

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

WRIT PETITION ON ..... OF  
2016.

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 the Secretary of the Executive Committee Asaduzzaman Sddiqui , Advocate, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioners.

**-VERSUS-**

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

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

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

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

5. The Mayor, Chittagong City Corporation, City Corporation Bhaban, Andarkilla, Post and P.S. – Kotwali, District- Chittagong.
6. The Chairman, Chittagong Development Authority(CDA), Kotwali More, Post and P.S. – Kotwali, District- Chittagong.
7. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka.
8. The Deputy Commissioner, Chittagong, Office of the Deputy Commissioner, Collectorate Building , Chittagong.
9. The Police Commissioner, Chittagong, CMP Head quarter, Laldighirpar, P.S.- Kotwali, District- Chittagong.
10. The Additional Deputy Commissioner(Rev.), Chittagong, Office of the Deputy Commissioner, Collectorate Building , Chittagong.
11. The Assistant Commissioner of Land(AC), Bakolia Thana, Post and P.S.- Bakolia, District- Chittagong.
12. The Officer in Charge(O.C), Bakolia Thana, Post and P.S.-Bakolia, District- Chittagong.

..... Respondents

AND

IN THE MATTER OF:

To take appropriate steps to stop illegal encroachment, earth filling and temporary & permanent structures building within the area of Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at Chittagong City Corporation, violating the provisions of the Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, 2000.

AND  
IN THE MATTER OF:

To identify and demarcate the area of Chaktai Khal and Rajakhali Khal at Mouza Bakolia, P.S-Bakolia, situated at Chittagong City Corporation through a survey by the competent authority.

AND  
IN THE MATTER OF:

For a direction to remove temporary & permanent structures built within the area Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at Chittagong City Corporation violating the provision 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 peoples are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the area of Chaktai Khal and Rajakhali Khal at Mouza Bakolia, P.S-Bakolia, situated at Chittagong City Corporation, 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 and by way of violating the provision of law the earth filling up is continuing in Chaktai Khal and Rajakhali Khal at Mouza Bakolia, P.S-Bakolia, situated at Chittagong City Corporation, which is illegal. Hence direction may be given upon the respondents to stop encroachment, earth filling and remove temporary & permanent structures building within the territory of Chaktai Khal and Rajakhali Khal.

III. For that the environment is being continuously endangered and threatened by various illegal activities such as encroachment, earth filling and temporary & permanent structures building Chaktai Khal and Rajakhali Khal. 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 environmental is destroying.

IV. For that under Section 5 of the মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার

সংরক্ষন আইন, 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. In spite of violation of law the respondents are not taking appropriate action.

V. For that encroachment, earth filling and temporary & permanent structures building in the Chaktai Khal and Rajakhali Khal at Chittagong 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.

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) A Rule Nisi calling upon the Respondents to show cause as to why failure/inaction of the respondents to protect the Chaktai Khal and Rajakhali Khal situated under Mouza-Bakolia, Chittagong City Corporation, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to take appropriate steps to stop illegal encroachment, earth filling and temporary & permanent structures building within the area of Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at Chittagong City Corporation,

AND

Why a direction should not be given upon the respondents to remove temporary & permanent structures built within the area Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at

Chittagong City Corporation violating the provision of law.

b) Pending hearing of the Rule directs the respondent No. 8 & 10-11 to identify and demarcate the original territory of Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at Chittagong City Corporation through a survey by a special team and submit the report within 2 months through affidavit before this Court.

c) Pending hearing of the Rule direct the respondents to maintain in respect of any further encroachment, earth filling, construction of temporary/permanent structure within the area of Chaktai Khal and Rajakhali Khal at Mouza-Bakolia, P.S-Bakolia, situated at Chittagong City Corporation and respondent no. 9 and 12 may be directed to file affidavit in compliance within 2 weeks before this Court.

**Present Status:**

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

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