

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

WRIT PETITION NO. OF 2010.

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 Peace for Bangladesh (HRPB), represented by it's President, Advocate Manzill Murshid, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Asaduzzaman Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

3. Advocate Sarwar Ahad Chowdhury, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh, and 3/14 Bashbari Bosila Road, Mohammadpur, P.S.: Mohammadpur, Dhaka.

4. Advocate Md. Aklas Uddin Bhuiyan Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 3 Agamashi Lane, P.S.: Kotwali, Dhaka.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Cultural Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

3. The Mayor, Dhaka City Corporation, City Corporation Bhaban, Fulbaria, Dhaka, Bangladesh.

4. The Chairman, Rajdhani Unnoyon Kortipokho (RAJUK), RAJUK Bhaban, Dilkusha, Motijheel C/A, Dhaka, Bangladesh.

5. The Director General (Joint Secretary), Archeological Directorate, F-4A, Agargaon, Sher-E-bangla Nagar, Dhaka-1207, Bangladesh.

6. The Police Commissioner, Dhaka Metropolitan Police (DMP), Mintu Road, Eskaton, Dhaka, Bangladesh.

7. The Officer in Charge (O.C.), Lalbagh Thana, P.S.- Lalbagh, District-Dhaka, Bangladesh.

8. Mohammad Shohid Hossain of 46/47 Kaji Riaz Uddin Road, P.S.-Lalbagh, Dhaka.

9. Md. Hoque of 52 Kaji Riaz Uddin Road, P.S.-Lalbagh, Dhaka, Bangladesh.

10. Md. Lalin of 4 Pushporaj Shahi Lane, P.S.-Lalbagh, Dhaka, Bangladesh.

.....Respondents.

G R O U N D S

I. For that the duty and responsibility vested upon the administration to perform the duties for the people. The respondents are also duty bound to obey the provision of law. It is the duty of an officer to perform the duties in accordance with law, but they have failed to perform the duties and responsibility as vested upon them under section 12 of The Antiquities Act 1968. Hence respondents may be directed to take necessary and immediate steps to stop the illegal construction which is rendering the beauty of the monument Lalbagh Fort and hampering its preservation which is certainly without any lawful authority and illegal.

II. For that the Lalbagh Fort is having a historical importance; it must be preserved by the Government as per the provisions of Article 24 of the Constitution of Bangladesh. So at this stage there is no alternative to stop the illegal and unlawful construction activity unless it will be very difficult to demolish the buildings once it is build.

III. For that disregard to laws and legal provisions and failure to ensure proper steps the respondents have caused enough threat to the Lalbagh Fort's very existence. Under these circumstances the respondents are legally bound to take all necessary steps to take necessary steps to stop construction activities. Hence a direction may be given upon the Respondents to take appropriate steps to stop these constructions.

IV. For that without any precautions to save the historical place, the respondents has sent the Lalbagh Fort in a dangerous situation, which is violation section 12 of The Antiquities Act 1968. Moreover it is the duty of the government to impose restriction as per section 12 of The Antiquities Act 1968 in case of any constructions but violating the provisions the law construction within and near the perimeter of the protected immovable antiquity is continuing, which is illegal.

V. For that section 12 (c) of the Antiquities Act 1968 imposes a duty upon the Government to restrict any sort of construction activity near the listed antiquities by anyone. It is the duty of the Government to organize protection and preservation of the antiquities. But in the case of Lalbagh Fort, the Government has failed to perform his duties; hence the respondents may be directed to take appropriate steps to stop the illegal and unlawful construction activity near the Lalbagh Fort.

VI. For that as per rule 61 of Dhaka Metropolitan Building (Construction, Development, Protection and Eviction) Rules, 2008, no one is authorized to perform any construction activities within the area of 250 diameters adjacent to the antiquity and even if any such activity is continue then the authority has the power to stop such activity. But despite of illegal and unreasonable construction, the authorities empowered by the government has taken no steps to prevent it. Hence the respondents may be directed to take appropriate steps to stop these construction activities as per the provision of law.

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

a) Issue a Rule Nisi calling upon the Respondents to show cause as to why inaction of the respondents to take necessary steps to stop any kind of building construction adjacent to the Lalbagh Fort except the permission from Nagar Committee, should not be declared illegal and without lawful authority,

AND

Why a direction should not be given upon the respondents to implement the provisions of section 12 of Antiquities Act. 1968 and rule 61 of the Dhaka Metropolitan Building (Construction, Development, Preservation and Eviction) Rule, 2008, in case of construction near Lalbagh Fort.

c) Pending hearing of the Rule directs the Respondent No. 7 to take steps to stop ongoing construction activities adjacent to boundary of the Lalbagh Fort with 24 hours and submit compliance report within 1(one) week before this court.

Present Status

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
