

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

WRIT PETITION NO. OF 2019.

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 Advocate Md. Sarwar Ahad Choudhury Secretary(In charge), Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Md. Aklas Uddin Bhuiyan, Supreme Curt of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 93 Indira Road, P.S.: Sher-E-Bangla Nagar, Dhaka
3. Advocate Ripan Barai, Son of Late Manohar Barai of Hall No. 2, Supreme Court Bar Association Bhaban, Shahbag, Dhaka, Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh, represented by the Secretary, Ministry of Environment and Forrest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
2. The Mayor, Dhaka South City Corporation, Nagar Bhaban, P.S- Shahbag, Dhaka, Bangladesh.
3. The Chief Executive, Dhaka South City Corporation, Nagar Bhaban, P.S- Shahbag, Dhaka, Bangladesh.

4. The Mayor, Dhaka North City Corporation, 82 Gulshan Avenue, P.S.: Gulshan. , Dhaka, Bangladesh.
 5. The Chief Executive, Dhaka South City Corporation, Nagar Bhaban, P.S- Shahbag, Dhaka, Bangladesh.
 6. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E Bangla Nagar, Agargaon, Dhaka.
 7. The Director(enforcement) Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.
 8. The Director, Dhaka Division, Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.
 9. The Deputy Director, Dhaka Division, Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.
 10. The Police Commissioner, Dhaka Metropolitan Police, DMP Head quarter, Eskaton Road, Post and P.S.- Ramna Dhaka, Bangladesh.
 11. The Chairman, RAJUK, RAJUK bhaban, DIT road, Dhaka, Bangladesh.
-Respondents.

AND

IN THE MATTER OF:

Article 32 and 18A of the Constitution of Bangladesh and the Environment Conservation Act. 1995.

AND

IN THE MATTER OF:

Failure/inaction of the respondents to stop air pollution within the Dhaka City area.

AND

IN THE MATTER OF:

For a direction upon the Respondents to take necessary measures to stop air pollution and health hazards of the citizens living in Dhaka City .

GROUNDS

I. For that as per the provision of Article 21 of the Constitution of Bangladesh, the duties and responsibilities 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 their duties and responsibilities as vested upon them and by way of violating the provision of the Constitution of Bangladesh, the Respondents did not yet take any effective steps to stop air pollution, which cause human health and thereby attacks fundamental rights of the people.

II. For that right to life of the citizen of Bangladesh is ensured under Article 32 of the Constitution of Bangladesh but by way causing serious air pollution many peoples are losing their life due to suffering from air pollution. Because fresh air is one of the important component for living human being. If the present condition of air pollution is continuing, in future we may not find any person living in Dhaka City who are living with good lung. Hence a direction may be given upon the respondents to take immediate measures to stop air pollution.

III. For that though the air pollution is prohibited under the Constitution and Environment Law but the Respondents are not taking any appropriate steps against the illegal acts to stop air pollution, which causes health risks.

IV. For that air pollution is serious issue for public health and it is necessary to pass a direction to Ensure covering of development project areas, road repairing sites, utility service providing sites on the roads as well as the materials thereof during the service and repairing or construction periods. And ensuring pouring down water regularly in those areas as well as on the materials thereof during the service periods.

V. For that due to ignorance of the obliging the remedies as recommended by the authority to stop air pollution is not but no authority is perfectly moving to solve the problem and in order to stop air pollution, so a direction may be given upon the Respondents to take urgent steps to stop air pollution in Dhaka City.

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/inaction of the respondents to stop air

pollution in Dhaka City area, should not be declared illegal and without lawful authority

AND

Why a direction should not be given upon measures the Respondents to take necessary to stop air pollution which causes health risks to the right to life of the Dhaka City dwellers .

b) Pending hearing of the rule direct the Respondent no. 2-9 to take steps within 7(seven) days to Ensure covering of development project areas, road repairing sites, utility service providing sites on the roads as well as the materials thereof during the service, repairing or construction periods within Dhaka City area and file a compliance report within two weeks.

c) Pending hearing of the rule direct the Respondent no.2-5 to take steps within 48 hours for pouring down/spray water two times daily (preferably morning and evening) in those areas in Dhaka City where construction, utility providing services and developments works are continuing and file a compliance report within two weeks.

d) Directs the Respondent no. 6 to arrange mobile court twice in every week in Dhaka City against the liable persons/ company/authority who are causing air pollution violating the terms and condition work order issued them and file a compliance report within four weeks.

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.
