

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

WRIT PETITION ON OF 2016.

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 its Secretary, Advocate Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

1. Bangladesh, represented by the Secretary, Ministry of Local Government, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

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

3. The Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

4. The Mayor, Barisal City Corporation, Barisal, P.O. & P.S.: Barisal, Dist: Barisal.

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

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

7. The Director, Environment Directorate, Barisal, P.O. & Police Station- Barisal, District-Barisal, Bangladesh.

8. The Deputy Commissioner, Barisal, Post and District- Barisal.

9. The Police Commissioner, Barisal Metropolitan Police, BMP Head quarter, Post and P.S.- Barisal, Bangladesh.

10. The Chief Executive, Barisal City Corporation, Barisal, P.O. & P.S.: Barisal, Dist: Barisal.

11. Mosharaf Ali Khan, The Panel Mayor, Barisal City Corporation, Barisal, P.O. & P.S.: Barisal, Dist: Barisal.

12. The Officer in Charge(O.C), Barisal Sadar Thana, Post and P.S Barisal, District-Barisal.

..... Respondents.

AND

IN THE MATTER OF

Violation of the Article 18A of the Constitution of Bangladesh.

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, ২০০০.

AND

IN THE MATTER OF:

For a direction to stop earth filling, dam construction and encroachment within the area of river Kirtonkhola, situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal, violating the provisions of law and directed the authority to protect area of the river Kirtonkhola to its original territory as per record.

G R O U N D S -

I. 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/encroaching is continuing within the area of river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal,

which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and dam construction within the area of river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal and to protect the same, to its original territory as per record.

II. 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 local people are being adversely affected in context of right to life. Under these circumstances the respondents are legally bound to protect the above mentioned river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal in accordance with law.

III. For that under Section 5 of the মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, 2000, also prohibits change of 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 that provision of law the respondents are not taking any steps in case of killing of river, Situated within Barisal City Corporation. Hence a direction may be given to stop earth filling/encroachment/dam construction and pollution of the river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal and to protect the same to its original territory as per record.

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/failure of the respondents to take effective steps to protect the river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal and to stop encroachment /earth filling/dam construction within the area of river Kirtonkhola, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop earth filling, encroachment and dam construction within the area of river Kirtonkhola situated at

Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal,

AND

Why a direction should not be given upon the respondents to protect the area of river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal, to its original territory as per record.

b) Pending hearing of the rule direct the respondent no. 4 and 6-12 to take immediate steps within 48 hours to stop encroachment/earth filling and dam construction within the area of river Kirtonkhola situated at Ward No. 12 Baddhabhumi area, Barisal City Corporation, District-Barisal (as reported in Prothom Alo dated 25.04.2016) and file a compliance report within 2 weeks through affidavit before the court..

c) Pending hearing of the rule directs the respondent no. 7 and 8 to explain their conduct and failure to protect the different river/canal/ponds situated within their territory as per law, within two weeks through affidavit from the received of the order.

d) Pending hearing of the rule directs the respondent no. 11 to explain under what provision of law he is performing the tender work of dam construction of Barisal City Corporation and file affidavit within two weeks before this court.

e) Direct the office to serve the notices and copies at the cost of office.

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.

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