

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

WRIT PETITION ON ..... OF

2011

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  
President of the Executive Committee

Advocate Manzill Murshid, 36 Mirpur  
Road, Bashundhora Goli, P.S. New Market,  
Dhaka, Bangladesh.

2. Advocate Asaduzzaman Sddiqui, Hall  
No. 2, Supreme Court Bar Association  
Bhaban, Dhaka, Bangladesh.

3. Advocate Sarwar Ahad Chowdhury,  
Hall No. 2, Supreme Court Bar Association  
Bhaban, Dhaka, Bangladesh, and 3/14  
Bashbari Bosila Road, Mohammadpur, P.S.:  
Mohammadpur, Dhaka.

4. Advocate Md. Aklas Uddin Bhuiyan  
Hall No. 2, Supreme Court Bar Association

Bhaban, Dhaka and 3 Agamashi Lane, P.S.:

Kotwali, Dhaka.

.....Petitioners.

**-VERSUS-**

1. Bangladesh represented by the Secretary,  
Ministry of Planning, Sher E-Bangla Nagar,  
Dhaka.

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

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

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

5. The Secretary, Ministry of Local  
Government and Rural Development,  
Government of the People's Republic of  
Bangladesh, Bangladesh Secretariat, P.S -,  
Shahbag, Dhaka.

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

7. The Director General, Department of  
Environment, Paribesh Bhaban, E-16, Sher-E  
Bangla Nagar, Agargaon, Dhaka.

8. The Deputy Commissioner, Cox'sbazar,  
Office of the Deputy Commissioner,  
Cox'sbazar, District- Cox'sbazar,  
Bangladesh.

9. The Superintendent of Police (S.P.),  
Cox'sbazar, District-Cox'sbazar,  
Bangladesh.

10. The officer in charge (O.C.) Sadar  
thana, Cox'sbazar, District-Cox'sbazar,  
Bangladesh.

..... Respondents

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation

Act 1995 (amended in 2000 and 2002), and

গনবমিখ, বেফিম্বক নি I তরj v কন্টি i তচ্শি Gj vKvmn

† †ki mKj তচ্শি Gj vKvi tLj vi gW Db†³ †vb, D` †vb

Ges c†KvZK Rj vavi msi ††b AvBb, 2000 .

AND

IN THE MATTER OF:

**For a direction to remove temporary &  
permanent structures built on the Sea beach  
area at Cox'sbazar violating the provision of  
law.**

To

Mr. Justice A.B.M. Khairul Haque, the Hon'ble Chief Justice of  
Bangladesh and his companion Judges of the said Hon'ble Court.

The humble petition of the above named

Petitioners most respectfully-

**S H E W E T H:**

1. That the organization 'Human Rights And Peace For Bangladesh (HRPB)' is a non profitable registered organization and the objects of the organization is to uphold the rights of the citizen and to work for the poor people, to give legal support to the helpless people, and to build up awareness amongst the people about their rights and activities against the environment etc. Moreover the organization is also working to protect environment and take legal steps against the activities of destroying environment as well as in case of violation of law.

2. That the petitioners are the members of Human Rights and Peace For Bangladesh and all of them are practicing lawyer of this Hon'ble Court and conscious citizen of the country. Respondent no. 1 is Bangladesh represented by the Secretary, Ministry of Planning, Sher E-Bangla Nagar, Dhaka. Respondent no. 2 is The Secretary,

Ministry of Environment and Forrest, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka. Respondent no. 3 The Secretary, Ministry of Land Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka. Respondent no. 4 The Secretary, Ministry of Finance, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

Respondent no. 5 is The Secretary, Ministry of Local Government and Rural Development, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S -, Shahbag, Dhaka.

Respondent no. 6 is The Secretary, Ministry of Water Resources, Bangladesh Secretariat, P.S -, Shahbag, Dhaka. Respondent no. 7 is The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka. Respondent no. 8 is The Deputy Commissioner, Cox'sbazar, Office of the Deputy Commissioner, Cox'sbazar, District- Cox'sbazar, Bangladesh. Respondent no. 9 is. The Superintendent of Police (S.P.),



Cox'sbazar, District-Cox'sbazar, Bangladesh. Respondent no. 10 is The officer in charge (O.C.) Sadar thana, Cox'sbazar, District-Cox'sbazar, Bangladesh. That the addresses of the petitioners and the respondents given above are correct for the purpose of service of notices.

3. That the petitioners are seeking direction upon the respondents to stop encroachment, earth filling and temporary & permanent structures building on the sea beach area at Cox'sbazar, violating the provisions of the Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and gnvbMlx, uefMlxq kni I tRjv kni i tcSi GjvKmn t`tki mKj tcSi GjvKvi tLjvi gw DbjB `vb, D`vb Ges c0KwZK Rjvavi msi ¶|b AvBb, 2000. The petitioners also seeking direction to remove temporary & permanent structures built on the sea beach area at Cox'sbazar violating the provision of law. The petitioners seek to bring this application by invoking Article 102 of the Constitution as a

public interest litigation in order to take necessary steps against the violation of provision of law as well as for a direction upon the respondents to take necessary steps to protect sea beach area at Cox'sbazar.

