

**In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)**

Writ Petition No.3676 of 2010

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 its Secretary, Advocate
Asaduzzaman Siddique, Hall No. 2, Supreme Court
Bar Association Bhaban, Dhaka, Bangladesh.

.....petitioner

-Versus-

Bangladesh represented by the Secretary, Ministry
of Shipping, Bangladesh Secretariat, P.S. Shahbag,
Dhaka Bangladesh and others

.....respondents.

Mr. Manzill Murshid, Advocate

....For the petitioner.

Mr. Tufailur Rahman, Advocate

.....For the respondents.

Mr. A.B.M. Altaf Hossain, D.A.G

.....For the respondents.

Judgment on: 01.06.2011

Present:

Mr. Justice A.H.M. Shamsuddin Choudhury

And

Mr. Justice Gobinda Chandra Tagore

A.H.M. Shamsuddin Choudhury, J:

The Rule under adjudication, issued on 04.05.2010 was in following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the inaction of the respondents to stop pollution of water of Buriganga river, shall not be declared illegal and without lawful authority and why a direction shall not be given upon the respondents to take necessary steps to stop pollution of water of River Buriganga by way of effective measures and as to why the respondents No. 4 shall not be directed to take steps to seal all the sewerage lines linked with river Buriganga and/or pass such other or further order or orders as to this court may seem fit and proper.”

Human rights and Peace for Bangladesh, a non governmental organization has mooted this petition to project the melanchoni that River Buriganga has been swamped by, with a prayer to seek our resolute and impassioned intervention to salvage this visibly ravaged life line of the city.

The petitioner a practicing lawyer of this Hon'ble Court, also claims to be a human rights activist and conscious citizen of the country and is a member of the aforementioned organisation. He is taken aback at the passivity and indolence of the respondents in stopping pollution that has pushed Buriganga to a moribund state. Invoking Article 102 of the Constitution he seeks to persuade us to treat it as a public interest litigation in order to ignite necessary steps to prevent pollution of River Buriganga .

He avers that the matter attracts immense and **unjettisonable** public importance. As the people of Dhaka City depends on water supplied by WASA, Buriganga being virtually the exclusive source of WASA water, pollution of Buriganga water necessarily means consumption of virulent toxin. WASA water has hence plunged everyone's life to a state of incineration. Water hauled melodies like diarrhoea, typhoid, cholera, jaundice are rampant.

A report published in the Daily Star on 25.4.2010, revealed pathetic scenario of the river with vivid elucidation. According to the report, untreated waste are being dumped into Buriganga, day in, day out, leading its water to doom and gloom. The report has it that disaster would flare to an endemic proportion in no time if measures are not taken to improve the city's sewerage management without delay. It has been suggested that priority should be given to stop chemical and sewerage spilling onto the river.

A clean Buriganga is inevitable for the general wellbeing of Dhaka City's ever hiking population. Yet, alas, incorrigible imbeciles are out there to turn it into a garbage sanctuary, without realising how their activities will entail dissipation. They are pouring into the river industrial wastes, sewers, contaminated substances, deadly droppings, waste food etc. Hazardous chemicals from Hazaribagh ternaries are exacerbating the pathogen. It has been diluted with all kinds of baneful substances we are aware of. The river has already lost its natural colour and character. Its water does no longer have the attributes of water. While indispensability of pure water for hominoid survival can not be exaggerated, we do not seem to be geared to recognise the frenzy that waits ahead. Instead of being a source of survival, WASA has turned into a **blackhole** of misery and **dysphoria**, yet the respondents are keeping mum.

The respondents are experienced and well endowed public servants who are aware of the rules and instructions of the government and the basic necessities of the people. Moreover news on of pollution of Buriganga has become a daily media phenomena. So the panic caused by the polluters, is not beyond their knowledge. Doom laden prediction should have breached their hibernation long ago.

Tragically, however, they have failed to protect the river from be-**nighted**, ignoramus and weird perpetrators.

