উভয় স্থানের মধ্যবর্তী দূরত্ব নিগণ করা হয়। যা নিম্নোক্ত হতে উপস্থাপন করা হলো।

রিট আবেদনকারীর নাম ও ঠিকানা	স্থাপিত ফরাত-কলের অবস্থানের জিপিএস রিডিং	স্থাপিত করাত-কলের স্থান হতে নিকটতম সংরক্ষিত বনভূমির জিপিএস রিডিং	করাত-কল সংরক্ষিত বনভূমির মধ্যবর্তী দূরত্ব	মন্তব্য
০১	০২	০৩	০৪	০৫
জনাব নুরুজ আলী, পিতা মোজাফফর উল্লাহ, গ্রামঃ-সাতগাঁও, পোঃ-সাতগাঁও উপজেলাঃ-শ্রীমঙ্গল, জেলাঃ-মৌলভীবাজার।	N-24.18.00.5 E-091.39.10.8 (করাত-কল)	N-24.20.47 E-091.37.40 (সাতগাঁও রিজার্ভ ফরেস্ট)	০৫.৩৯ (পাঁচ দশমিক তিন নয়) কি.মি.	করাত-কল (লাইসেন্স) বিধিমালা, ২০১২ এর পরিপন্থি

অর্থাৎ জিপিএস রিডিং অনুযায়ী রিট আবেদনকারী জনাব নুরুজ আলী, পিতা মোজাফফর উল্লাহ, গ্রামঃ-সাতগাঁও, পোঃ-সাতগাঁও, উপজেলাঃ-শ্রীমঙ্গল, জেলাঃ-মৌলভীবাজার কর্তৃক স্থাপিত ও বর্তমানে চলমান করাত-কলটি সংরক্ষিত বনভূমি (সাতগাঁও রিজার্ভ ফরেস্ট) হতে ০৫.৩৯ (পাঁচ দশমিক তিন নয়) কিলোমিটার দূরে অবস্থিত। যা করাত-কল (লাইসেন্স) বিধিমালা, ২০১২ এর ৭ এর ১(ক) উপ-বিধির পরিপন্থি (আলোকমাপ সংযুক্ত)। ইহা মহোদয়ের সদয় অবগতির জন্য জানানো হলো।

On a reading of the above quoted inquiry report, it appears that the petitioner established/installed his sawmill only

far from 5.39 kilometer from reserved forest. Thus, we think there is a good deal of persuasion in the submission of the learned counsel for the respondent No.2, Divisional Forest Officer, Sylhet Forest Division, Sylhet. Besides, on top of that the license was renewed by the Forest Department till 30.06.1999 which has been expired long before in the year 1999.

From the above facts as disclosed in the Writ Petition, it becomes clear that the instant Rule must fail.

In the result, the Rule is discharged. The order of stay granted earlier by the Court stands vacated.

In the facts and circumstances of the case there will be no order as to costs.

Communicate this judgment at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.