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**Rule issued in a PIL filed by BLAST and ALAP challenging the failure of the Health Ministry and DGHS to ensure that hospitals do not refuse emergency medical services to patients**

Today, 12<sup>th</sup> of September 2021, the Hon'ble High Court Division Bench comprising Madam Justice Farah Mahbub and Mr. Justice S. M. Maniruzzaman issued Rule Nisi upon the Secretary, Ministry of Health; the Director General, Directorate General of Health Services (DGHS); President, BMDC; President Bangladesh Private Medical College Association and President, Bangladesh Private Hospital Clinic and Diagnostic Owners Association, asking them to show cause as to why:

- i. the failure of the respondents to ensure that hospitals and clinics (government or private) in Bangladesh do not refuse emergency medical services to all persons in need, should not be declared to be without lawful authority and of no legal effect for being in violation of the fundamental rights guaranteed under Articles 27, 28, 31 and 32 of the Constitution;
- ii. the respondents should not be directed to immediately ensure that hospitals and clinics and medical practitioners do not refuse emergency medical services when a patient is brought to them, and, if any hospital or clinic does not have the requisite service, to ensure that the patient is transferred to the nearest available hospital which provides such a service;
- iii. the respondent nos. 1 and 2 should not be directed to incorporate the requirement of an emergency department into all new licences to be issued to private hospitals or clinics, and into existing licences of private hospitals and clinics at the time of renewal.

Rule was made returnable within four weeks. The Hon'ble Court also passed the following interim orders/directions upon the respondents:

- i) immediately ensure that hospitals and clinics and medical practitioners do not refuse emergency medical services when a patient is brought to them, and, if any hospital or clinic does not have the requisite service, to ensure that the patient is transferred to the nearest available hospital which provides such a service and report to the court within 3 months;
- ii) compile a list of all private and government hospitals and clinics in Bangladesh and a separate list of hospitals and clinics that have emergency departments along with a general description of the condition of such departments and submit the list to this Hon'ble Court within 3 months.

The matter will be in the Daily Cause list "For Order" on the 18<sup>th</sup> of January 2022.

**Background:** The Petitioners are aggrieved by the failure of the Respondents to ensure that hospitals and clinics in Bangladesh do not refuse emergency medical services to patients leading to death, permanent disability, physical complications and pain and suffering. The refusal of hospitals and clinics to treat emergency patients for one reason or another has become a phenomenon in

Bangladesh. On 09.01.2021 a woman named Alpana in labour was refused to give her emergency medical assistance and on their way to the referred hospital, she started having serious contractions and stopped at Bakultala Maitri Club to give birth. In 2016 a road crash victim was refused treatment by three different private hospitals given the medico-legal nature of the case and later died while being taken to the fourth hospital. In April, 2019, an obstetric emergency patient was refused treatment for financial inability and gave birth to a stillborn baby with the help of two women at the parking lot of the Maternal & Child Health Training Institute's (MCHTI) at Azimpur. In 2018, quota reform campaigner, Toriqul Islam, of Rajshahi University was apparently forced out of Rajshahi Medical College Hospital with life-threatening injuries sustained in a brutal attack at the hand of political goons. During the dengue outbreak in 2018, umpteen cases were reported of denial of treatment. The alarming trend of continued, at a more disturbing pace, during the Covid-19 pandemic. On the 21<sup>st</sup> of May, 2020, The Daily Star carried the news of three "victims of denial", as described by the newspaper. Among these three patients, two died.

Bangladesh Legal Aid & Services Trust (BLAST) along with co-petitioner Academy of Law and Policy (ALAP) filed this writ petition (No. 1827 of 2021) seeking judicial intervention to develop a supportive legal framework for emergency medical services in Bangladesh.

The respondents of the writ petitions are Secretary, Ministry of Health; Director General, Directorate General of Health Services (DGHS), Ministry of Health; Bangladesh Medical and Dental Council, represented by its President; Bangladesh Private Medical College Association represented by its President; Bangladesh Private Hospital Clinic and Diagnostic Owners Association, represented by its President.

Barrister Rashna Imam, Barrister Sharmin Akter and Advocate Khandakar Nilima Yasmin appeared for BLAST and ALAP. Samarendra Nath Biswash, Deputy Attorney General, appeared for the government.

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