4. That it is stated here that by way encroachment, earth filling and temporary & permanent structures building within the territory of sea beach area at Cox'sbazar, violating the provisions of law, the normal existing of longest sea beach of the world was obstructed as well as seriously affected the environment and as it, involves great public importance so this petition may be treated as public interest litigation.

5. That the millions of tourist from the country and abroad come to visit the longest sea beach area at Cox'sbazar and the country is earning much money. Not only that the sea beach area at Cox'sbazar

is playing a great role in our economy. Due to continuous encroachment, earth filling and structure building in the above mentioned beach, day by day it is losing its width and affecting the natural beauty of the longest beach. It is also playing an effecting role in protecting the environment. But due to illegal acts of the law violators the above mentioned beach is going to be lost it's importance.

6. That according to Section 5 of the Environment Conservation Act, 1995, it is prohibited to change the nature of any land that has been earmarked as a natural reservoir. Pursuant to section 8 of the said law 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. More over under section 7 of the Environment Conservation Act, 1995, the authority has empowered to

direct any person responsible for causing damage to the ecosystem for adopting corrective measures. Due to the encroachment, earth filling and temporary & permanent structures built on the sea beach area at Cox'sbazar, it is going to be changing the nature which is not only illegal but punishable offence under the provision of law.

7. That disregard to laws and legal provisions the encroachment, earth filling and temporary & permanent structures building is continuing and failure to ensure proper implementation of laws caused enough damage to the environment and adversely affecting the beauty of the longest beach area. Under these circumstances the respondents are legally bound to protect the sea beach area at Cox'sbazar, in accordance with law.

8. That the duty and responsibility vested upon the respondents to serve the people and initiate lawful steps and the respondents 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 also failed to protect the above mentioned sea beach from encroachment, earth filling and occupation, which is illegal.

9. That it is stated here that on 05.01.2011 a report was published in news paper namely Daily Star. It was reported in that news paper that the different places of sea beach of Cox'sbazar area are encroaching, earth filling and building temporary & permanent structures by the interested quarter though it is unauthorized. It was stated in the report that though such kinds of activities are continuing but concern authority is silent and not performing their duties properly. Consequently sea beach area at Cox'sbazar is going to lost it's existence and beauty which is seriously affecting the environment and economy of the country. It was written that the interested quarter occupied the beach area and created obstruction to the normal

existence of the beach, which is seriously affecting our ecological system. It was also reported that the beach area of Cox'sbazar and Tekhnaf has been declared as ecological critical area in 1999 so any kinds of activities that might change the existing character of the land or water or threatened the local ecology is prohibited.

Paper clipping dated 05.01.2011 is annexed

here with and marked as “ANNEXURE-A”.

10. That it is stated here that encroaching, earth filling and building temporary & permanent structures on the sea beach area at Cox'sbazar is contrary to all applicable laws of the country. For the benefit of the interested quarter the respondents are silent and violating and flouting all legal requirements, the respondents have miserably failed to administer law and protect public interest.

11. That it is stated here that disregard to laws and failure to ensure proper implementation of laws the respondents have caused enough damage to the environment and the country is adversely affecting. Under these circumstances the respondents are legally bound to protect the longest sea beach area at Cox'sbazar in accordance with law.

12. That it is stated here that Human Rights And Peace For Bangladesh (HRPB) is an organization working on different issues and many public interest litigations have been filed by them. In many cases the Hon'ble High Court Division has passed judgment such as i) VAT collection from the patient declared illegal, ii) directed to constitute civil vacation court during civil vacation in every December in subordinate court, iii) directed not to set up any cattle hat on the street in Dhaka City during Eid-Ul-Azha and removing all slaughtering materials within 24 hours with a hygienic manner, iv) directed to form an inquiry commission about murder/rape

/persecution/torture committed immediate after parliament election of 2001 upon the then opposition supporter and minorities, v) directed to set up food court in every city in order to prevent food adulteration, vi) directed to form an “Earthquake Preparedness And Awareness Committee” and collected the necessary earthquake rescue equipments as per their recommendation, vii) directed to protect river Buriganga, Balu, Turag and Shitallakha and to stop encroachment in the rivers as well as directed to remove all the structure from inside the rivers and etc. Many others cases are pending before the Hon’ble High Court Division. The organization is always bearing all the cost of the cases by it’s own fund which is raised by the donation of the members. The organization received no fund from abroad or from any citizen of the country except the lawyer members. Due to present high volume of cases it is not possible to bear the cost of the cases filed before the Hon’ble High Court Division as public interest litigation. Under these circumstances it is necessary to exempt the cost of the



cases filed by the organization as public interest litigation. Hence a direction may be given to the office to register the application as a writ petition and also notices may be served at the cost of office.

