

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

WRIT PETITION ON ..... OF 2014

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:

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.  
.....Petitioner.

**-VERSUS-**

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

2. The Secretary, Ministry of Land  
Government of the People's Republic of

Bangladesh, Bangladesh Secretariat, P.S -,  
Shahbag, Dhaka, Bangladesh.

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

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

5. The Director General, Land Records  
and Survey Directorates, Tejgaon, Dhaka,  
Bangladesh.

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

7. The Deputy Commissioner (D.C), Brahmanbaria, Office of the Deputy Commissioner, Brahmanbaria, Bangladesh.

8. The Superintendent of Police (S.P), Brahmanbaria, Post and District- Brahmanbaria, Bangladesh.

9. Upazila Nirbahi Officer (UNO), P.S. Bancharampur, District- Brahmanbaria, Bangladesh.

10. The officer in Charge (O.C),  
 Bancharampur Police Station, P.S.  
 Bancharampur, District- Brahmanbaria,  
 Bangladesh.

..... Respondents.

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation  
 Act 1995 (amended in 2000 and 2002), and

*gnybMlx, weflMq kni I tRjv knñi tcñi GjvKmn*

*t`tki mKj tcñi GjvKvi tLjvi gW Dbñ ñvb, D`ñvb*

*Ges cñKñZK Rjvavi msi ñvb AvBb, 2000 .*

AND

IN THE MATTER OF:

For a direction to stop illegal encroachment  
 and earth filling in the River Dholbhangata

Bancharampur, Brahmanbaria, violating the



The humble petition of the above named

Petitioner most respectfully-

**S H E W E T H:**

1. That the organization 'Human Rights And Peace For Bangladesh (HRPB)' is a non profitable registered organization and the objects of the organization is to uphold the rights of the citizen and to work for the poor people, to give legal support to the helpless people, and to build up awareness amongst the people about their rights and activities against the environment etc. Moreover the organization is also working to protect environment and take legal steps against the activities of destroying environment as well as in case of violation of law.

2. That the petitioner is the Secretary of Human Rights and Peace for Bangladesh and the petitioner is a practicing lawyer of this Hon'ble Court and conscious citizen of the country.

3. That the respondent No. 1 is the Bangladesh represented by the Secretary, Ministry of Environment and Forrest, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka, Bangladesh. The respondent No. 3 is the Secretary, Ministry of Land ,Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka, Bangladesh. The respondent No. 4 is the Secretary, Ministry of Local Government and Rural Development, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka, Bangladesh. The respondent No. 5 is the Director General, Land Records and Survey Directorates, Tejgaon, Dhaka, Bangladesh. The respondent No. 6 is the Director General, Department



of Environment, Paribesh Bhaban, E-16, Sher-E-Bangla Nagar, Agargaon, Dhaka, Bangladesh. The respondent No. 7 is the Deputy Commissioner (D.C), Brahmanbaria, Office of the Deputy Commissioner, Brahmanbaria, Bangladesh. The respondent No. 8 is the Superintendent of Police (S.P), Brahmanbaria, Post and District- Brahmanbaria, Bangladesh. The respondent No. 9 is the Upazila Nirbahi Officer (UNO), P.S. Bancharampur, District- Brahmanbaria, Bangladesh. The respondent No. 10 is the officer in Charge (O.C), Bancharampur Police Station, P.S. Bancharampur, District- Brahmanbaria, Bangladesh. That the addresses of the petitioner and the respondents given above are correct for the purpose of service of notices.

4. That the petitioner is seeking direction upon the respondents to stop illegal encroachment and earth filling in the River Dholbhangra at Bancharampur, Brahmanbaria, violating the provisions of the

Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and *গনপ্রজাতন্ত্রী বাংলাদেশ সরকারের পরিবেশ সংরক্ষণ আইন, ১৯৯৫ (সংশোধিত ২০০০ ও ২০০২), এবং গনপ্রজাতন্ত্রী বাংলাদেশ সরকারের পরিবেশ সংরক্ষণ আইন, ২০০০*.

The petitioners also seeking direction upon the respondents to remove bamboo fences used for earth filling in the River Dholbhangra at Bancharampur, Brahmanbaria, violating the provisions of law. The petitioner seeks to bring this application by invoking Article 102 of the Constitution as public interest litigation in order to take necessary steps against the violation of provisions of law as well as for a direction upon the respondents to take necessary steps.

5. That it is stated here that by way of illegal encroachment, earth filling and bamboo fences used for earth filling in the River Dholbhangra at Bancharampur, Brahmanbaria, violating the provisions of law, the normal movement of the River Dholbhangra and the vessels will be obstructed as well as it will seriously affect in the

irrigation system/service in the *Boro* lands. That illegal encroachment and earth filling in the River Dholbhangha will seriously affect the environment also and as it, involves great public importance so this petition may be treated as public interest litigation.