As the Rule matured Mr. Manzill Murshid strenuously proffered that unless we act now, not only the capital city, but the entire nation will face a catastrophe of devastating scale. He went on to argue that the order that may emanate from us, must be infallible, inviolable and invincible.

Mr. A.B.M. Altaf Hussain, the learned DAG, found no reason to oppose the Rule. Tacitly, he favoured imminent action for wiping the menace.

Issues raised in the petition are really of distraught nature. The picture as projected, which we can judicial notice of, is gruesomely gloomy indeed.

Pitiable though, reality has it that ecology of the Republic as a whole is on the verge of total annihilation, some unscrupulous people being bent to throttle the same to nihility.

What amazes us more than anything else is that nobody, save a few, seems to be bothered on such a desperate issue that may plunge us to inhabitability during our life span.

In our view factors that are attributable to these ominous riddle, are myriad.

No doubt, some greedy, grubby, bilious, bewitched people are in the race to pull their socks, yet it is also beyond qualm that nonfeasance of the relevant functionaries are in no way beyond reproach. Clearly industrial waste and other lethal substances are being poured onto Buriganga because the authorities have disdainfully failed to devise appropriate, eco-friendly waste dumping arrangement. So this as about time that they ravel the net with a stentorian determination to keep our beloved land habitable, to retrieve the lost glory of Buriganga, to regain for it's water the same transparency as prevailed during the olden days, so that it can be turned into a source of palatable water, a source of unpolluted air, a safe habitat for sweet water fishes.

Be it as may, time now is to act rather than to apportion the blame.

Given that Buriganga basin has virtually been stripped of the character which is associated with riverine water and, does now look like a reservoir of diluted coal tar, rather than a water body, if we keep ourselves concealed under the sand, in the manner the ostriches do, we may find ourselves in the cavity of the pernicious halloween before long. The sooner the alarm bell wakes us up to face this quandary, the better. It must be done by the entire populace as a conglomerate, they must rise to the occasion for their own survival.

We reckon a committee must be animated to device ways and means to achieve the above stated goals, we most dearly cherish. Hence, the Cabinet Secretary is directed to set up a body to do the needful. We reckon, discretion as to the composition of the team should be left with him, believing that he is best placed to know who posses the expertise to advise on this intricate and, as we understand, technical question, to prevent pouring and throwing hellacious substances in the river.

We do, nevertheless, contemplate that presence of personnel from the BIWTA, BIWTC, WASA, Dhaka City Corporation, Dhaka Metropolitan Police, Academics on such subjects as civil, chemical, hydrological engineering are indispensable.

The Committee should be formed straightaway and should transmit its dossier to us by 30th November 2012.

During the intervening period, the respondents must resort to the following actions without delay;

(1) respondents 5, 7 and 9-13 shall take immediate, effective measures to stop dumping waste in the river Buriganga. Respondents No. 4 shall file affidavit elaborating the progress every 3 months.

(2) the respondent No. 3 and 13 shall seal the sewerage line and industrial waste discharge line that ends on the river Buriganga within 6 months. They shall file progress report every 6 months.

(3) the respondent No. 14 will organize awareness programmes every month on the need to keep Buriganga insulated from infestation. It shall also remove waste from the bank of Buriganga through a Special team and shall set up sign posters on the bank of the river so that the people can be made aware of the frantic scenario that shall loom if freestyle carnage on the river continues. This respondent shall file compliance report every 3 months.

With above directions the Rule is made absolute, which shall live on as a continuous mandamus. The matter shall be taken up on 1st December 2012 again for review and further orders.

Before parting we would direct the office to treat this as a Writ Petition involving public interest by exempting the petitioner from the filing cost.

We do so by taking account of the petitioner's averments that his organisation, Human rights And Peace For Bangladesh (HRPB), is working on different issues and have filed many cases in this Division with success on public interest matters, the organization bears the cost of the cases by it's own fund which is raised from the donation of the members, it receive no fund from abroad or from any citizen of the country except the lawyer members, and that due to present high volume of

cases, it is not possible on their part to bear the cost of the cases filed as public interest litigation.
