

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 President of the Executive Committee Advocate Manzill Murshid, 36 Mirpur Road, Bashundhora Goli, P.S. New Market, Dhaka, Bangladesh.

2. Advocate Asaduzzaman Sddiqui, 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.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Planning, Sher E-Bangla Nagar, Dhaka.

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

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

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

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

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

7. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E

Bangla Nagar, Agargaon, Dhaka.

8. The Deputy Commissioner, Cox'sbazar, Office of the Deputy Commissioner, Cox'sbazar, District-Cox'sbazar, Bangladesh.

9. The Superintendent of Police (S.P.), Cox'sbazar, District-Cox'sbazar, Bangladesh.

10. The officer in charge (O.C.) Sadar thana, Cox'sbazar, District-Cox'sbazar, Bangladesh.

..... 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 country is adversely affecting. Under these circumstances the respondents are legally bound to protect the sea beach area at Cox'sbazar 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 sea beach area at Cox'sbazar, which is illegal. Hence a direction may be given upon the respondents to stop encroachment, earth filling and remove temporary & permanent structures building within the territory of the sea beach area at Cox'sbazar.

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 sea beach area at Cox'sbazar. 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 Government of Bangladesh has prohibited 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 violation of law the respondents are not taking appropriate action.

V. For that **encroachment, earth filling and temporary & permanent structures building** in sea beach area at Cox'sbazar, is contrary to all applicable laws of the country. Moreover the filling up and encroachment in the area will create obstruction to ecosystem of the area.

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 environment and as such the respondents are required to be directed to protect the sea beach area at Cox'sbazar 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 sea beach area at Cox'sbazar from encroachment and earth filling and why a direction should not be given upon the respondents not to allow any construction of any permanent and temporary structure within the sea beach area at Cox'sbazar.
- b) Pending hearing of the Rule direct the respondent No. 8 to demarcate the sea beach area at Cox'sbazar by a special team and direct the respondent no. 9 and 10 to arrange police force for that area so that no one can encroach, earth filling or built any permanent or temporary construction within the area.
- c) Pending hearing of the Rule direct the respondent no. 8-10 to demolish /remove all the temporary and permanent structure within the sea beach area at Cox'sbazar and submit a compliance report before this court within 7 days.

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. After hearing the parties the Hon'ble High Court Division was pleased to made rule absolute.
