

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

WRIT PETITION NO. 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 peach for Bangladesh (HRPB), represented by it's Secretary, Advocate Asaduzzaman Siddique, Hall No.2 Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioner.

-V E R S U S-

1. Bangladesh, represented by the Secretary, Ministry of Shipping, Bangladesh Secretariat, P.S. Shaabag, Dhaka, Bangladesh.

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

3. The Chairman, BIWTA, 141-143, Motijheel C/A, P.S. Motijheel, Dhaka Bangladesh.

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

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

6. The Police Commissioner, Dhaka Metropolitan Police, Eskaton Road, Dhaka, Bangladesh.

7. The Director (Port and Traffic), BIWTA, 141-143, Motijheel C/A, P.S. Motijheel, Dhaka Bangladesh.

8. The Deputy Commissioner, Dhaka, Post and P.S. –Kotwali, District-Dhaka.

9. The Officer in Charge (O.C), Keranigonj Thana, P.S. Keranigonj, District-Dhaka.

.....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:

Inactions of the respondents to take necessary steps to stop encroachment of the territory of river Buriganga, which is caused by earth filling, illegal possession of river-shore for illegal sand business and others and erection of illegal structures in the river Burignaga at Mirerbag of Keranigonj, Dhaka.

AND

IN THE MATTER OF:

Judgment dated 25.06.2009 passed by the Hon'ble High Court Division in Writ Petition No. 3503 of 2009.

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 against

any violation of the provisions of law by way of earth filling, building structures and illegal encroachment of river bed and territory of river Buriganga, which is illegal. Hence direction may be given upon the respondents to stop earth filling, illegal encroachment of the territory of river Buriganga at Char Mirerbagh near Comillah Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka and to cancel the project of Asiatic Ship Builders in the Buriganga river.

II. For that disregard to laws and legal provisions and failure to ensure proper implementation of laws and the said judgments, the respondents have caused enough damage to the environment and the city dwellers are adversely affected as to the right to life. Under these circumstances the respondents are legally bound to protect the river Buriganga 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. Those in spite of that provision of law and violating the directions of the Judgment the respondents are very much indifferent to the project illegally built by Asiatic Ship Builders in the river Buriganga at Char Mirerbagh near Comilla Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka. Hence a direction may be given to stop implementation the said project in the name of erecting permanent structures for ship building by encroachment of the territory of river Buriganga and to remove the structures from the river.

IV. For that the non-implementation of the laws the respondents undermined the rule of law and frustrated the Judgment and directions given by the High Court Division in Writ Petition no. 3503 of 2009.

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 encroachment of the territory of river Buriganga at Char Mirerbagh near Comilla Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka, should not be declared illegal and without lawful authority as it is violative of the provisions of law and Judgment passed on 25.06.2009 by the

Hon'ble High Court Division in Writ
Petition No. 3503 of 2009.

AND

Why a direction should not be given upon the respondents to remove all the earth filling, temporary and permanent structures as made by Asiatic Ship builders in the river Buriganga at Char Mirerbagh near Comilla Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka.

B) Pending hearing of the rule Direct the respondent no. 3 and 7-9 to stop all further encroachment/earth filling within the territory of river Buriganga and all kinds of constructions work at Char Mirerbagh near Comilla Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka with 48 hours and file a compliance report before this court within 2 weeks.

C) Pending hearing of the rule direct the respondent no. 3-5 to conduct a mobile court under the provisions of law at Char Mirerbagh near Comilla Dockyard, opposite to Farashgonj Ghat, South Keranigonj, Dhaka, against the person/company who has violated the provision of প্রাকৃতিক জলাধার সংরক্ষন আইন, ২০০০ and Environment Conservation Act 1995 (amended in 2000 and 2002) .

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

E) 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.