6. That the thousands of people residing in Bancharampur Upazila, Brahmanbaria and are depending on the source of water from Dholbhangha River. Main water supply comes from the above mentioned River, i.e. for irrigation. Not only that some 'river transports/vessels' based on the above mentioned River are playing a great role in the transport and business sector. Due to continuous encroachment, earth filling and bamboo fences used for earth filling in the above mentioned River, day by day it is losing its width and affecting the lives of the citizens. The River is also playing an effective role in protecting the environment. But due to illegal acts of the law violators the above mentioned River can not play effective

role in the environment and negative environmental impacts are being started. Due to increasing this problem day by day, the lives of the citizens of said area are in danger.

7. That according to Section 5 of the *Environment Conservation Act, 1995* it is prohibited to change the nature of any land that has been earmarked as a natural reservoir. Pursuant to section 8 of the said law 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. More over under section 7 of the Environment Conservation Act, 1995, the authority has empowered to direct any person responsible for causing damage to the ecosystem for adopting corrective measures. Due to the encroachment, earth filling and bamboo fences used on the River Dholbhangra at Bancharampur, Brahmanbaria, the River is going to be changing the nature which is

not only illegal but punishable offence under the said provisions of law.

8. That disregard to laws and legal provisions encroachment and earth filling by using bamboo fences is continuing and failure to ensure proper implementation of laws caused enough damage to the environment and adversely affecting lives of the citizens of the said area. Under these circumstances the respondents are legally bound to protect the River Dholbhanga at Bancharampur, Brahmanbaria, in accordance with law.

9. That the duties and responsibilities vested upon the respondents to serve the people and initiate lawful steps and the respondents are also duty bound to obey the provisions of law as per the provision of Article 21 of the Constitution of Bangladesh. But the respondents

have failed to perform the duties and responsibilities as vested upon them and also failed to protect the above mentioned River from illegal encroachment, earth filling and occupation, which is illegal.

10. That it is stated here that on 17<sup>th</sup> February 2014 in the daily Prothom Alo a report was published with the heading that “বাঁশের বেড়া দিয়ে ভরাট করা হচ্ছে ঢোলভাঙ্গা নদী” where it is reported that “ব্রাহ্মনবাড়িয়ার বাথারামপুর উপজেলা সদরের পুরোনো সিনেমা হলের উত্তর পাশে ঢোলভাঙ্গা নদী দখল করে আড়াআড়ি বেড়া দিয়ে মাটি ভরাট করছেন বিল্লাল হোসেন ও মোহাম্মদ আলী নামের দুই ব্যক্তি। নদীর ভেতরের ওই জমি তাঁরা স্থানীয় এক ব্যক্তির কাছ থেকে কিনেছেন বলে দাবি করেছেন। আড়াআড়ি বাঁশের বেড়া দিয়ে মাটি ভরাট করার জন্য নদীর প্রস্থ অনেক কমে গেছে। এ কারণে শুল্ক মৌসুমে বোরো জমিতে সেচকাজ এবং বর্ষাকালে লৌহান চলাচল ব্যাহত হবে।”. That By illegal earth filling in the River Dholbhangra, the aforesaid reported persons are endangering the environment of the adjacent area of the said River and endangering the river itself. According to the report published, they are taking illegal possession of 28 decimals of land in the River and will take possession of other 10 decimals of land in the said River by the money and muscle power.

Paper clipping dated 17.02.2014 is annexed

here with and marked as “ANNEXURE-A.

11. That it is stated here that encroaching and earth filling by using bamboo fences in the river is contrary to all applicable laws of the country. For the benefit of the interested quarter the respondents are silent and violating and flouting all legal requirements, the respondents have miserably failed to administer law and protect public interest.

12. That it is stated here that disregard to laws and failure to ensure proper implementation of laws the respondents have caused enough damage to the environment and the city dwellers are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the River Dholbhangra in accordance with law.

13. That it is stated here that Human Rights and Peace for Bangladesh (HRPB) is an organization working on different issues and many public interest litigations have been filed by them. In many cases the Hon'ble High Court Division has passed judgment such as i) VAT collection from the patient declared illegal, ii) directed to constitute civil vacation court during civil vacation in every December in subordinate court, iii) directed not to set up any cattle hat on the street in Dhaka City during Eid-Ul-Azha and removing all slaughtering materials within 24 hours with a hygienic manner, iv) directed to form an inquiry commission about murder/rape /persecution/torture committed immediate after parliament election of 2001 upon the then opposition supporter and minorities, v) directed to set up food court in every city in order to prevent food adulteration, vi) directed to form an "Earthquake Preparedness And Awareness Committee" and collected the necessary earthquake rescue



equipments as per their recommendation, vii) directed to protect river Buriganga, Balu, Turag and Shitallakha and to stop encroachment in the rivers as well as directed to remove all the structure from inside the rivers and etc. Many others cases are pending before the Hon'ble High Court Division. The organization is always bearing all the cost of the cases by it's own fund which is raised by the donation of the members. The organization received no fund from abroad or from any citizen of the country except the lawyer members. Due to present high volume of cases it is not possible to bear the cost of the cases filed before the Hon'ble High Court Division as public interest litigation. Under these circumstances it is necessary to exempt the cost of the cases filed by the organization as public interest litigation. Hence a direction may be given to the office to register the application as a writ petition and also notices may be served at the cost of office.

