

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

WRIT PETITION ON 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 Peace for Bangladesh (HRPB), represented by its Secretary, Advocate Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.

2. Advocate Md. Eklas 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 Mayor, Barisal City Corporation, Barisal, P.O. & P.S.: Barisal, Dist: Barisal.

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 Deputy Director, Environment Directorate, Barisal, P.O. & Police Station-Barisal, District-Barisal, Bangladesh.

7. The Deputy Commissioner, Barisal, Post and District- Barisal.

8. The Police Commissioner, Barisal Metropolitan Police, BMP Head quarter, Post and P.S.- Barisal, Bangladesh.

..... 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, making permanent structures and illegal encroachment within the area of Canal (Jail Khal), situated within Barisal City, violating the provisions of law and directed the authority to protect the same Canal of Barisal City 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 Canal (Jail Khal), Situated within Barisal City, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and pollution of the Canals of the City and to protect Canal (Jail Khal), Situated within Barisal City, 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 Canal (Jail Khal), Situated within Barisal City 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 killing of Canal (Jail Khal), Situated within Barisal City. Hence a direction may be given to stop earth filling/encroachment and pollution of the Canal (Jail Khal), Situated within Barisal City and to protect all the Canal (Jail Khal), Situated within Barisal City, 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 take effective steps to protect the Canal (Jail Khal), Situated within Barisal City, and to stop encroachment and pollution of the said canal, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to stop earth and waste filling, encroachment and pollution of the Canal (Jail Khal), Situated within Barisal City.

AND

Why a direction should not be given upon the respondents to protect the Canal (Jail Khal), Situated within Barisal City, to its original territory as per C.S/R.S record.

b) Pending hearing of the rule direct the respondent no. 6-8 to take immediate steps within 7 days to stop encroachment/earth filling and waste filling in the Canal (Jail Khal), Situated within Barisal City and file a compliance report within 2 weeks through affidavit before the court..

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.