

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 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, the Ministry of Road Transport and Highways Division, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

3. The Chief Engineer, Road and Highways Department, Shorok Bhaban, Tejgaon, Dhaka-1208, Bangladesh.

4. The Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

5. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E

Bangla Nagar, Agargaon, Dhaka.

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

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

8. The Deputy Commissioner, Narayngonj, Post and District- Narayngonj.

9. The Police Supar, Narayngonj, Post and P.S.- Narayngonj, Dstrict- Narayngonj, Bangladesh.

10. Upazila Nirbahi Officer (UNO), Sonargaon, Post and District- Narayngonj.

11. The Officer in Charge (O.C.), Sonargaon, Post and District- Narayngonj.

..... 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 and sand filling/encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, violating the provisions of law and directed the authority to protect the same pond/ water reservoir 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.

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 pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, 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/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, 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/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj. Hence a direction may be given to stop earth and sand filling/encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj 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/encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, should not be declared illegal and without lawful authority and why encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj, should not be declared illegal and violation 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

Why a direction should not be given upon the respondents to remove earth and sand filling by the cost of the encroacher.

b) Pending hearing of the rule direct the respondent no. 8-11 to take immediate steps within 48 hours to stop earth and sand filling/encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj 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 encroacher for earth and sand filling/encroachment of pond/ water reservoir situated on the south side of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj and file a compliance report with 2 weeks before this court.

d) Pending hearing of the rule directs the respondent no. 3 to take appropriate steps to protect the pond/water reservoir to its original position situated on the south side

of Katchpur Bus Stand and East side of Katchpur Bridge at Narayngonj and file a compliance report with 2 weeks before this court.

e) Upon hearing the parties and cause shown, if any make the rule absolute.

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 case was heard by the Hon'ble High Court Division and disposed of the rule with direction.