

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

WRIT PETITION NO. 2896 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.
2. Ataur Rahman son of late Ali Hossain Matbar, of village Vakurta, Saver, Dhaka.

.....Petitioners.

-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 the Executive Engineer, District- Dhaka, 62, West Agargon, Dhaka-1207, Bangladesh.
4. The Superintending Engineer, Dhaka, Region, 62 West Agargan, Dhaka- 1207, Bangladesh.
5. The Upazila Engineer, LGED Office, Savar, P.S.-Savar, District- Dhaka.
6. The Deputy Commissioner, Dhaka, Office of the Deputy Commissioner, Collectorate Building, Johnson Road, District- Dhaka.
7. Upazila Nirbahi Officer (TNO), Savar, District- Dhaka.

hence the said Plan in clear terms prohibited raising the level of land through land filling in the flood flow zones/sub flood flow zones. According to the Master Plan the flood plain areas should be enabled to function properly as flood plains/sub flood flow zones and maintain them basic rural nature.

VI. For that under Section 5 of the Environment Conservation Act, 1995 (amended in 2000 and 2002), and 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.

VII. For that earth filling up over the canal at Vakurta and in sub flood flow zone near Amin Bazar is contrary to all applicable laws of the country regarding urban development planning and environmental protection. Moreover the filling up the Canal will create obstruction to the normal water flow in the rainy season, consequently total area could be flood affected. The respondents are proceeding with the implementation of a road construction Project callously flouting all legal requirements and protect public interest and as such the project and earth filling is liable to be declared unauthorized.

VIII. 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 cultivation of the land of the villagers and as such the respondents are required to be directed to protect the sub flood flow zone and canal in accordance with law.

IX. 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 as per the provision of section 7 Bangladesh Environment Conservation Act, 1995 (amended in 2000 and 2002), and as per section 5 of the Environment Conservation Act, 1995 (amended in 2000 and 2002), and why a direction should not be given upon the respondents to stop illegal earth filling over the canal Chaira Mogorkanda within C.S Dag No. 2494, 1769 and C.S. Dag No. 2256 & 2235 at Vakurta, savar, which is continuing violating the provision of law.

(B) Direct the respondents to maintain status quo in respect of earth over the canal Chaira Mogorkanda

within C.S Dag No. 2494, 1769 and C.S. Dag No. 2256
& 2235 at Vakurta, savar,.

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.
