

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

WRIT PETITION NO. OF 2011

IN THE MATTER OF:

An application under Article 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 Asaduzzaman Sddiqui, Advocate, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Eklasuddin Bhuiyan, Hall No. 2, Supreme Court Bar Association Building, Shahbag, Dhaka, Bangladesh.

..... Petitioners.

-VERSUS-

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

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 Agargaon, Dhaka-1207, Bangladesh.

4. The Superintending Engineer, Dhaka Region, 62, West Agargaon, 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, Collect orate Building, Johnson Road, Dhaka.

7. The Upazila Nirbahi Officer (UNO), Savar, Savar Upazila, P.S. Savar, District-Dhaka.

8. The Executive Engineer (R&H), Dhaka Roads Department, Banani, Dhaka

9. The Officer in Charge, Savar Thana, P.S.-Savar, District-Dhaka.

..... Respondents

AND

IN THE MATTER OF:

For a direction to protect the water body as approved in Detail Area Plan (DAP) in Savar Upazila under Baliarpur Mouza, J.L. No. 232, RS Dag No. 3281-3287 and Uttar Kaundia, J.L. No. 245, RS Dag No. 6272, and 6274-6276.

GROUNDS:

I. For that the filling up in flood zone as well as water body at Mouza- Uttar Kaundia, Boliarpur, Savar, by way of Earth filling or any other activities is contrary to the Master Plan and all applicable laws of the country. For the benefit of the interested quarter the respondents are going to implement the said Project violating and flouting all legal requirements and have miserably failed to administer law

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 villagers are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the water body at Uttar Kaundia and Baliarpur at Savar, in accordance with law.

III. 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 above mentioned Water preserver, which is illegal.

IV. 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 spite of earth filling in water body area is continuing.

V. For that the environment is being continuously endangered and threatened by various unplanned and illegal activities such as filing up the water body. The unplanned and unauthorized filling up the canal in and around the Dhaka City are main causes for environmental degradation. Taking advantage of the silence of the concern authority, the illegal earth filling is continuing over the water body and resulting environmental is destroying.

VI. For that according to the Master Plan, any unauthorized interference with the water body/ flood zones will have devastating environmental effect and hence the said Plan in clear terms prohibited raising the level of land through land filling in the water body/flood zones. According to the Master Plan the flood plain areas should be enabled to function properly as water body/flood plains/ flood zones and maintain them basic rural nature.

VII. For that earth filling up over the water body near Amin Bazar is contrary to all applicable laws of the country regarding urban development planning and environmental protection. The respondents are proceeding with the implementation of the road construction Project callously flouting all legal

requirements and protect public interest and as such the project and the earth filling is liable to be declared unauthorized.

VIII. 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 humble prayed that your Lordships would graciously be pleased to:-

- a) Issue a Rule Nisi calling upon the Respondents to show cause as to why inaction of 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 gnvbMlx, wefvMlxq kni l tRjv kni i tcsi Gj vKvnn t tki mKj tcsi Gj vKvi tLjvi gvW, DbjP vb, D vb Ges c0KwZK Rj vavi msi Y AvBb, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to protect the water body as approved and identified in Detail Area Plan (DAP) in Savar Upazila under Baliarpur Mouza, J.L. No. 232, RS Dag No. 3281-3287 and Uttar Kaundia, J.L. No. 245, RS Dag No. 6272, 6274-6276.
- c) Pending hearing of the rule direct the respondents to maintain statuesque in respect of earth filling and obstruction activities within the water body in Savar Upazila under Baliarpur Mouza, J.L. No. 232, RS Dag No. 3281-3287 and Uttar Kaundia Mouza, J.L. No. 245, RS Dag No. 6272, 6274-6276.

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.
