

**IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)**

**Writ Petition No. 12659 of 2016**

In the matter of :

An application under Article 102 (2) of the Constitution of the People's Republic of Bangladesh.

-And-

In the matter of :

**Human Rights and Peace for Bangladesh  
(HRPB)**

..... Petitioner

-Versus-

Bangladesh, represented by the Senior Secretary, Ministry of Local Government, Dhaka and others.

..... Respondents

**Mr. Manzil Murshid, Advocate with**

Mr. Sanjoy Mandal, Advocate

.... For the Petitioner

**Mr. Sk. Shaifuzzaman, DAG with**

Ms. Rokeya Akhter, AAG,

Ms. Afroza Nazneen Akther, AAG,

Ms. Saira Afroz, AAG,

Ms. Umme Masumun Nesa, AAG and

Mr. Mohammad Samiul Alam Sarker, AAG

..... For the respondents

Present:

**Mr. Justice Zubayer Rahman Chowdhury**

**And**

**Ms. Justice Kazi Zinat Hoque**

Date of Hearing : 09.11.2021 & 30.11.2021

**Date of Judgment : 14.12.2021**

**Zubayer Rahman Chowdhury, J :**

The instant application, under Article 102(2) of the Constitution, has been filed at the instance of Human Rights and Peace for Bangladesh, as a public interest litigation challenging the inaction of the respondents to prevent the filling up of a pond situated at Madaripur.

Pursuant to a news item published in the daily Prothom Alo on 06.10.2016 under the caption “জেলা প্রশাসনের পুকুর ভরাট করছে যুবলীগ-ছাত্রলীগ”, the petitioner approached the District Administration to prevent the earth filling of the pond, but to no effect. Hence, the instant application.

Mr. Manzil Murshid, the learned Advocate appearing on behalf of the petitioner submits that in clear violation of the laws and Rules regarding protection of the environment, some local influential persons had attempted to fill up the pond in question and had also encroached part of the Government land for setting up a market. He submits that the concerned respondents are under a legal mandate to protect the filling up of ponds, as stipulated in Bangladesh Environment Conservation Act, 1995 (amended in 2000 and 2002) as well as “মহানগর, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার মাঠ, উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, ২০০০.” However, the learned Advocate acknowledges that the Authority has subsequently taken appropriate steps to prevent the earth filling of the said pond.

Mr. Mohammad Samiul Alam Sarker, the learned Assistant Attorney General (briefly, the AAAG) appears on behalf of respondent no. 3 by filing an affidavit-in-opposition. The learned AAG submits that in the meantime, the District Administration has taken necessary steps to prevent earth filling of the pond in question.

We have perused the application and the affidavit-in-opposition together with the documents annexed thereto.

It appears from Annexure A to the writ petition that some persons, claiming to be members of a student organization, were attempting to fill up a 200 year old pond, which is owned by the District Administration of Madaripur. From Annexure 2 of the affidavit-in-opposition, it appears that by Memo dated 06.10.2016, respondent no. 5 issued a directive to the concerned Authority including the law enforcing Agencies to take immediate steps to stop such unauthorized activities. It also appears from Annexure 4 that a similar directive was also issued on 09.10.2016 by respondent no. 4.

From Annexure D of the affidavit-in-opposition, being a report published in the Daily Kalerkantho on 11.10.2016, it appears that pursuant to the directive passed by this Court, the Authority had taken steps to stop the earth filling and encroachment of the pond in question. It therefore appears to us that the purpose of obtaining the instant Rule has been served.

During the course of his submission, Mr. Manzil Murshid has referred to two unreported decisions of this Court : the first being the judgment dated 04.08.2016 passed in Writ Petition No. 9801 of 2012 and the second being the judgment dated 05.03.2020 passed in Writ Petition No. 14538 of 2012. On a perusal of the judgments referred to by Mr. Murshid, it appears that both the Rules issued in the aforesaid writ petitions were made absolute with certain directives upon the concerned respondents to take steps for preservation and protection of the water bodies of the country. However, as the Authority has already taken proper steps to prevent the earth filling the pond in question, we are not inclined to enter into a discourse with regard to the factual and legal aspect of the case before us.

The concerned Authority is directed to take note of the judgments passed by this Court in Writ Petition No. 9801 of 2012 and Writ Petition No. 14538 of 2012 and continue to take steps accordingly to preserve the water bodies of the locality.

With the above direction and observations, the Rule stands disposed of.

There will be no order as to cost.

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