

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, Forests and Climate Change, Bangladesh Secretariat, Police Station- Shahbag, Dhaka.
2. The Secretary, Ministry of Housing and Public Works, Bangladesh Secretariat, P.S.-Shahbag, Dhaka, Bangladesh.
3. The Secretary, Ministry of Land, Bangladesh Secretariat, P.S.-Shahbag, Dhaka, Bangladesh
4. The Chairman, Rajdhani Unnayan Kartripakkha(RAJUK) , Rajuk Bhaban, Rajuk Avenue, Motijhil C/A, Dhaka-1000.
5. The Director General , Department of Environment, E-16, Paribesh Bhaban, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207
6. The Deputy Director (Enforcement) , Department of Environment, Dhaka

Division, E-16, Paribesh Bhaban, Agargaon, Sher-E-Bangla Nagar, Dhaka-1207.

7. The Deputy Commissioner, Narayangonj, Office of the Deputy, Commissioner, Narayangonj, Bangladesh.

8. The Deputy Commissioner, Gajipur, Office of the Deputy Commissioner, Gajipur, Bangladesh.

9. The Superintendent of Police (SP), Narayangonj, Office of the Superintendent of Police, Narayangonj, Bangladesh.

10. The Superintendent of Police (SP), Gajipur, Office of the, Superintendent of Police, Gajipur, Bangladesh.

11. The Upazila Nirbahi Officer(UNO),Rupgonj, PS-Rupganj, District-Narayangonj.

12. The Upazila Nirbahi Officer(UNO), Kaligonj, P.S.-Kaligonj, District- Gajipur.

13. The Officer-in-Charge (OC), Rupgonj, PS-Rupganj, District-Narayangonj.

14. The Officer-in-Charge (OC) , Kaligonj, P.S.-Kaligonj, District- Gajipur.

..... Respondents.

AND

IN THE MATTER OF:

The Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002 and 2010), 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, illegal encroachment and set up sign board within the area of Purbachal, Rupgonj area under District Narayangonj and Kaligonj area under district of Gajipur, violating the provisions of law and directed the authority to protect the marshland/ lowland/water body/ water reservoirs of the said area to it's original position.

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 there has been earth filling/encroachment in the said housing project encompassing water bodies/natural water reservoirs and open marshland within the project, which is illegal. Hence direction may be given upon the respondents to stop encroachment and earth filling and to remove all illegal earth filling and structures from the natural water reservoirs in the area of Purbachal, Rupgonj area under District Narayangonj and Kaligonj area under district of Gajipur encroached by Eastern Housing Limited for the purpose protecting them to their original nature and character.

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 peoples which are adversely affecting the right to life. Under these circumstances the respondents are legally bound to protect the environment/ the natural water reservoirs in the area of Purbachal, Rupgonj area under District Narayangonj and Kaligonj area under district of Gajipur in accordance with law.

III. For that 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. That in spite of that provision of law the respondents are not taking any steps towards saving the environment. Hence a direction may be given to stop earth filling/encroachment and also to remove all illegal earth filling and structures from the natural water reservoirs in the area of Purbachal, Rupgonj area under District Narayangonj and Kaligonj area under district of Gajipur.

IV. For that the natural water are strategically important for environment and the living beings as well. In that context, the respondents are responsible for their misdeeds and illegal activities of illegal earth filling in natural water reservoirs in the area of Purbachal, Rupgonj area under District Narayangonj and Kaligonj area under district of Gajipur for its above mentioned housing project and hence they should be held liable in accordance with law.

V. For that the illegal actions of the housing company has serious negative impact on environment which will ultimately affect the right to life of the common people living surrounding the project as well as within the territory of the housing project but the respondents have not taken any positive steps towards saving the environment, which is totally violation of law.

VI. For that those housing company N Namely Platinum Purbachal City, City Cloud 9, Canada City, Zamindar City, Rimjhim, Dreamland, Homeland Purbachal City, Hometown Purbachal City, Pretty Real Estate, Mascot Green City, Puspita Ampear Housing, Nandan City, Bestway City Malum City, Marine City and Sopan City have no approval of from the Department of Environment. That the authorities can not even give anyone any permission of earth-filling of water land/water bodies/water reservoirs. Hence, the actions of those housing company is a clear violation of legal provisions of the Bangladesh Environment Conservation Act 1995 (amended in 2000 and 2002 and 2010), and মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, 2000.

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 natural water reservoirs/water bodies/low land within the area of Purbachal, Rupgonj under District Narayangonj and Kaligonj area under district of Gajipur from being earth-filed and encroached illegally by housing companies, should not be declared illegal without lawful authority,

AND

Why a direction should not be given upon the respondents to stop earth filling, illegal encroachment and set up sign board in the name of housing company within the area of Purbachal, Rupgonj under District Narayangonj and Kaligonj area under district of Gajipur, which are operating violating the provisions of law and directed the authority to protect the marshland/

lowland/water body/ water reservoirs of the said area to it's original position.

b) Pending hearing of the rule direct the respondents No. 1 -3 to obtain an Arial Map (Map through Google or satellite) for the year of 2015, 2016 and 2017 of the area of Purbachal thana, Rupgonj thana under District Narayangonj and Kaligonj thana area under district of Gajipur, showing and identifying water reservoir/water bodies/Marshland/low land/ponds etc. and submit a report before this court within 3 (three) weeks.

c) Pending hearing of the direct the respondents to ensure to maintain status quo in respect of any kind of earth filling, encroachment within the water reservoir/water bodies/Marshland/low land/ponds by the housing companies Namely Platinum Purbachal City, City Cloud 9, Canada City, Zamindar City, Rimjhim, Dreamland, Homeland Purbachal City, Hometown Purbachal City, Pretty Real Estate, Mascot Green City, Puspita Ampear Housing, Nandan City, Bestway City, Malum City, Marine City and Sopan City within the area of Purbachal thana , Rupgonj thana under District Narayangonj and Kaligonj thana area under district of Gajipur and submit a compliance report by the respondent no. 10-14 through affidavit within two weeks before this Hon'ble Court.

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.
