

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

WRIT PETITION ON OF 2015.

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 Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Environment and Forests, Bangladesh Secretariat, Police Station- Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Public Works, Bangladesh Secretariat, P.S.- Shahbag, Dhaka, Bangladesh.

3. The Senior Secretary, Ministry of Land, Bangladesh Secretariat, P.S.- Shahbag, Dhaka, Bangladesh.

4. The Chairman, Rajdhani Unnayan Kartripakkha (RAJUK), Rajuk Bhaban, Rajuk Avenue, Motijhil C/A, Dhaka-1000.

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

Agargaon, Sher-E-Bangla Nagar, Dhaka-1207

6. The Deputy Director (Enforcement), Department of Environment, Dhaka Division, E-16, Paribesh Bhaban, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207.

7. The Deputy Commissioner, Dhaka, the office of the Deputy Commissioner, Post and P.S. Kotwali, Dhaka, Bangladesh.

8. The Chairman/ Managing Director, Eastern Housing Limited of, 125/A, Islam Chamber, Motijheel C/A, Dhaka-1000.

9. The Officer in Charge, Rampura Thana, Post and P.S- Rampura, Dhaka Metropolitan Police, Dhaka, Bangladesh.

10. The Officer in Charge, Badda Thana, Post and P.S- Badda, Dhaka Metropolitan Police, Dhaka, Bangladesh.

11. The Officer in Charge, Sobujbagh Thana, Post and P.S- Sobujbagh, Dhaka Metropolitan Police, Dhaka, Bangladesh.

12. The Officer in Charge, Khilgaon Thana, Post and P.S- Khilgaon, Dhaka Metropolitan Police, Dhaka, Bangladesh.

..... 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 to stop earth filling and illegal encroachment within the area of

water reservoirs within Mouza: Ulon Meradia, Goran, Nondipara, Badda, Khigaon, Gajaria and Satarkul violating the provisions of law and directed the authority to protect the said water reservoirs to their original position.

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 there has been earth filling/encroachment in the said housing project encompassing water bodies/natural water reservoirs and open marshland within the project, which is illegal. Hence direction may be given upon the respondents to stop encroachment and earth filling and to remove all illegal earth filling and structures from the natural water reservoirs in Rampura, Badda, Sabujbagh and Khilgaon thanas areas encroached by Eastern Housing Limited for the purpose protecting them to their original nature and character.

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 which are adversely affecting the right to life. Under these circumstances the respondents are legally bound to protect the environment/ the natural water reservoirs in Rampura, Badda, Sabujbagh and Khilgaon thanas in accordance with law.

III. For that 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. That in spite of that provision of law the respondents are not taking any steps towards saving the environment. Hence a direction may be given to stop earth filling/encroachment and also to remove all illegal earth filling and structures from the natural water reservoirs in Rampura, Badda, Sabujbagh and Khilgaon thana areas as filled in and built by Eastern Housing Limited.

IV. For that the natural water are strategically important for environment and the living beings as well. In that context, Eastern

Housing Ltd. is responsible for their misdeeds and illegal activities of illegal earth filling in natural water reservoirs in Rampura, Badda, Sabujbagh and Khilgaon thanas for its above mentioned housing project and hence they should be held liable in accordance with law.

V. For that the illegal actions of Eastern Housing Limited has serious negative impact on environment which will ultimately affect the right to life of the common people living surrounding the project as well as within the territory of the housing project but the respondents have not taken any positive steps towards saving the environment, which is totally violation of law.

VI. For that Eastern Housing limited has no approval of *Paribesh Cerpatra* issued by the Department of Environment. That the authorities can not even give anyone any permission of earth-filling of water land/water bodies/water reservoirs. Hence, the actions of Eastern Housing Limited is a clear violation of legal provisions 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, 2000 and that of the terms of the said EIA Approval dated 27.11.14.

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 inaction/failure of the respondents to take effective steps to protect natural water reservoirs/water bodies in Rampura, Badda, Sabujbagh and Khilgaon thana areas from being earth-filled and encroached illegally by Eastern Housing Limited for its 'Aftab Nagar-Banoshree Housing Project', should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to remove all illegal earth filling and structures already built by Eastern Housing Limited within the water reservoirs/water bodies in Rampura and Badda, Sabujbagh and Khilgaon thana areas and to protect the said water reservoirs to their original position.

b) Pending hearing of the rule direct the respondents No. 1 and 3-4 to obtain an Aerial Map (Map through Google or satellite) for the year of 2012, 2013 and 2014 of the Housing Project of Eastern Housing Limited namely: 'Aftab Nagar-Banoshree Housing Project' located at 'Rampura, Khilgaon, Sobujbagh and Badda thana areas showing water reservoir/bodies/Marshland and submit before this court within 6 (six) weeks.

c) Pending hearing of the direct the respondents to maintain status quo in respect of any kind of earth filling and encroachment of land within the water reservoir/water bodies/Marshland by Eastern Housing Limited for the project namely 'Aftab Nagar-Banoshree Housing Project' in 'Rampura, Badda, Khilgaon and Sobujbagh thana area and submit a compliance report by the respondent no. 4 and 6-12 through affidavit within two weeks before this Hon'ble 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 case was heard by the Hon'ble High Court Division and disposed of the rule with direction.