

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

WRIT PETITION NO. 5162 OF 2011.

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.

2. Advocate Asaduzzaman Sddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

.....Petitioners.

-V E R S U S-

1. Bangladesh, represented by the Secretary, Ministry of Planning, Sher-E-Bangla Nagar, Dhaka , Bangladesh.

2. The Secretary, Ministry of Environement and Forest, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

3. The Secretary, Ministry of Land Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

4. The Secretary, Ministry of Finance, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

5. The Secretary, Ministry of Local Government and Rural Development, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S. Shahbagh, Dhaka, Bangladesh.

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6. The Secretary, Ministry of Water Resources, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

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

8. The Deputy Commissioner, Potuakhali, Office of the Deputy Commissioner, Potuakhali, District-Potuakhali, Bangladesh.

9. The Superintendent of Police (S.P.), Potuakhali, District- Potuakhali, Bangladesh.

10. The Officer in Charge (O.C), Kalapara Thana, P.S. -Potuakhali, District- Potuakhali, Bangladesh.

11. The Assistant Commissioner (Land), Kalapara Upazila, District- Potuakhali, Bangladesh.

.....Respondents.

AND

IN THE MATTER OF :

For a direction to remove temporary & permanent structure built in the Sea beach area at Kuakata violating the provision of law.

GROUNDS

I. 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 villagers are adversely affecting to the right to life. Under these circumstance the respondents are legally bound to protect the sea beach area at Kuakata, Potuakhali, in accordance with law.

II. 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 up is continuing in sea beach area at Kuakata, Potuakhali, which is illegal. Hence a direction may be given upon the respondents to stop encroachment, earth filling and remove temporary & permanent structures building within the territory of the sea beach area at Kuakata, Potuakhali.

III. For that the environment is being continuously endangered and threatened by various illegal activities such as encroachment, earth filling and remove temporary & permanent structures building within the territory of the sea beach area at Kuakata, Potuakhali, The unauthorized activities are the main causes for environment degradation. Taking advantage of the silence of the concern authority, the illegal activities is continuing and as a result the environment is destroying.

IV. For that under Section 5 of the Environment Conservation Act, 1997, also prohibits change of the nature of any land that has been earmarked as a nature reservoir including flood flow zones. 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 violation of law the respondents are not taking appropriate action.

V. For that encroachment, earth filling and temporary & permanent structure building in sea beach area at kuakata, Potuakhali, is contrary to all application laws of the country. Moreover the filling up and encroachment in the area will create obstruction to ecosystem of the area.

VI For that such disregard to laws and legal provision and failure to ensure proper implementation of laws have caused enough damage to the environment of the area and adversely affecting the environment and as such the respondents are required to be directed to protect the sea beach area at Kuakata, Potuakhali in accordance with law.

VII. For that the non-implementation of the laws by the respondents undermine rule of law and jeopardize peoples fundamental right as guaranteed under Article 31 of the Constitution of Bangladesh.

Wherefore, it is most humbly prayed that Your Lordships would graciously be pleased to:-

(A) A Rule Nisi calling upon the Respondents to show cause as to why a direction should not be given upon the Potuakhali. respondents to protect the sea beach area of Kuakata, Potuakhali., from encroachment and earth filling and why a direction should not be given upon the respondents not to allow any construction of any permanent and temporary structure within the sea beach area at Kuakata,

(B) Pending hearing of the Rule Nisi the respondent No. 8 to demarcate the sea beach area at Kuakata, Potuakhali by a special team and direct the respondent no. 9 and 10 to arrange police force for that area so that no one can encroach, earth filling or build any permanent or temporary construction within the area.

(C) Pending hearing of the Rule direct the respondent no. 8-10 demolish/remove all the temporary and permanent structure within the sea beach area at kuakata, Potuakhali and submit a compliance report before this court within 7 days.

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 was heard by the Hon'ble High Court Division and made the rule absolute
