

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

WRIT PETITION NO. OF 2021.

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:

1. Human Rights and peach for Bangladesh (HRPB), represented by it's Secretary-in-Charge, Advocate Md. Sarwar Ahad Choudhury, Hall No.2 Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Akals Uddin Bhiuyan, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka.
.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S.: Ramna, District: Dhaka.
2. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka, Bangladesh.
3. The Director (enforcement), Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka, Bangladesh.
4. The Director, Department of Environment, Sylhet Divisional Office, Commissioner Office (5th Floor), Alampur, Sylhet.
5. The Deputy Commissioner (D.C), Moulvibazar, Office of the Deputy Commissioner, Moulvibazar, Sylhet.

6. The Superintendent of Police (S.P), Moulvibazar, Sylhet.

7. Upazila Nirbahi Officer (UNO), Kulaura Upazila, District- Moulvibazar.

8. The officer in Charge (O.C), Kulaura Police Station, District- Moulvibazar.

9. Monu Mia, Member of Joychandi Union Porishad, Post- Joychondi, Upazila-Kulaura, District- Moulavibazar.

.....Respondents.

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2002 and 2010) and Article 18A of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

Inaction/failure of the respondents to stop cutting/razing the hills and to protect hills of Kulaura Upazila of Moulvibazar District.

AND

IN THE MATTER OF:

To take appropriate legal action against the persons who failed to perform their duties to protect hill and take action against the persons who are liable for destroying environment.

GROUND S

I. For that disregard to laws and legal provisions and failure to ensure proper implementation of laws the respondents have caused enough damage to the environment and the country is adversely affecting. Under these circumstances the respondents are legally bound to protect the hills at Kulaura Upazila of Moulvibazar District in accordance with law.

II. For that the duty and responsibility vested upon the respondents to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law. But the respondents have failed to perform the duties and responsibility as vested upon them and by way of violating the provision of law hills cutting are continuing in the Kulaura Upazila of Moulvibazar District, which is illegal. Hence a direction may be given upon the respondents to stop hills cutting within the territory of Kulaura Upazila under Moulvibazar District.

III. For that the environment is being continuously endangered and threatened by various illegal activities such as cutting hills in the Kulaura Upazila of Moulvibazar District area. The unauthorized activities are the

main causes for environmental degradation. Taking advantage of the silence of the concern authority, the illegal activities is continuing and as a result the environmental is destroying.

IV. For that such disregard to laws and legal provisions and failure to ensure proper implementation of laws have caused enough damage to the environment of the area and adversely affecting the environment of the country and as such the respondents are required to be directed to protect the hills at Kulaura Upazila under Moulavibazar District, in accordance with law.

V. For that the provisions of Environment Conservation law specifically prohibited hill cutting. As per Section 6 kha of Environment Conservation Act 1995 there is an embargo to cutting/razing hill and under Section 15 of the said law provides punishment for the offence of hill cutting. Despite of that respondents are not taking any steps against the law violators, hence direction may be given to take legal steps in order to protect hills at Kualara, District- Moulavibazar.

Wherefore, it is most humbly prayed that your Lordships would graciously be pleased to issue:-

a) A Rule Nisi calling upon the Respondents to show cause as to why inaction/failure of the respondents to protect the hills of Kulaura Upazila under District-Moulavibazar, should not be declared illegal and without lawful authority and Why a direction should not be given upon the respondents to stop hill cutting at Kulaura Upazila of Moulvibazar District and Why a direction should not be given upon the respondents to take appropriate steps to fill the soil of the Molangi hill at Kulaura Upazila, District-Moulavibazar by way of collecting the cost from the people who are liable for that damage.

b) Pending hearing of the Rule directs the respondents 5-8 to arrange continuous monitoring in the hill area of Kulaura Upazila of Moulvibazar District, so that no one can destroy/cut/damage the hill, and submit compliance report before this court in every three months.

c) Pending hearing of the rule directs the 4 and 8 to take legal steps within 7 days as per section 15 of the Environment Conservation Act 1995 (amended in 2002 and 2010) against the persons who are liable for cutting/razing hills at Kulaura

Upazila under District Moulavibazar (as reported in Shomoyor Alo dated 03.01.2021) and submit a compliance report before this court through Registrar within 30 days.

d) Pending hearing of the rule direct the respondent no. 1 and 2 to investigate the allegation of hill cutting at Kulaura and identify the negligence of the local government officers who have failed to monitor in protecting the hill Molangi at Kulaura (as reported in Shomoyr Alo dated 03.01.2021) and submit a report within 30 days before this court.

Present Status:

The case was filed and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi and passed an order directing the authority to conduct an enquiry and submit report who are responsible for that. The matter is pending before the Hon'ble High Court Division.
