

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.

.....Petitioner.

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

5. The Deputy Director, Environment Directorate, Jessore, P.O. & Police Station- Jessore Sadar, District- Jessore, Bangladesh.
6. The Deputy Commissioner, Jessore, Post and District- Jessore.
7. The Police Supar, Jessore, Post and P.S.- Jessore, Dstrict- Jessore Jessore Bangladesh.
8. Upazila Nirbahi Officer (UNO), Jessore Sadar, Post and District- Jessore.
9. Upazila Nirbahi Officer (Benapole), Post – Benapole, District- Jessore.
10. The Officer in Charge (O.C.), Jessore Sadar, Post and District- Jessore.
11. Md. Mohiuddin, Director, Ad-Din Welfare Trust, Sharsha, Jessore, 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/construction/encroachment within the area of Mukteshori River (Pulerhat area, Jessore), situated within Jessore district, 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 Mukteshori River (Pulerhat area, Jessore), situated within Jessore district, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect Mukteshori River (Pulerhat area, Jessore), situated within Jessore district, 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 Mukteshori River (Pulerhat area, Jessore), situated within Jessore 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 of Mukteshori River (Pulerhat area, Jessore), situated within Jessore district. Hence a direction may be given to stop earth filling/encroachment/construction of the Mukteshori River (Pulerhat area, Jessore), situated within Jessore district 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 failure of the respondents to take effective steps to protect the Mukteshori River (Pulerhat area, Jessore), situated within Jessore district and to stop construction/encroachment/earth filling of the said river, should not be declared illegal and without lawful authority and why a

direction should not be given upon the respondents to stop earth filling, encroachment and construction of the Mukteshori River (Pulerhat area, Jessore), situated within Jessore district.

AND

Why a direction should not be given upon the respondents to protect the Mukteshori River (Pulerhat area, Jessore), situated within Jessore district, to its original territory as per C.S/R.S record.

b) Pending hearing of the rule direct the respondent no. 4-10 to take immediate steps within 48 hours to stop encroachment/earth filling/construction of Mukteshori River (Pulerhat area, Jessore), situated within Jessore district and file a compliance report within 2 weeks through affidavit before the court.

c) Pending hearing of the rule directs the respondent no. 11 to maintain statuesque in respect of construction/encroachment/earth filling of Mukteshori River (Pulerhat area, Jessore), situated within Jessore district.

d) Upon hearing the parties and cause shown, if any make 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.