

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

WRIT PETITION ON OF
2013

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 it's Secretary,
Advocate Asaduzzaman Siddique, Hall No.
2, Supreme Court Bar Association Bhaban,
Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

1. Bangladesh represented by the
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 Secretary, Ministry of Water
Resources, Bangladesh Secretariat, P.S.
Shahbag, Dhaka, Bangladesh.

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

5. The Secretary, Ministry of Finance, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

6. The Chairman Water Development Board (WAPDA), WAPDA Bhaban, Motijheel C/A, 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 earth filling and illegal encroachment within the area of Canal in all over the Country, violating the provisions of law and directed the authority to protect all Canal of the Country to it's original territory as per R.S/B.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 earth filling/encroaching is continuing within the Canal of the Country, which is illegal. Hence direction may be given upon the respondents to stop encroachment and earth filling within the Canal of the Country and to protect all Canal of the Country to it's original territory as per R.S/B.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 peoples are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the Canal of the Country 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 killing of Canal of the Country. Hence a direction may be given to stop earth filling/encroachment within the Canal of the Country and to protect all Canal of the Country to it's original territory as per R.S/B.S. record.

Wherefore, it is most humbly prayed that your Lordships would graciously be pleased to :-

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

b) Issue a Rule Nisi calling upon the Respondents to show cause as to why inaction/failure of the respondents to take effective steps to protect all the Canal of the Country from earth filling and encroachment, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop earth filling and illegal encroachment within the Canal of the Country,

AND

Why a direction should not be given upon the respondents to protect all Canal of the Country to it's original territory as per R.S/B.S. record

c) Pending hearing of the rule direct the respondents to issue a direction to all the Deputy commissioner and Police Super of the District level within 7 days to take temporary measures for protection of the Canal situated within each area and submit a compliance report within two weeks before this court.

- d) Direct the office to serve notices upon the respondents at the cost of office.
- e) After hearing the parties make the Rule absolute if cause shown any.
- f) 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.