

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

WRIT PETITION NO. OF 2020.

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-in-Charge, Advocate Md. Sarwar Ahad Choudhury, Hall No.2 Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Akals Uddin Bhiuyan, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka.
3. Advocate Ripon Barai, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Environment, Forest and Climate Change, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
2. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka, Bangladesh.

3. The Director (Enforcement), Department of Environment, Paribesh Bhaban, E- 16, Sher-E-Bangla Nagar, Agargaon, Dhaka.
4. The Director, (Chittagong), Department of Environment, Chittagong Divisional Office ,Paribesh Bhaban, Zakir Hossain Road, Foislekh Area, Khulshi, Chittagong-4202.
5. The Deputy Director (Chittagong), Department of Environment, Chittagong Divisional Office ,Paribesh Bhaban, Zakir Hossain Road, Foislekh Area, Khulshi, Chittagong-4202.
6. The Divisional Commissioner, Chittagong, Post and District-Chittagong.
7. The Deputy Commissioner, Chittagong, Post and District- Chittagong.
8. The Police Commissioner, Chittagong Metropolitan Police, District- Chittagong, Bangladesh
9. The Police Super, Chittagong, Pasha Bhavan, 2 Lane No. 2 ,Post and P.S.- Chittagong, District- Chittagong, Bangladesh.
10. Upazila Nirbahi Officer (UNO), Lohagora, District- Chittagong, Bangladesh.
11. The officer in Charge (O.C), Lohagora, P.S: Lohagora, District- Chittagong, Bangladesh.

..... Respondents.

AND

IN THE MATTER OF:

Article 18A and 32 of the Constitution of Bangladesh and Section 4, 8, 14 and 18 of the ইট প্রস্তুত ও ভাটা স্থাপন (নিয়ন্ত্রন) আইন ২০১৩ (সংশোধিত-২০১৯) and Provisions of the Environment Conservation Act, 1995.

AND

IN THE MATTER OF:

Inaction/Failure of the respondents to stop illegal/unauthorized Brick Manufacturing and Brick Kiln Establishment within the Chittagong District area.

AND
IN THE MATTER OF:

For a direction upon the respondents to take necessary measures to shut down the operation of the illegal/unauthorized Brick Manufacturing and Brick Kiln Establishment within the Chittagong District area and to save the environment/forest and to stop air pollution and health hazards of the citizens living in Chittagong District area.

G R O U N D S -

1. For that as per the provision of Article 21 of the Constitution of Bangladesh, the duties and responsibilities 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 their duties and responsibilities as vested upon them and by the way of violating the provision of the Constitution of Bangladesh, the Respondents did not take any effective steps to stop illegal establishments of brick manufacturing and brick kiln, which causes health hazards, pollution and as well demolish forest and environment and thereby attacks fundamental rights of the people.

ii. For that under Section 4 of the The Brick Manufacturing and Brick Kiln Establishment (Control) Act, 2013, also mentions that without having license from the District administrator office no one can manufacture brick and kilns brick. As per section 6 of the Act using wood as fuel on brick manufacture and brick kiln establishment is prohibited. As per section 8 of the said Act no farming land can be used as for brick manufacture and brick kiln establishment. Hence a direction may be given to stop illegal brick manufacture and brick kiln establishments.

iii. For that right to life of the citizen of Bangladesh is ensured under Article 32 and State shall ensure the protection and improvement of the environment and to preserve and safeguard the forest under 18A of the Constitution of Bangladesh but by way causing serious pollution and health hazard through these illegal establishments many people will losing their life due to these illegal use of forest woods and air pollution of the establishments. Hence a direction may be given upon the respondents to take immediate measures to stop pollution and save environment and forest.

iv. 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 environment and forest, situated within Chittagong district, in accordance with law.

v. For that Section 4 of the ইট প্রস্তুত ও ভাটা স্থাপন (নিয়ন্ত্রন) আইন ২০১৩ (সংশোধিত-২০১৯) prohibits anyone to produce any brick without having any license from the competent authority, Section 14 and 18 also provided punishment against the persons who are violating the law but the respondents are silent despite of violation of specific law, hence it is necessary to pass an order to stop such operation.

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 inaction/failure of the respondents to stop illegal/unauthorized Brick Manufacturing and Brick Kiln Establishment within the Chittagong District area, should not be declared illegal and without lawful authority.

AND

Why a direction should not be given upon the respondents to take necessary measures as per the provisions of law under section 4, 8, 14 and 18 of the ইট প্রস্তুত ও ভাটা স্থাপন (নিয়ন্ত্রন) আইন ২০১৩ (সংশোধিত-২০১৯) against the persons who are liable for operation of the illegal/unauthorized Brick Manufacturing and Brick Kiln Establishment within the Chittagong District area.

b) Pending hearing of the rule direct the respondent no. 4-11 to take immediate steps within 48 hours to stop operation the illegal/unauthorized brick manufacture and brick kiln establishments within the area of Chittagong district and file a compliance report within 2 weeks before the court through affidavit.

c) Pending hearing of the rule directs the respondent no. 4 and 7 to submit a list of brick manufacture and brick kiln establishments of the Chittagong District area who are using wood as fuel in the said establishments before this court within 2 weeks through affidavit.

Present Status:

The case was filed and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi and passed an order to stop operation of illegal brick fields of Chittagong district within 7 days. Due to this order hundreds of illegal brick field's

were shut down. The matter is pending before the Hon'ble High Court Division.
