

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

WRIT PETITION ON OF 2011

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 President, Advocate Manzill Murshid, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Asaduzzaman Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Bangladesh.

3. Advocate Aklasuddin Bhuiyan, Hall No. 2, Supreme Court Bar Association Hall, Dhaka, Bangladesh.

4. Advocate Mahbubul Islam, Son of Md. Mofijuddin, of House LA-56, Badda, Post Office Road, Gulshan, Dhaka 1212, Bangladesh.

.....Petitioners.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Cultural Affairs, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, P.S- Shahbag, Dhaka.

3. The Secretary, Ministry of Land, Bangladesh Secretariat, P.S- Shahbag, Dhaka.

4. The Director General, Archaeological Department, Archaeology Bhaban, F-4/A, Agargoan Administrative Area, Sher-e-Bangla Ngor, Dhaka-1207, Bangladesh.

5. The Deputy Commissioner of Ponchagor, Post & P.S. Ponchagor, Dist. Ponchagor.

6. The Superintendent of Police (S.P.), Ponchagor, Post & P.S. Ponchagor, Dist. Ponchagor.

7. The Officer in Charge (O.C), Ponchagor Sadar Thana, Post & P.S. Ponchagor, Dist. Ponchagor.

8. Assort Plus Limited, Model Hat, Bhitargor, Post.- Model hat, Amorkhana, Union, P.S.- Ponchagor Sadar, District- Ponchagor.

9. Selilan Tea Estate Ltd., Bhitargor, Ponchagor, Head Office: - Pullhat, District- Dinajpur.

..... Respondents

G R O U N D S

I. For that disregard to provision of law and failure to ensure proper implementation of laws, caused enough damage to the historical place namely Bhitorgor at Ponchogor District. Under these circumstances the respondents are legally bound to protect the historical places such as the place in where Bhitorgor fortified city under Bhitorgor Mouza and Sonarban Mouza in Amarkhan Union, Ponchogor district, in accordance with law.

II. For that the duty and responsibility vested upon the respondents to serve the people and initiate lawful steps and the respondents 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 also failed to protect the above mentioned historical places, which is illegal.

III. For that such disregard to laws and legal provisions and failure to ensure proper implementation of laws have caused enough damage to the historical places and as such the respondents are required to be directed to protect the above mentioned historical places in accordance with law.

IV. For that the government is constitutionally bound by the Article 24 of Bangladesh Constitution to protect the historically important monument. As the fort is of 6th century and it is not only important for the history of Bangladesh but also important to the history of this sub-continent, so it is the duty of government to protect the site Vitorgarh Fort and any inaction to take the appropriate step to protect the place is illegal and unconstitutional.

V. For that the government is under duty to protect the Bhitorgor Fort under Article 24. The activities of the Assort Plus and Sellani Tea State is damaging the fort and the damages are irrecoverable, so the government is constitutionally bound to stop the works of these companies which is illegal.

VI. For that in section 2 (c) of The Antiquities Act 1968 defines the “antiquity”, where in Para (ii) any ancient site of history was defined as antiquity; and in section 10 of the same Act requires the government to declare any antiquity to be protected antiquity by gazette notification. As the Vitorgarh Fort is a historical site so it is the government must declare it as a protected antiquity and protect it.

-PRAYER-

A) Direct the office to register this application as a writ petition.

B) A Rule Nisi calling upon the Respondents to show cause as to why a direction should not be given upon the respondents to protect and maintain historic importance places namely “Bhitorgor Fort” situated in Bhitogor Mouja & Sonarban Mouja of Amarkhana Union, Panchogor Sadar Thana, District-Ponchogor.

AND

Why a direction should not be given upon the respondents to declare the site of Bhitorgor Fort as protected antiquity and publish it in the gazette notification as per the provisions of section 10 of Antiquities Act. 1968

C) Pending hearing of the Rule directs the Respondents no 8 and 9 to maintain status quo in respect of implementation of their project.

D) Pending hearing of the Rule directs the Respondents no 5, 6 and 7 to take necessary steps for continuous monitoring within the Bhitorgor Fort area so that no one can destroy/damage any existing position of the Bhitorgor Fort area.

E) Direct the office to serve notices upon the respondents at the cost of the office.

F) Upon hearing the cause if any shown makes the rule absolute.

G) Pass such other or further order or orders as your Lordships may deem fit and proper.

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.