

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, Potuakhali, Post and District- Potuakhali.
7. The Police Supar, Potuakhali, Post and P.S.- Potuakhali, Dstrict- Potuakhali, Bangladesh.
8. The Additional Deputy Commissioner(Land) Potuakhali, Post and District- Potuakhali, District- Potuakhali.
9. Upazila Nirbahi Officer, Kolapara, Post and P.S. Kolapara, District-Potuakhali.
10. The Officer in Charge , Kolapara Thana, Post and P.S. Kolapara, District-Potuakhali.

..... 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:

Inaction/Failure of the respondents to stop earth filling/construction/encroachment within the area of River Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali, 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 -**

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 the earth filling/encroaching is continuing within the River Tiakhali at Nomorhat Bazar, Dhankhali

Union, Kolapara thana, District-Potuakhali, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect River Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali, 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 Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali, situated within Potuakhali 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 Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali. Hence a direction may be given to stop earth filling/encroachment/construction of the River Tiakhali at Horin thana, Potuakhali City Corporation, District-Potuakhali 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 Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to protect the River Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali to its original territory as per C.S/R.S record

AND

Why a direction should not be given upon the respondents to evict/demolish earth

filling, encroachment and construction made within the area of River Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali(as reported in Jugantar on 21.06.2016).

b) Pending hearing of the rule direct the respondent no. 9 and 10 to take immediate steps within 72 hours to stop encroachment/earth filling/any kinds of further construction within the area of River Tiakhali at Nomorhat Bazar, Dhankhali Union, Kolapara thana, District-Potuakhali(as reported in Jugantar on 21.06.2016) and file a compliance report within 2 weeks through affidavit before the court.

c) Pending hearing of the rule directs the respondent no. 6 to submit a copy of C.S, R.S Porcha and Noksha identifying and showing the encroach area of river of the specific area as reported in Jugantar on 21.06.2016, before this court within 30 days through Registrar of the High Court Division, Supreme Court of Bangladesh.

**Present Status:**

The case was filed 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

-----