



IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
**WRIT PETITION NO. 7465 OF 2006.**

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

The Bangladesh Environment Conservation Act, 1995 (Act No. 1 of 1995), the Environment Conservation Rules, 1997 made thereunder, Town Improvement Act, 1953, মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলকার খেলার মাঠসহ উন্মুক্ত স্থান উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষন আইন, 2000 (Act No. XXXVI of 2000) and the Dhaka City Corporation Ordinance, 1983.

-AND-

IN THE MATTER OF:

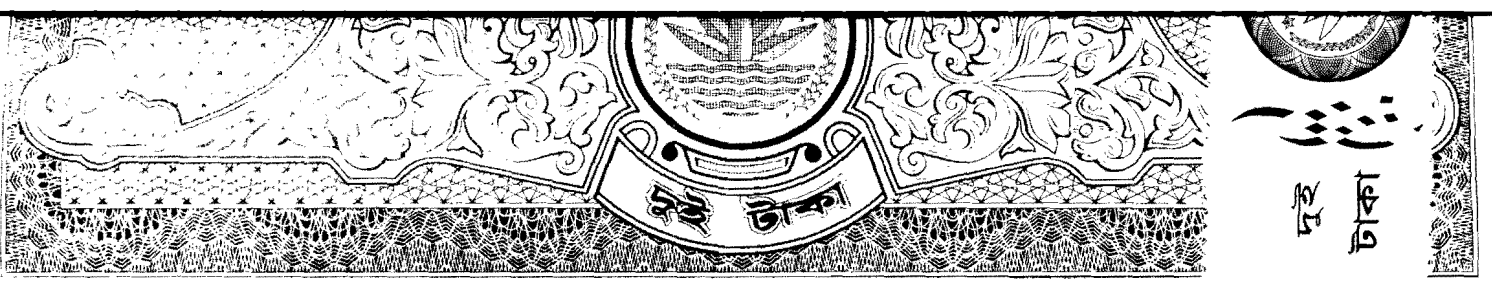
1. Farid Ahmed son of late Shamsar Ahmed, village – Konda, Post Office – Nagor Konda, Savar, Dhaka.
2. Bangladesh Environmental Lawyers Association (BELA) being represented by its Director (Programs) Syeda Rizwana Hasan, Advocate, Supreme Court.

.....Petitioners.

-Versus-

1. Bangladesh, represented by the Secretary, Ministry of Land, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S. Ramna, Dhaka.
2. The Secretary, Ministry of Local Government and Rural Development and Cooperatives, Bangladesh Secretariat, Ramna, Dhaka.

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3. The Secretary, Ministry of Environment and Forest, Bangladesh Secretariat, Ramna, Dhaka.
4. The Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka.
5. The Mayor, Dhaka City Corporation, Nagor Babhon, Dhaka.
6. The Chairman, Rajdhani Unnayan Karttripakkha, RAJUK Bhaban, Dhaka.
7. The Director General, Department of Environment, Paribesh Bhaban, E-16, Sher-E-Bangla Nagar, Agargaon, Dhaka.
8. The Director, Dhaka Division, Department of Environment, Paribesh Bhaban, E-16, Sher-E-Bangla Nagar, Agargaon, Dhaka.
9. The Deputy Commissioner, Dhaka Office of the Deputy Commissioner, Court House Street, Dhaka.
10. The Project Director, Dhaka Mohanogoreer Bibhinno Elakar Obokatthamo of Paribesh Unnayan Prokolpa, ঢাকা মহানগরীর বিভিন্ন এলাকার অবকাঠামো ও পরিবেশ উন্নয়ন প্রকল্প Dhaka City Corporation, Dhaka.

.....Respondents.

-AND-

IN THE MATTER OF:

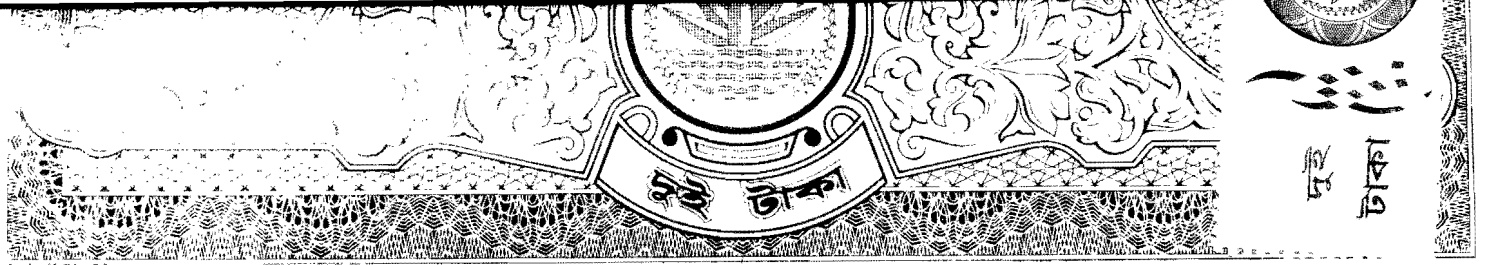
Patent failure of the respondents to protect the sub flood flow zone near Amin Bazar from illegal conversion of the same as waste dumping site by respondent Nos. 5 in total disregard to the laws of the country.

