

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

WRIT PETITION ON OF
2012

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 Secretary, Ministry of Local Government, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Shipping, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

3. The Mayor, Barisal City Corporation, Post and District- Barisal.

4. The Chairman, BIWTA. 141-143 Motijhel Commercial Area, Dhaka, Bangladesh.

5. The Deputy Director, Environment Directorate, Barisal office, Post and District- Barisal.

6. The Deputy Commissioner, Barisal, P.S. and District-Barisal.

7. The Police Super, Barisal, P.S. and District-Barisal.

8. The Additional Deputy Commissioner (Revenew), Barisal, P.S. and District-Barisal.

9. Upazila Nirbahi Officer (UNO), Barisal Sadar, Post and District-District- Barisal.

10. The Officer in Charge (O.C.), Barisal Sadar Thana, P.S. Barisal Sadar, District-Barisal.

..... 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 and plot distribution within the area of Kirtonkhola River at Barisal, 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 the earth filling is continuing in Kirtonkhola river, which is illegal. Hence direction may be given upon the respondents to stop encroachment and earth filling in the Kirtonkhola river at Barisal.

- 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 Kirtonkhola river 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, ২০০০, 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 encroaching in Kirtonkhola river. Hence directions may be given to stop earth filling in the Kirtonkhola river at Barisal.

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 protect the Kirtonkhola river, 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 and plot distribution within Kirtonkhola River at Barisal.

AND

Why a direction should not be given upon the respondents to remove all earth filling from the river Kirtonkhola at the cost of the liable people which was done by them in the name of possession of the property.

c) Pending hearing of the rule direct the respondent no. 5-10 to stop all kinds of earth filling, encroachment and plot distribution within the river Kirtonkhola

river at Barisal, within 72 hours and submit a compliance report within three weeks before this court.

d) Pending hearing of the rule directs the respondent no. 6, 8 and 9 to demarcate the land of Kirtonkhola river by way survey as per C.S and R.S. record by forming an expert committee and submit a report before the court within eight weeks.

e) Direct the office to serve copies and notices upon the respondents at the cost of office.

f) After hearing the parties make the Rule absolute if cause shown any.

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.