



**Protection of Environment:  
Secretariat under the control of the Supreme  
Court:  
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**Protection of Environment:**

Environment protection of Bangladesh is one of the major issue at the present context and most of the achievements in this regard has been obtained through legal battle and it was possible due to enactment of the law ‘The Bangladesh Environment Conservation Act 1995 (amended in 2000, 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. Moreover by way of 15<sup>th</sup> amendment of the Constitution of Bangladesh by inserting Article 18A in the Fundamental Principles of State Policy about protection and improvement of environment, we have got strong constitutional support to protect our environment. One of the historical cases being W.P. No. 3503 of 2009 was filed by Human Rights and Peace for Bangladesh (HRPB) for protection of *Burigonga, Shitallakha, Balu and Turag* River around Dhaka City. Mr. Justice A.B.M Khairul Haque and Mr. Justice Md. Mamtaz Uddin Ahmed passed Judgment 25.06.09 with some directions and one of them was to conduct a survey through special team to identify the territory of the above mentioned rivers and to set up pillars on the bank of the rivers. According to the direction, survey was completed and report was submitted to the Hon’ble Court. Then on the application of HRPB, the Hon’ble High Court Division comprising of Mr. Justice Syed Mahmud Hossain and Mr. Justice Quamrul Isalm Siddiqui passed an order on 08.10.09 to start eviction of constructions/earth filling/structures situated within the territory of 4 rivers based on the survey report. Steps were taken by the authority and most of the constructions/earth filling/structures were removed except some constructions/structures of the influentials and again legal battle started and finally ended in the Appellate Division in 2010. After obtaining budget from the government, the authority started to set up pillars and some of the pillars were not set up at right places which were reported in media, then work was stopped. Thereafter within 2 years no further steps were taken for that work, so HRPB filed application to start the work and Mr. Justice Mirza Hussain Haider and Mr. Justice Muhammad Khurshid Alam Sarkar passed an order directing to start pillar-set-up within 14 days at right places. When the authority started to set up pillars at right places at that time several applications were filled before the Hon’ble High Court Division claiming title, record and possession of the land though it is within the territory of the river as per survey report. Not only that in order to frustrate the survey report they prayed for further survey and by way of this some influential are trying to dispute the settle matter in respect of territory of 4 rivers. It was

also found that some corrupt government officers are helping the land grabbers by way of giving mutation and report in their favor. Under these circumstances for existence of millions of people in Dhaka City everybody should come forward and raise his voice to protect environment by way of saving life of the 4 rivers around Dhaka City.

### **Demand of Secretariat under the control of Supreme Court:**

That as per Article 22 of the Constitution of Bangladesh and spirit of the Judgment passed in Masdar Hossain Case the Judiciary was separated from the executive on 1<sup>st</sup> November, 2007. One of the important tasks was to establish separate secretariat under the control of Supreme Court of Bangladesh but every body has failed to do that. The steps taken through the publication of gazette notification for separation of judiciary is not enough and it cannot be meaningful until separate secretariat under the control of Supreme Court of Bangladesh is established. It is very interesting that no formula or plan came from any corner within seven years. Even there is no positive steps from the Bar which is one of the most important parts of the judiciary. We should consider that under the present form of controlling the Judicial Officers by the umbrella of Ministry of Law is not ensuring independence of Judiciary. In broad sense independence of judiciary means all activities such as appointment, promotion, transfer etc. that will be done independently under the authority of the Supreme Court of Bangladesh. As per the Judgment of the Appellate Division, Judicial Officers are to be appointed by the Judicial Service Commission headed by the Hon'ble Judge of the Appellate Division. In the case of promotion of Judicial Officers the Ministry of Law still now prepare the file and send it to the Supreme Court for final approval. At the time of consideration of promotion the GA Committee/ Full Court only can decide on the papers which were sent by the Ministry but what if any one is competent to get promotion but the Ministry did not sent his name in that case the Supreme Court is unable to do anything. On the other hand the similar procedure is followed in case of transfer of Judicial Officers. Under these circumstances in order to bring transparency the whole processes should be conducted under the control of the Supreme Court. If we want to establish the independence of judiciary, the promotion and transfer of the Judicial Officers must be governed by the direct control of the Supreme Court and in that case separate secretariat is needed under the control of the Supreme Court. It is the right time to think about separate secretariat otherwise the spirit of Article 22 of the Constitution of Bangladesh and Judgment of the Masdar Hossain Case will be frustrated.

### **Role of the Lawyer's to protect the Judiciary:**

The Bar and the Bench are the two important part of the Judiciary. One cannot be fully enlightened with out the support of other. After the independence of Judiciary the Lawyers especially the members of the Supreme Court Bar Association have played a great role at different times to protect the interest and dignity of the Supreme Court of Bangladesh. We remember Late Advocate Shamsul Haque Chowdhury and Barrister Syed Istiaq Ahamed along with some others members of the Supreme Court of Bangladesh who contributed a lot in this sector. Due to real and competent leadership, the Supreme Court Bar Association became success to defeat several conspiracies against the Judiciary during the Martial Law regime. Since long days we have been feeling and

facing threat to independence of Judiciary in different manners and steps to undermine the authority and dignity of the Supreme Court of Bangladesh. It has come from different corners irrespective of persons and political parties. Under these circumstances what is to be done by the members of the Supreme Court Bar Association? Are we united now, or can we raise voice together against any steps or threat to Judiciary? Simple answer is ‘no’. What is the reason behind this?

With due respect to all members of the Bar especially to Senior Lawyers, I would like to share my opinion in this regard. If anybody gets hurt by the opinion, I beg apology for that.

The present disunity of the Bar has been created from sharp political division in the Bar Association. Who are liable for this, not the general lawyers? But some ambitious lawyers. It is true that some senior lawyers who have got name and fame by way of practicing in the Supreme Court of Bangladesh and their position are much higher amongst the people irrespective of all consideration. It is often found that for getting a higher political post or the government position some lawyers keep silent from speaking the truth. I think they failed to understand that the post of government and political position is not higher than their position which they have obtained in whole life from practicing in the Supreme Court. I believe that if the top senior lawyers become united on the issues to protect the dignity and authority of the Judiciary in that case independence of Judiciary can be ensured. Many questions may be in the mind of the people about the dispensation of justice and even if it is negative, duty of the Bar to make it positive. Reality is that if such division is continued day by day situation may be worsening. As a part of the Judiciary we can not avoid that liability. Question is who may lead and under which way. In my opinion only the senior lawyers can protect the Independence of Judiciary or defeat any conspiracy against the Judiciary if they move jointly. But it is not possible except the unity of the senior lawyers. So it is my humble prayer to all senior lawyers to come forward jointly in order to establish the rule of law as well as protection of independence of judiciary keeping behind the higher political post or the government position.

