

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

WRIT PETITION NO. 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:

1. Human Rights and peach for Bangladesh (HRPB), represented by it's Secretary, Advocate Asaduzzaman Siddique, Hall No.2 Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Environment and Forrest, Bangladesh Secretariat, P.S -, Shahbag, Dhaka, Bangladesh.

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

3. The Secretary, Ministry of LGRD, 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, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka, Bangladesh.

6. The Deputy Commissioner (D.C), Munshigonj, Office of the Deputy Commissioner, Munshigonj, Bangladesh.
7. The Superintendent of Police (S.P), Munshigonj, Post and District- Munshigonj, Bangladesh.
8. The Director (Enforcement), Department of Environment, Paribesh Bhaban, E- 16, Sher-E-Bangla Nagar, Agargaon, Dhaka.
9. Upazila Nirbahi Officer (UNO), P.S. Sirajdikhan, Upazila: Sirajdikhan, District- Munshigonj, Bangladesh.
10. The officer in Charge (O.C), Sirajdikhan Police Station, P.S. Sirajdikhan, District-Munshigonj, Bangladesh.
11. Mr. Jabbar Matbor, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
12. Mr. Fulchan, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
13. Mr. Abdul Jalil, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
14. Mr. Year Hossain, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
15. Mr. Shanti Ranjan Ghosh, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
16. Mr. Ripon Sarker, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
17. Mr. Md. Ali, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.
18. Mr. Md. Aminul Munshi, Matborer Hat Union: Latabdi, Post: Matborer Hat Upazila: Sirajdikhan, Munshigonj.

.....Respondents.

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and gnvbMix, wefvMxq kni I †Rjv kn‡ii †cŠi GjvKvmn †`‡ki mKj †cŠi GjvKvi †Ljvi gvV Db‡y³ †vb, D`vb Ges cÖvK...wZK Rjvavi msi¶b AvBb, 2000.

AND

IN THE MATTER OF:

Inactions/failure of the respondents to take necessary steps to stop encroachment of Ichamati-Dhaleswari Tributary/Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj and to stop construction of market and houses within the territory of Ichamati-Dhaleswari Tributary/Branch River at Matborerhat, Munshigonj violating the provisions of law.

AND

IN THE MATTER OF:

For a direction upon the respondents to remove the all the illegal permanent structures/market/houses as built up within the territory of Ichamati-Dhaleswari Tributary/Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj.

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 against any violation of the provisions of law by way of earth filling, building permanent structures in river bed and illegal encroachment of river bed and territory of Ichamati-Dhaleswari Tributary/Branch River, which is illegal. Hence direction may be given upon the respondents to stop earth filling, illegal encroachment and making building structures in the territory Ichamati-Dhaleswari Tributary/Branch River.

- II. For that disregard to laws and legal provisions and failure to ensure proper implementation of laws, the respondents have caused damage to the environment; to the river and to the local people as well as the right to life of the people. Under these circumstances the respondents are legally bound to protect the river in accordance with law at one hand and to remove the markets as built in the river.
- III. For that under Section 5 of the gnvbMix, wefvMxq kni I †Rjv kn‡ii †cŠi GjvKvmn †`‡ki mKj †cŠi GjvKvi †Ljvi gvV Db¥y³ †`vb, D`vb Ges cÖvK...wZK Rjvavi msi¶b AvBb, 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. Hence, a direction may be given to stop implementation the said building project in the name of erecting markets permanently by encroachment of the territory of river and to remove the structures from the territory of the river.
- IV. For that encroachment, earth filling and making permanent structures in the territory of Ichamati-Dhaleswari Tributary/Branch River is contrary to all applicable laws of the country. That the encroachment of river and making permanent structures in the territory of River has created obstruction to the normal movement of the said River and vessels plying in the said river.
- V. For that the environment is being continuously endangered and threatened by various illegal activities such as encroachment, earth filling and making illegal structures in the territory of Ichamati-Dhaleswari Tributary/Branch River. The unauthorized activities are the main causes for environmental degradation. Taking advantage of the silence of the concern authority, the illegal activities is being continued and as a result the environment is being destroyed.
- VI. For that the non-implementation of the laws by the respondents undermine rule of law and jeopardize people's fundamental right as guaranteed under Article 32 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

failure/inaction of the respondents to stop all kinds of encroachment/earth filling of Ichamati-Dhaleswari Tributary/Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj and to protect Ichamati-Dhaleswari Tributary / Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj from any land grabbers, should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondents to demolish/evict all illegal structures/constructions/markets/houses built within the territory of Ichamati-Dhaleswari Tributary / Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj.

b) Pending hearing of the rule direct the respondent no. 6-10 to take immediate steps within 7 days to stop ongoing constructions activities at Ichamati-Dhaleswari Tributary / Branch River at Matborerhat, Latabdi, Sirajdikhan, Munshigonj and submit a compliance report before this court within 2 weeks.

c) Pending hearing of the rule direct the respondent 11-18 to maintain statuesque in respect of any construction/making permanent structures/encroachment/earth filling at Ichamati-Dhaleswari Tributary / Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj and submit a compliance within 2 weeks before this court.

d) Pending hearing of the rule direct the respondent 7 -10 to take legal actions against the persons responsible for illegal encroachment/ building markets within the river Ichamati-Dhaleswari Tributary / Branch River at Matborerhat, Latabdi, Sirajdikhan Munshigonj violating the provisions of the Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and gnvbMix, wefvMxq kni I †Rjv kn‡ii †cŠi GjvKvmn †‡ki mKj †cŠi GjvKvi †Ljvi gvV

Dbÿy³ ¯'vb, D`vb Ges cÖvK...wZK Rjvavi
msi¶b AvBb, 2000.

e) Direct the office to serve notices upon the respondents at the cost of office.

f) Upon hearing the parties and the cause if any shown makes the rule absolute.

g) Pass such other or further order or orders as your Lordships may deem fit and proper.

Present Status

The case was filed 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.
