

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

WRIT PETITION ON OF 2016.

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

2. Advocate Md. Aklas Uddin Bhuiyan, Supreme Court of Bangladesh, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka and 93 Indira Road, P.S.: Sher-E-Bangla Nagar, Dhaka.

.....Petitioners.

-VERSUS-

1. Bangladesh represented by the Secretary, Ministry of Local Government, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

2. The Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.

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

4. The Chairman, BIWTA, Head Office, 141-143, Motijheel Commercial Area, Post Box 76, Dhaka-1000, Bangladesh.

5. The Director(enforcement) Department of Environment, Paribesh Bhaban, E-16, Sher-E, Bangla Nagar, Agargaon, Dhaka.

6. The Deputy Commissioner, Chapai Nawabgonj, Post and District- Chapai Nawabgonj.

7. The Police Super, Chapai Nawabgonj, Post and District- Chapai Nawabgonj. Bangladesh.

8. The Additional Deputy Commissioner(Land) Chapai Nawabgonj, Post and District- Chapai Nawabgonj, District- Chapai Nawabgonj.

9. Upazila Nirbahi Officer, Sadar Thana, District-Chapai Nawabgonj.

10. The Officer in Charge , Sadar Thana, Post and P.S. Sadar, District-Chapai Nawabgonj.

..... 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:

For a direction to stop earth filling/construction/encroachment within the area of River Mohananda, District-Chapai Nawabgonj(as reported in Jugantar on 11.07. 2015), violating the provisions of law and directed the authority to protect the same river to its original territory as per C.S/R.S. records.

G R O U N D S -

1. 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/encroaching are continuing within the River Mohananda at Sadar Thana, District-Chapai Nawabgonj, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect River Mohananda at Sadar Thana, District-Chapai Nawabgonj, to its original territory as per C.S/R.S record.

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 people are being adversely affected in context of right to life. Under these circumstances the respondents are legally bound to protect the River Mohananda at Sadar Thana, District-Chapai Nawabgonj, situated within Chapai Nawabgonj district, 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, 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. In spite of that provision of law the respondents are not taking any steps in case of encroachment/earth filling River Mohananda at Sadar Thana, District-Chapai Nawabgonj. Hence a direction may be given to stop earth filling/encroachment/construction of River Mohananda at Sadar Thana, District-Chapai Nawabgonj and to protect the same to its original territory as per C.S/R.S record.

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 protect the River Mohananda at Sadar Thana, District-Chapai Nawabgonj, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to protect the River Mohananda at Sadar Thana, District-Chapai Nawabgonj, to its original territory as per C.S/R.S record

AND

Why a direction should not be given upon the respondents to remove earth filling, encroachment made within the area of River

Mohananda at Sadar Thana, District-Chapai Nawabgonj.

b) Pending hearing of the rule direct the respondent no. 6 to survey the area of River Mohananda at Sadar Thana, District-Chapai Nawabgonj (as stated in Daily Jugantar dated 11.07.2015) by forming a committee and submit a report about encroachment/earth filling within the area of the said river before this court within 30 days through affidavit before this court.

c) Pending hearing of the rule directs the respondent no. 10-11 to ensure statuesque in respect of any further earth filling/encroachment/construction within the area of River Mohananda at Sadar Thana, District-Chapai Nawabgonj (as stated in Daily Jugantar dated 11.07.2015) and file a compliance report within 2 weeks through the office of the Learned Attorney General.

Present Status:

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble High Court Division issued Rule Nisi and statuesque order upon the respondents. The case is pending before the Court