14. That it is stated here that the respondents are the experienced public servant and very much aware of the situation regarding these land filling and illegal possession. Moreover, the responsibilities vested upon the law enforcement agency to protect the river, so it is not out of the knowledge of the respondents. Under these circumstances in such a public interest issues which is always in the notice of the respondents, is not necessary to bring his notice again by way of legal notice for taking steps.

15. That it is submitted here that the respondents are the public servants and they are duty bound at all time to serve the people and to perform the public duties. But they have failed to do their duties because no steps has been taken in spite of encroaching and earth filling by using bamboo fences in the River Dholbhangha is continuing.

16. That it is submitted that the environment is being continuously endangered and threatened by various illegal activities such as filling up the rivers. The main causes for environmental degradation is unauthorized filling up in the rivers around the country. Taking advantage of the silence of the concern authority, the illegal encroachment and earth filling by using bamboo fences in the River Dholbhangra at Bancharampur, Brahmanbaria, is continuing and as a result the environment is destroying.

17. That it is most respectfully submitted 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 lives of the city dwellers and as such the respondents are required to be directed to protect the river in accordance with law and remove all unauthorized bamboo fences made therein.

18. That it is submitted 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.

19. That being aggrieved by and dissatisfied with the inaction of the respondents and having no other equally efficacious remedy the petitioners beg to move your Lordships on the following amongst others;-

**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 city dwellers

are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the River Dholbhanga in accordance with law.

- II. For that the duties and responsibilities vested upon the respondents to serve the people and initiate lawful steps and they are also duty bound to obey the provisions of law as per the provision of Article 21 of the Constitution of Bangladesh. But the respondents have failed to perform their duties and responsibilities as vested upon them and by way of violating the provisions of law the earth filling is continuing in the rivers, which is illegal. Hence direction may be given upon the respondents to stop encroachment, earth filling and remove bamboo fences used for earth filling in the River Dholbhanga at Bancharampur, Brahmanbaria.

III. For that the environment is being continuously endangered and threatened by various illegal activities such as encroachment, earth filling by using bamboo fences in the River Dholbhanga at Bancharampur, Brahmanbaria. 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 environment is destroying.

IV. For that under Section 5 of the *Environment Conservation Act, 1992* (Act No. 19 of 1992) which is known as the *Environment Conservation Act, 1992* (Act No. 19 of 1992) 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 violation of law the respondents are not taking appropriate action.

V. For that encroachment, earth filling by using bamboo fences in the River Dholbhangra at Bancharampur, Brahmanbaria 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 and vessels and also in the irrigation system/service in the *Boro* field.

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) Direct the office to register this application as a Writ Petition.

b) Issue a Rule Nisi calling upon the Respondents to show cause as to why a direction should not be given upon the respondent to protect the River Dholbhangra,



Brahmanbaria from any encroachment and  
earth filling

AND

Why a direction should not be given upon  
the respondents to take legal steps against  
the persons liable for violation of the  
provisions of the Environment Conservation  
Act and *Rj vavi msi 97b AvBb*.

c) Direct the respondent Nos. 7-10 to take  
immediate appropriate steps to stop further  
earth filling, encroachment by different  
means and to remove all bamboo fences  
used for earth filling in the River  
Dholbhangra, as it is illegal under the  
provisions of Bangladesh Environment

Conservation Act and *Rj vavi msi 77b AvBb,*

within one week and file a compliance

report before this court within 3 weeks.

d) Direct the office to serve the notice and

copies upon the respondents at the cost of

office.

e) Upon hearing the cause if any shown

makes the rule absolute.

f) Pass such other or further order or

orders as your Lordships may deem fit and

proper.

And for this act of kindness Your Petitioner as in duty bound shall  
ever pray.

**Name of the Applicant-**

Advocate Asaduzzaman Siddiqui....

Submitted By;-

Manzill Murshid

*gbrj tgvim`*

Advocate

Supreme Court of Bangladesh.

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

WRIT PETITION NO. .... OF 2014.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh,  
represented by its Secretary Advocate  
Asaduzzaman Siddiqui.

.....Petitioner.

-V E R S U S-

1. Bangladesh and others.

.....Respondents.

Manzill Murshid  
*gbrj tgi m`*  
Advocate  
For the Petitioner.

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

WRIT PETITION NO. ....OF 2014.

IN THE MATTER OF:

Adv. Asaduzzaman Siddiqui.

.....Petitioner.

-V E R S U S-

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.....Respondents.

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| 4. | BACK SHEET                                                                             |      |      |

Manzill Murshid,  
*gbrj tgrtm`*  
Advocate  
For the Petitioner.

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
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WRIT PETITION NO..... OF 2014.

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.....Petitioner.

**-V E R S U S-**

Bangladesh and others.

.....Respondents.

To,  
The Learned Attorney General  
The Peoples Republic of Bangladesh.

Dear Sir,

Please take notice that an application under Article 102 of the  
Constitution of Bangladesh will be filed and moved before this Court,  
a copy of which is enclosed herewith for your kind information.

Regards-

Manzill Murshid  
*gbwRj tgvitm`*  
Advocate  
Supreme Court of Bangladesh