13. That it is stated here that the most of the respondents are the experienced public servant and very much aware of the rules and law of the land. The respondents are aware about the duties vested upon them but failed to perform to protect the sea beach area at Cox'sbazar. Under these circumstances in such a public interest issues which is always in the notice of the respondents, is not necessary to bring his notice again by way of legal notice for taking steps.

14. That it submitted here 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, encroachment is continuing in sea beach area at Cox'sbazar, which is illegal.

15. That it is submitted here that the respondent are the public servants and they are duty bound at all time to serve the people and to perform the public duties. But they have failed to do their duty because no steps has been taken in spite of encroaching, earth filling and building temporary & permanent structures in sea beach area at Cox'sbazar.

16. That it is submitted that the environment is being continuously endangered and threatened by various illegal activities such as earth filling in sea beach area at Cox'sbazar. The main causes for environmental degradation is unauthorized filling up, structure building in sea beach area at Cox'sbazar. Taking advantage of the silence of the

concern authority, the **encroachment, earth filling and temporary & permanent structures building** in sea beach area at Cox'sbazar is continuing and as a result the environmental is destroying.

17. That it is most respectfully submitted 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 environment of the country and as such the respondents are required to be directed to protect the sea beach area at Cox'sbazar in accordance with law and remove all structure made therein.

18. That it is submitted that the non-implementation of the laws by the respondents undermine the rule of law and jeopardize peoples fundamental right as guaranteed under Article 31 of the Constitution of Bangladesh.

20. That being aggrieved by and dissatisfied with the inaction of the respondents and having no other equally efficacious remedy the petitioners beg to move your Lordships on the following amongst others;-

**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 is adversely affecting. Under these circumstances the respondents are legally bound to protect the sea beach area at Cox'sbazar 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 sea beach area at Cox'sbazar, which is illegal. Hence a direction may be given upon the respondents to stop encroachment, earth filling and remove temporary & permanent structures building within the territory of the sea beach area at Cox'sbazar.

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** in sea beach area at Cox'sbazar,. 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 gnvbMi x, uefVlxq kni I tRj v kni i tcSi

Gj vKmn t`tki mKj tcSi Gj vKvi tLj vi gw Dbj<sup>3</sup> vb, D`vb Ges cKwZK Rj vavi

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 violation of law the respondents are not taking appropriate action.

V. For that **encroachment, earth filling and temporary & permanent structures building** in sea beach area at Cox'sbazar, is contrary to all applicable laws of the country. Moreover the filing up and encroachment in the area will create obstruction to ecosystem of the area.

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

environment and as such the respondents are required to be directed to protect the sea beach area at Cox'sbazar 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 issue:-

A) Direct the office to register this application as a writ petition.

B) A Rule Nisi calling upon the Respondents to show cause as to why a

direction should not be given upon the respondents to protect the sea beach area at Cox'sbazar from encroachment and earth filling and why a direction should not be given upon the respondents not to allow any construction of any permanent and temporary structure within the sea beach area at Cox'sbazar.

C) Pending hearing of the Rule direct the respondent No. 8 to demarcate the sea beach area at Cox'sbazar by a special team and direct the respondent no. 9 and 10 to arrange police force for that area so that no one can encroach, earth filling or built any



permanent or temporary construction within the area.

D) Pending hearing of the Rule direct the respondent no. 8-10 to demolish /remove all the temporary and permanent structure within the sea beach area at Cox'sbazar and submit a compliance report before this court within 7 days.

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

F) Upon hearing 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..

And for this act of kindness Your Petitioners as in duty bound shall ever pray.

**Name of the Petitioners-**

Advocate Manzill Murshid.....

Advocate Asaduzzaman Siddiqui -----

Advocate Sawar Ahad Choudhury.....

Advocate Aklasuddin Bhuiyan.....

Submitted By-

Manzill Murshid  
Advocate  
গব্বিRj tgvj †m`  
Supreme Court of Bangladesh.

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

WRIT PETITION NO. .... OF

2011.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh  
represented by it's President Advocate  
Manzill Murshid and others.

.....Petitioners.

**-V E R S U S-**

1. Bangladesh and others.

.....Respondents.

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Manzill Murshid  
গভীর জগিতা  
Advocate  
Supreme Court of Bangladesh.

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

WRIT PETITION NO.....OF 2011.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh and  
others.

.....Petitioners.

**-V E R S U S-**

Bangladesh and others.

.....Respondents.

Manzill Murshid  
গভীর জীবিত  
Advocate  
for the Petitioners.

IN THE SUPREME COURT OF BANGLADESH  
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WRIT PETITION NO. .... OF 2011.

IN THE MATTER OF:

Human Rights and Peace for Bangladesh and  
others.

.....Petitioners.

**-V E R S U S-**

1. Bangladesh and others.

.....Respondents.

To  
The Learned Attorney General  
The Peoples Republic of Bangladesh

Dear Sir,

Please take notice that an application under Article 102 of the  
Constitution, will be filed and moved before this Court, a copy of  
which is enclosed herewith for your kind information.

Regards-

Manzill Murshid  
গভীর জগিত  
Advocate  
Supreme Court of Bangladesh.