

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

WRIT PETITION ON 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 its Secretary, Advocate Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

1. Bangladesh represented by the Senior Secretary, Ministry of Local Government, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Environment and Forrest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

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

4. The Director(enforcement), Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.

5. The Deputy Director, Environment Directorate, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka.

6. The Deputy Commissioner, Madaripur, Post and District- Madaripur.

7. The Police Supar, Madaripur, , Post and P.S.- Madaripur, Dstrict- Madaripur, Bangladesh.

8. Upazila Nirbahi Officer (UNO), Madaripur Sadar, Post and District- Madaripur.

9. The Officer in Charge (O.C.), Madaripur Sadar Thana, Post and District- Madaripur.

10. Saifur Rahman Rubel Khan, son of Late Abdul Mannan Khan, Shahid Badal Sharak, Madaripur Pourashava, Post and P.S. Madaripur.

11. Zahidul Islam, son of Abdul Malek Mia, Pathokkandi, Madaripur Pourashava, Post and P.S. Madaripur.

12. Tanvir Mahmud, son of Alamgir Haulader, Balia, Mostafapur, Madaripur Pourashava, Post and P.S. Madaripur.

..... 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 earth/sand filling, encroachment of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, violating the provisions of law and directed the authority to protect the same pond to its original territory as per the provisions of 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, 2000.

GROUND 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 earth filling/encroaching is continuing within the pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, j, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, to its original territory as per 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 local people are being adversely affected in context of right to life. Under these circumstances the respondents are legally bound to protect the pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, 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 earth and sand filling/encroachment of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur. Hence a direction may be given to stop earth and sand filling/encroachment of pond/ water reservoir situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, and to protect the same to its original territory as per law.

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 stop earth and sand filling of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, should not be declared illegal and without lawful authority and why encroachment of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur, should not

be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondents to remove earth and sand filling (already done) by the cost of the respondent no. 10-12.

b) Pending hearing of the rule direct the respondent no. 4 and 6-9 to take immediate steps within 24 hours to stop earth and sand filling/encroachment of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur (as reported in Prothom alo on 06.10.16) and file a compliance report within 2 weeks through affidavit before the court.

c) Pending hearing of the rule directs the respondent no. 6-7 to take steps as per provision of law with in 7 days against the respondent no. 10-12 for earth and sand filling/encroachment of pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur and file a compliance report with 2 weeks before this court.

d) Pending hearing of the rule directs the respondent no. 10-12 to maintain statuesque in respect of any further earth filling/encroachment/construction over the pond situated near 1 no. police Fari at Madaripur pourashava, District- Madaripur and file a compliance report with 2 weeks before this 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
