

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

WRIT PETITION ON OF 2015.

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 Advocate Asaduzzaman Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Eklas Uddin Bhuiyan, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioners.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Environment, Bangladesh Secretariat, P.S. Pachlaish, Dhaka, Bangladesh.
2. The Mayor, Dhaka South City Corporation, City Corporation Bhaban, Gulistan, Dhaka, Bangladesh.
3. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka.
4. The Director(enforcement) Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.
5. The Chairman, Rajdhani Unnayan Kartripakkha (RAJUK), Rajuk Bhaban, Rajuk Avenue, Motijhil C/A, Dhaka-1000.

6. The Deputy Commissioner, Dhaka, the office of the Deputy Commissioner, Post and P.S. Kotwali, Dhaka, Bangladesh

7. The Officer in Charge, Zatrabari Thana, Post and P.S- Zatrabari, Dhaka Metropolitan Police, Dhaka, Bangladesh.

8. Kazi Habibur Rahman, Councilor of Word-51, Dhaka South City Corporation, Post and P.S- Zatrabari, Dhaka Metropolitan Police, Dhaka, Bangladesh.

9. Md. Delwar Hossain, Councilor of Word-50, Dhaka South City Corporation, Post and P.S- Zatrabari, Dhaka Metropolitan Police, Dhaka, Bangladesh.

10. Assistant Commissioner (Land), Zatrabari, Police Station- Zatrabari, District- Dhaka.

..... Respondents

GR 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 and by way of violating the provision of law the construction/encroaching is continuing within the Canal situated at Kamarkhara Bazar, Tongibari P.S. Tongibari, District-Munshigonj, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and construction and pollution of the Canal and to protect Canal situated at Koborstan Road, Zatrabari, P.S. Zatrabari, District-Dhaka, to it's original territory as per C.S/R.S record.
- II. 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 local people are being adversely affected in context of right to life. Under these circumstances the respondents are legally bound to protect the Canal situated at Koborstan Road, Zatrabari, P.S. Zatrabari, District-Dhaka in accordance with law.
- 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. In spite of that

provision of law the respondents are not taking any steps in case of encroachment of the Canal. Hence a direction may be given to stop earth construction/encroachment of the Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka and to protect the same to its original territory as per C.S/R.S record.

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 of the respondents to take effective steps to protect the Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka and to stop encroachment and construction within the area of the said canal, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop encroachment and construction within the area of the Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka.

AND

Why a direction should not be given upon the respondents to protect the Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka to its original territory as per C.S/R.S record.

b) Pending hearing of the rule direct the respondent no. 2-3 and 9-10 to take immediate steps within 24 hours to remove construction and encroachment within the area of Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka as reported in Prothom Alo dated 08.10.15 and file a compliance report within 2 weeks through affidavit before the court.

c) Direct the respondent no. 9-10 to appear in person before this Hon'ble Court on 01.11.15 at 10.30 am to explain their position.

d) Pending hearing of the rule direct the respondent no. 2-6 to take necessary steps to stop all encroachment/earth filling/construction work within the area of Canal situated at Koborsthan Road, Zatrabari, P.S. Zatrabari, District-Dhaka and file a compliance report stating the steps taken by them within 2 weeks through affidavit before the court.

e) Upon hearing the cause if any shown makes the rule absolute.

f) 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.
