

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

WRIT PETITION NO.            OF 2016.

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 Director General, Department of  
Environment, Paribesh Bhaban, E-16, Sher-E  
Bangla Nagar, Agargaon, Dhaka.
3. The Managing Director, WASA, WASA  
Bhaban, Kawranbazar, Dhaka, Bangladesh.
4. The Chief Engineer, PWD, PWD  
Bhaban, Moulana Bhasani Road, P.S-  
Shahbag, Dhaka, Bangladesh.

5. The Director(enforcement) Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.
6. The Deputy Commissioner, Dhaka, Police Station- Kotwali, District- Dhaka.
7. The Police Commissioner, DMP, Dhaka, DMP head Quarter, Dhaka.
8. The Executive Engineer, Public Works Division-2, Sher E Bnagla Nagar, Dhaka, Bangladesh.
9. The Officer In Charge, Mirpur, Police Station- Mirpur, District- Dhaka.
10. Assistant Commissioner (Land), Mirpur, Police Station- Mirpur, District- Dhaka.
11. The president / Secretary, Mamata Co-Operative Society, Agargaon, Dhaka, Bangladesh.

..... Respondents

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002), and মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, ২০০০ .

AND

IN THE MATTER OF:

For a direction to stop encroachment and earth filling in a Canal situated at Agargaon, P.S. Mirpur, District-Dhaka, (as per annexure-A) violating the provisions of law and directed the authority to protect the same Canal to its original territory as per C.S/R.S. record.

## **G R 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A), 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A), 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A) in accordance with law.
- III. For that under Section 5 of the মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A) 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A) 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 Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A).

AND

Why a direction should not be given upon the respondents to protect the Canal situated at Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A) to its original territory as per C.S/R.S record.

AND

Why a direction should not be given upon the respondents to remove earth filling and construction made therein at the cost of the respondent no.11.

b) Pending hearing of the rule direct the respondent no. 2-5 and 8-9 to take immediate steps within 48 hours to stop construction, earth filling and encroachment within the area of Canal situated at Agargaon, P.S. Mirpur, District-Dhaka (as per annexure-A) as reported in Shomokal dated 02.11.16 and file a compliance report within 2 weeks through affidavit before the court.

**Present Status:**

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble High Court Division issued Rule Nisi and statuesque order upon the respondents. The case is pending before the Court

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