

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

WRIT PETITION ON OF 2018.

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:

Human Rights and Peace for Bangladesh (HRPB), represented by its Director Advocate Ripan Barai, Son of Late Manohar Barai of Hall No. 2, Supreme Court Bar Association Bhaban, Shahbag, Dhaka, Bangladesh.

.....Petitioner.

-VERSUS-

1. Bangladesh represented by The Secretary, Ministry of Environment and Forrest, Bangladesh Secretariat, P.S. Shahbag, Dhaka, Bangladesh.
2. The Secretary, Ministry of Power, Energy and Mineral Resource, Building, No.6, Bangladesh Secretarial, Dhaka-1000, Bangladesh.
3. The Chairman, National River Conservation Commission, 166, Hossain Tower, Bir Pratik Golam Dastagir Road, Naya Paltan,, Dhaka-1000, Bangladesh.
4. Director General, Department of Environment, E/16, Paribesh Bhaban, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207, Bangladesh.
5. The Director (Enforcement), Department of Environment, Dhaka Division, E/16,

Paribesh Bhaban, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207, Bangladesh.

6. The Deputy Commissioner, Manikgonj, Office of the Deputy Commissioner, Manikganj, Bangladesh.

7. The Upa-Zilla Nirbahi Officer, Singair, Manikganj, Bangladesh.

8. Assistant Commissioner (Land), Singair, Manikganj, Bangladesh.

9. The Superintend of Police (SP), Manikganj, Office of Superintend of Police, Manikganj, Bangladesh.

10. The Officer-in-Charge, Singair Police Station, P.S. Singair, Manikganj, Bangladesh.

11. The Chairman/Managing Director, Doreen Power Generation and System Limited, 192/A, Eastern Road 3rd Floor, Lane-1, New DOHS,, Mohakhali, Dhaka-1206, Bangladesh.

12. Manikganj Power Generations Limited, Walso Tower, 21 Kazi Nazrul Islam Avenue, Dhaka-1000, Bangladesh.

13. Dhaka Northern Power Generations Limited, Khilket, Dhaka-1229, 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:

Inaction/Failure of the respondents to stop earth filling/construction/encroachment within the area of River Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla-Singair, District- Manikganj., 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 Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj, which is illegal. Hence, direction may be given upon the respondents to stop encroachment and earth filling and to protect river Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj, 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 Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj, situated within Manikganj 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 Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj. Hence a direction may be given to stop earth filling/encroachment/construction of the river Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj 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 Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair,

District- Manikganj, should not be declared illegal and without lawful authority and why a direction should not be given upon the respondents to protect the river Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj 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 Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj (as reported in Bonikbarta on 14.07.18).

b) Pending hearing of the rule directs the respondent no. 6-8 to conduct a survey of the area as per C.S/ R.S record identifying the encroach area of the river Dhaleshwari under mouza Fordnagar, Union- Dalla, Upazilla- Singair, District- Manikganj (as reported in Bonikbarta on 14.07.18) and submit a compliance report before this court within 30 days through affidavit.

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.
