

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

WRIT PETITION NO. .... OF 2009.

IN THE MATTER OF:

An application under Article 102 read with 44 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 peach for Bangladesh (HRPB),  
represented by it's Secretary, Advocate Asaduzzaman  
Siddique, Hall No.2 Supreme Court Bar Association  
Bhaban, Dhaka, Bangladesh.

.....Petitioner.

- V E R S U S -

1. Bangladesh, represented by the Secretary, Ministry of  
Local Government and Rural Development, Government  
of the People's Republic of Bangladesh, Bangladesh  
Secretariat, P.S. Shaabag, Dhaka , Bangladesh.

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

3. The Executive Engineer, Local Government and  
Engineering Department, Office of th Executive  
Engineer, District- Barisal.

4. The Upazila Engineer, LGED Office, Banaripara, P.S.-  
Banaripara, District- Barisal.

5. The Deputy Commissioner, Barisal, Office of the  
Deputy Commissioner, Collectorate Building, Barisal,  
District- Barisal.

6. Upazila Nirbahi Officer (TNO), Banaripara, District-  
Barisal.

7. The Officer in Charge, Banaripara, District- Barisal.

8. Mr. Modasser Ali Bepari, Ex Union Parisad Chairman,  
Banaripara, District- Barisal.

----- Respondents.

AND

IN THE MATTER OF :

For a direction upon the respondents to take appropriate steps as per the provision of section 7 of Bangladesh Environment Conservation ACT 1995 (amended in 2000 and 2002), and as per section 5 of the gnvbMix, wefvMiq kni I tRj v kni i tcSi Gj vKvmn t`tki mKj tcSi Gj vKvi tLj vi gvV DbjB`vb, D`vb Ges cKwZK Rj vavi msi qY AvBb, 2000,

AND

For a direction o stop illegal earth filling over the cannal Sandha Nodi, Banaripara, Barisal, Which is continuing violating the provision of law.

### GROUNDS

- 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 villagers are adversely affecting to the right to life. Under these circumstance the respondents are legally bound to protect the Sandha River at Banaripara, Barisal, 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 o law the earth filling up is continuing in Sandha River, which is illegal. Hence direction may be given upon the respondents to stop earth filling over the Sanda River, Banaripara, Savar.
- III. For 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 step of earth filling over Sandha River is continuing.
- IV. For that under Section 5 of the gnvbMix, wefvMiq kni I tRj v kni i tcSi Gj vKvmn t`tki mKj tcSi Gj vKvi tLj vi gvV DbjB`vb, D`vb Ges cKwZK Rj vavi msi qY AvBb, 2000, also prohibits change of the nature of any land that has been earmarked as a nature reservoir including flood flow zones. 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 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 a direction should not be given upon the respondents to take appropriate steps s per the provision of section 7 Bangladesh Environment Conservation Act, 1995 (amended in 2000 and 2002),

and as per section 5 of the gnvbMix, wefVMiq kni I tRj v kni i tcSi Gj vKmn t`tki mKj tcSi Gj vKvi tLjvi gv DbyB `vb, D`vb Ges c0KwZK Rj vavi msi qY AvBb, 2000, and why a direction should not be given upon the respondents to stop illegal earth filling over the Sandha River at Banaripara, Barisal, which is continuing violating the provision of law.

(B) Direct the respondents to maintain statuesque in respect of earth over Sandha River at Banaripara, Barisal.

**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.

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