

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

WRIT PETITION ON OF 2014

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 the Secretary of the Executive Committee Asaduzzaman Sddique, Advocate, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

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

2. The Deputy Commissioner, Pirojpur, Office of the Deputy Commissioner, Pirojpur, Post and District: - Pirojpur, Bangladesh.

3. The Superintendent of Police, Pirojpur, Office of the Superintendent of Police, Post and District: - Pirojpur, Bangladesh.

4. The District Council Administrator, Pirojpur District Council, Post and District: - Pirojpur, Bangladesh.

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

6. The Deputy Director/Assistant Director, Environment Directorate, Post and District: - Pirojpur, Bangladesh.

7. The Upazila Nirbahi Officer, Nazirpur, Post: Nazirpur, Dist: Pirojpur.

8. Md. Mosarrof Hossain Khan, Nazirpur Upazila AL General Secretary, Nazirpur, Post: Nazirpur, Dist: Pirojpur.

9. Md. MA Malek Bepari, Nazirpur Upazila AL President, Nazirpur, Post: Nazirpur, Dist: Pirojpur.

..... Respondents

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002 and 2010), 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 upon the respondents to stop encroachment upon the pond namely: *Joypur Kalibari Pukur* and earth filling in the pond situated at Village-Joypur, Nazirpur Upazila, Pirojpur violating the provisions of law.

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 they are going to earth filling, encroachment in the said pond, which is illegal.

II. For that the environment is being continuously endangered and threatened by various illegal activities such as earth-filling up of the pond/canals. That one of the main causes of environmental degradation is unauthorized earth-filling up, building structures in the ponds/canals/rivers around the country. That the respondents have failed to restrain the influential people to stop making shops in the pond and encroachments and earth-filling of it, which is illegal.

III. For that such disregard to laws and legal provisions and failure to ensure proper implementation of laws causes damage to the environment of the area and adversely affects the life of the people of the area and as such the respondents are required to be directed to protect the pond in Pirojpur in accordance with law.

IV. For that some greedy people are trying to implement some commercial and profitable projects using the ponds and vacant places of it, which is illegal. That it is stated here that though any steps to earth filling in the pond is illegal as per law but due to inactions and failure of the respondents earth filling and encroaching in the pond would affect the life cycle, ecological balance, and rights of the local citizens.

V. For that the respondents have not taken any legal steps against the encroachers and earth-fillers in Pirojpur, which is totally violation of law. If such kind's of activities is not stopped in that case, the pond would loose its existence soon and there is serious impact on local environment. Hence, order may be passed by the Hon'ble Court to stop encroachment upon the pond and any earth filing of it.

VI. 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, ২০০০, 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 influential people in Nazirpur have encroached the pond-land and made shops in the pond as well as earth-filled the pond and the respondents have not taken any legal steps against them. Hence direction should be given to stop encroachment of the said pond and earth filling of it and remove earth from that pond already earth-filled in.

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 a direction should not be given upon the respondents to stop encroachment and earth filling of the pond namely: *Joypur Kalibari Pukur* situated at Village-Joupur, Nazirpur Upazila, Pirojpur, which is being done violating the provisions of law

And

Why a direction should not be given upon the respondents to remove all earth filling from the pond and all the illegal structures so made in the pond namely: *Joypur Kalibari Pukur* situated at Village-Joupur, Nazirpur Upazila, Pirojpur.

b) Pending hearing of the rule direct the respondents to maintain status quo in respect of encroachment/construction/earth filling within the pond namely: *Joypur Kalibari Pukur* situated at Village-Joupur, Nazirpur Upazila, Pirojpur and to submit a compliance report within 4 weeks through affidavit before the court as to what steps have been taken as per the order of this court.

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

d) 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.