

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 *gnvbMlx, wFvMlx kni I tRjv kni i tcSi GjvKmn t`tki mKj tcSi GjvKvi tLjvi gvW DbKj`vb, D`vb Ges cKwZK Rjvavi msi qvb AvBb, 2000*.

AND

IN THE MATTER OF:

For a direction to stop illegal encroachment and earth filling in the River Dholbhanga at Bancharampur, Brahmanbaria, violating the provisions of the Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and *gnvbMlx, wFvMlx kni I tRjv kni i tcSi GjvKmn t`tki mKj tcSi GjvKvi tLjvi gvW DbKj`vb, D`vb Ges cKwZK Rjvavi msi qvb AvBb, 2000*.

AND

IN THE MATTER OF:

For a direction to remove bamboo fences used for earth filling in the River Dholbhanga at Bancharampur, Brahmanbaria, violating the provisions of law.

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* and *Water Resources Act, 1970*, 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 Dholbhanga at Bancharampur, Brahmanbaria is contrary to all applicable laws of the country. Moreover, the filling 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) 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 Dholbhanga, 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 ¶b AvBb*.

B) 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 Dholbhanga, as it is illegal under the provisions of Bangladesh Environment Conservation Act and *Rj vavi msi ¶b AvBb*, within one week and file a compliance report before this court within 3 weeks.

Present Status:

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