

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 peace for
Bangladesh (HRPB), represented by it's
Secretary Advocate Asaduzzaman Siddiqui,
Hall No. 2, Supreme Court Bar Association
Bhaban, Dhaka, Bangladesh.

2. Advocate Abdul Hye Quayym, son of
Late Pir Abdul Haque of Village-Ganga
Nagar P.O.: Kadomtali, Ward No. 27, Sylhet
City Corporation, Sylhet.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by The Secretary,
Ministry of Environment, Bangladesh
Secretariat, P.S.: Ramna, District: Dhaka.

2. The Director General, Department of
Environment, Poribesh Bhaban, E-16,
Agargaon, Sher E Banglanagar, Dhaka-1207,
Bangladesh.

3. The Director (Monitoring and
enforcement) Department of Environment,
Poribesh Bhaban, E-16, Agargaon, Sher E
Banglanagar, Dhaka-1207, Bangladesh.

4. The Mayor, Sylhet City Corporation,
Post and District-Sylhet, Bangladesh.

5. The Director, Environment Directorate, Sylhet Divisional Office, P.O. & Police Station- Sylhet, Bangladesh.

6. The Deputy Director, Environment Directorate, Sylhet Division, P.O. & Police Station- Sylhet, Bangladesh.

7. The Deputy Commissioner, Sylhet, Post and District- Sylhet.

8. The Police Commissioner, Sylhet Metropolitan Police, SMP Head quarter, Post and P.S.- Sylhet, District-Sylhet, Bangladesh.

9. The Registrar, Sylhet Agricultural University, Tilagar, Sylhet, P.O: Sylhet Agricultural University, Sylhet.

10. The Director, Planning Development Division, Sylhet Agricultural University, Tilagar, Sylhet, P.O: Sylhet Agricultural University, Sylhet.

....Respondents

AND

IN THE MATTER OF:

Inaction of the respondents to protect the hillocks/tilas and earth filling within the ponds situated at Sylhet Agricultural University, Sylhet, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop cutting of hillocks/tilas and encroachment/earth filing of ponds situated at Sylhet Agricultural University, Sylhet.

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 which is adversely affecting all of us. Under these circumstances the respondents are legally bound to protect the hills and the tilas in Sylhet 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.
- III. For that by way of violating the provision of law tilas are being cut and ponds are being filled in continuously in Sylhet, which is illegal. Hence a direction may be given upon the respondents to stop cutting of hillocks and filling of ponds in Sylhet.
- IV. For that the unauthorized activities are the main causes for environmental degradation. Taking advantage of the silence of the concern authority, the illegal activities is on a rampant situation and as a result the environment is being destroyed.
- V. For that Respondent University has violated the legal provisions of section 3C of the Building Construction Act 1952 and section 6(gha) of the Environment Conservation Act 1995 and they have no sanction under section 10 of the Building Construction Act 1952, which needs previous approval of authority for cutting hills.
- VI. For that the Respondent University has also violated the legal provisions of Rule 27 of the Building Construction Rules 1996, which also requires clearance from the authority.
- VII. For that under Section 5 of the “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, also prohibits change of the nature of any land that has been earmarked as a natural reservoir. For that as per section 8 of the Act 2000, earth-filling of the ponds is punishable. Hence direction should be given to stop earth filling in the ponds and remove earth from those ponds already earth-filled as mentioned above.
- VIII. For that the action of the Respondent University inevitably would affect the healthy life, which is secured as “right to life” under Art. 31 of the Constitution of Bangladesh. Hence stopping the tila cutting activities and filling in ponds can best protect the environment of Sylhet.

Wherefore, it is most humbly prayed that your Lordships would graciously be pleased to issue:-

- a) A Rule Nisi calling upon the Respondents to show cause as to why inaction of the respondents to protect the

hillocks/tilas and earth filling within the ponds situated at Sylhet Agricultural University, Sylhet, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop cutting of hillocks/tilas and encroachment/earth filling of ponds situated at Sylhet Agricultural University, Sylhet.

b) Pending hearing of the rule direct the respondents to maintain statuesque in respect of cutting hillocks/tila and encroachment/earth filling within the ponds situated at Sylhet Agricultural University, Sylhet and file a compliance report within 2 weeks through affidavit before the court.

c) Pending hearing of the Rule, direct the respondent No. 3-8 to arrange continuous monitoring over the hillocks/tilas situated under Sylhet Division so that no one can cut/destroy hillocks/tilas and not to allow any earth filing/encroachment within ponds violating the provisions of law.

e) Pending hearing of the rule direct the respondent 3-8 to take legal steps against the persons who are liable for cutting hillocks/tilas and earth filing of the ponds at Sylhet and file case against them in accordance with law and submit a compliance report before this court through Registrar within 4 weeks.

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.
