

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

WRIT PETITION ON OF
2012

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 it's 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 Deputy Commissioner, Sathkhira,
P.S. and District-Sathkhira.

3. The Police Super, Sathkhira, P.S. and
District-Sathkhira.

4. Mr. Gosh Sanat Kumar, The Chairman,
Tala Upazila Parishad, P.S. Tala, District-
Sathkhira.

5. Upazila Nirbahi Officer (TNO), P.S. Tala,
District- Sathkhira.

6. The Upazila Engineer, Tala, P.S. Tala, District- Sathkhira

7. The Officer in Charge (O.C.), Tala Thana, P.S. Tala, District- Sathkhira.

8. Mr. Joti F Gomej, the Director, Disaster and Development, Karitas. Rupsa Stand Office, P.S. Rupsa, District- Dhaka.

9. S. M. Nazrul Islam, Sadar U.P. Chairman and Project Director, Kapotakhmo Dam Construction, Post and P.S.- Tala, District- Sathkhira.

10. Mr. Zalal Ahmed, Upazila Project Implementation Officer, Kapotakhmo Dam Construction Project, Post and P.S.- Tala, District- Sathkhira.

..... 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 and illegal encroachment and implementation of dam within Kapotakhmo River at Balu Upazila under District Sathkhira, violating the provisions of law.

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 is continuing in Kapotakhmo river, which is illegal. Hence direction may be given upon the respondents to stop encroachment and earth filling in the Kapotakhmo river at Tala Upazila, District- Sathkhira.

- 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 are adversely affecting to the right to life. Under these circumstances the respondents are legally bound to protect the Kapotakhmo river 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, ২০০০, 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 encroaching in Kapotakhmo river. Hence a direction may be given to stop earth filling in the Kapotakhmo river at Tala Upazila , District- Sathkhira.

Wherefore, it is most humbly prayed that your Lordships would graciously be pleased to :-

a) Direct the office to register this application as a writ petition.

b) Issue a Rule Nisi calling upon the Respondents to show cause as to why inaction/failure of the respondents to protect the Kapotakhmo 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 and illegal encroachment and implementation of a project to construct a dam within Kapotakhmo River at Balu Upazila under District Sathkhira.

AND

Why a direction should not be given upon the respondent no. 8-10 to remove all earth filling from the river kapotakhmo at their own cost which was done by them in the name of implementation of a project to construct a dam.

- c) Pending hearing of the rule direct the respondent no. 2-7 to stop all kinds of earth filling, encroachment and construction of dam within the river kapotakhmo river at Tala Upazila, District- sathkhira, within 48 hours and submit a compliance report within two weeks before this court.
- d) Direct the office to serve notices upon the respondents at the cost of office.
- e) After hearing the parties make the Rule absolute if cause shown any.
- f) 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.