

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

WRIT PETITION ON ..... OF 2011

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 the Secretary of the Executive Committee Asaduzzaman Sddiqui , Advocate, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

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

.....Petitioners.

**-VERSUS-**

1. The Secretary, Ministry of Environment and Forrest Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

2. The Secretary, Ministry of Finance, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

3. The Secretary, Ministry of Local Government and Rural Development, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

4. The Secretary, Ministry of Water Resources, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

5. The Chairman, BIWTA, 141-143 Mitijheel C/A, Dhaka.

6. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka.

7. The Deputy Commissioner, Comilla, Office of the Deputy Commissioner, Collectorate Building , Comilla.

8. The Superintendent of Police, Comilla, S.P. Office Comilla, District- Comilla.

9. The Upazila Chairman, Burichang, Post and P.S.- Burichang, District- Comilla.

10. The Upazila Chairman, Chandina, Post and P.S.-Chandina, District- Comilla.

11. The Upazila Chairman, Debidar, Post and P.S.- Debidar, District- Comilla.

12. The Upazila Chairman, Muradnagar, Post and P.S.-Muradnagar, District- Comilla.
13. The Upazila Chairman, Doudkandi, Post and P.S.-Daudkandi, District- Comilla.
14. Upazila Nirbahi Officer, Burichang, Post and P.S.-Burichang, District- Comilla.
15. Upazila Nirbahi Officer, Chandina, Post and P.S.-Chandina, District- Comilla.
16. Upazila Nirbahi Officer, Debidar, Post and P.S.-Debidar, District- Comilla.
17. Upazila Nirbahi Officer, Muradnagar, Post and P.S.-Muradnagar, District- Comilla.
18. Upazila Nirbahi Officer, Doudkandi, Post and P.S.-Daudkandi, District- Comilla.

..... Respondents

### **G R O U N D 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 peoples are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the river Gomati 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 the earth filling up is continuing in river Gomati, which is illegal. Hence direction may be given upon the respondents to stop encroachment, earth filling and remove temporary & permanent structures building within the territory of the River Gomati at Comilla District.

III. For that the environment is being continuously endangered and threatened by various illegal activities such as encroachment, earth filling and temporary & permanent structures building in the River Gomati at Comilla District. 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 under Section 5 of the *Environment Conservation Act, 1992* the respondents are prohibited to change the nature of any land that has been earmarked as a natural reservoir. As per section 8 of the Act 2000 any person who acts in contravention of the Act is liable to imprisonment not exceeding 5 years or a fine not exceeding Taka 50,000 or both. In spite of violation of law the respondents are not taking appropriate action.

V. For that encroachment, earth filling and temporary & permanent structures building in the River Gomati at Comilla District is contrary to all applicable laws of the country. Moreover the filing up and encroachment in the river will create obstruction to the normal movement of the river.

VI. 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 city dwellers and as such the respondents are required to be directed to protect the river in accordance with law.

VII. For that the non-implementation of the laws by the respondents undermine rule of law and jeopardize peoples fundamental right as guaranteed under Article 31 of the Constitution of Bangladesh.

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

a) A Rule Nisi calling upon the Respondents to show cause as to why a direction should not be given upon the respondents to protect the river Gomati at Comilla District from encroachment and earth filling and why the respondents should not be directed to take steps for dredging the river Gomati and remove all permanent and temporary structure made within the river Gomati as it was constructed violating the provision of law.

b) Pending hearing of the Rule the respondent No. 7 and 14-18 may be directed to demarcate the original territory of the River Gomati at Comilla District through a survey by a special team and submit the report within 2 months before this Hon'ble Court.

c) Pending hearing of the Rule direct the respondent no. 7 and 9-19 to take immediate appropriate steps to stop further encroachment, earth filling, construction of temporary/permanent structure in the area of river Gomati at Comilla District.

**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.

-----