-AND-

IN THE MATTER OF:

Letters of respondent Nos. 6 and 8 dated 22.02.2004, bearing memo No. রাজউক/নঃপঃ/৩০-৬৯ (অংশ-২য়)/২৩৭ স্থানঃ and 06.01.2005, bearing memo No. পরিবেশ/চাবি/৮২১১/৭৩ (impugned letters) respectively giving conditional no objection and site clearance to the proposed dumping site of respondent Nos. 5 and 10.

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**Present:**  
**Md. Justice Md. Imman Ali.**  
**And**  
**Mr. Justice Obaidul Hassan.**

**The 29<sup>th</sup> day of September, 2010.**

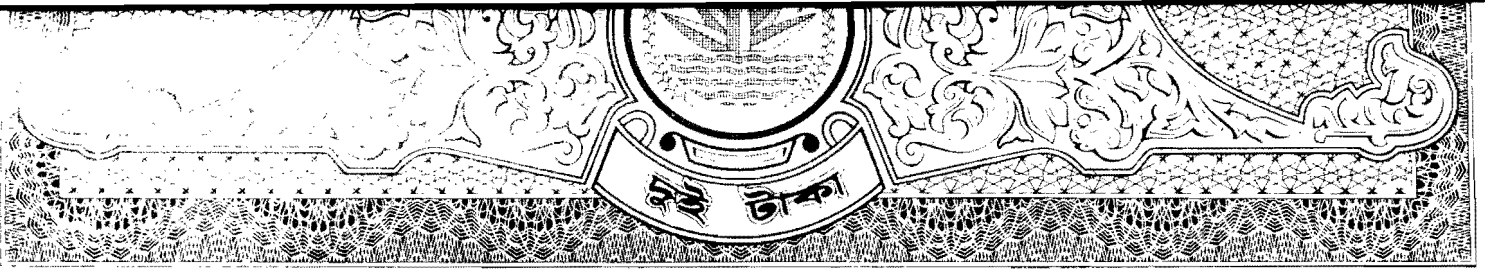
Mr. M. Iqbal Kabir, Adv.

..... for the petitioners.

Mr. Rafiq-ul Huq, Senior advocate with  
Mr. Md. Ruhul Quddus, Advocate and  
Mr. K.S. Salahuddin Ahmed, Advocate,

.....for the respondent No. 5 –DCC.

Mr. Sadek Hossain Khoka, the Mayor of Dhaka City Corporation (respondent No. 5) and Dr. Tariq Bin Yousuf, Project Director, Landfill Improvement Project, Waste Management Division, Dhaka City Corporation (respondent 10) have appeared before us in response to our order dated 19.08.2010 by which they were directed to explain why proceeding shall not be drawn up against them for contempt of Court in not complying with the order of this Court dated 15.02.2010. They have both sworn an affidavit giving details as to why action could not have been taken earlier in compliance with order of this Court dated 15.02.2010, Essentially, the reason for their non activity is the non-availability of funds and other logistic support, and for that reason the report could not be obtained within the time schedule outlined by this Court in the order dated 15.02.2010. Both Mr. Sadek Hossain Khoka and Dr. Tariq Bin Yousuf have apologised unconditionally for their lapse. They have also stated that the consultant engineers from BUET have been engaged to compile the report in accordance with the direction of this Court and their fees have been agreed and payment made in part. Both have assured us that the work for preparing the report will commence as soon as the flood water dries up in November and that the report will be ready within about four months thereafter. We are told that the report may be expected during the months of March, 2011.





Mr. Rafiq-ul Huq, learned advocate appearing on behalf of the two contemnors-respondents submits that the two contemnors could not fulfil the direction of this Court within due time for the lack of sufficient budget and funds, but that the fund difficulty has been resolved and the fees of the consultant engineers have been agreed and partly paid. They expect the report within March, 2011.

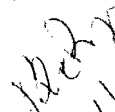
We have considered the affidavits filed on behalf of the two contemnors and the submissions of the learned advocate. The sum of money involved in obtaining the report by the consultant engineer is indeed a substantial amount and we can appreciate that such an amount may not have been catered for in their budget. However, that does not explain why the contemnors did not take any steps in pursuance to the order of this Court within the period stipulated by this Court. We find from the records that respondent No. 10 did not take any action for availing the report before the period stipulated by this Court expired. The least he should have done was to explain his difficulty if any to this Court. Nevertheless, in view of the fact that the inquiry has now been set in motion and the report is promised to be available within March, 2011, we do not propose to take the contempt matter any further. We would simply warn the contemnors to ensure that in future any order of Court is carried out with due diligence.

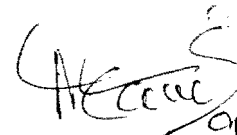
Since this Bench no longer has jurisdiction over matters involving RAJUK, let this matter go out of list with liberty to mention the same before any other appropriate Bench for hearing.


Md. Imman Ali  
Obaidul Hassan

~~MHC~~  
Mahfuz. 09.11.10.

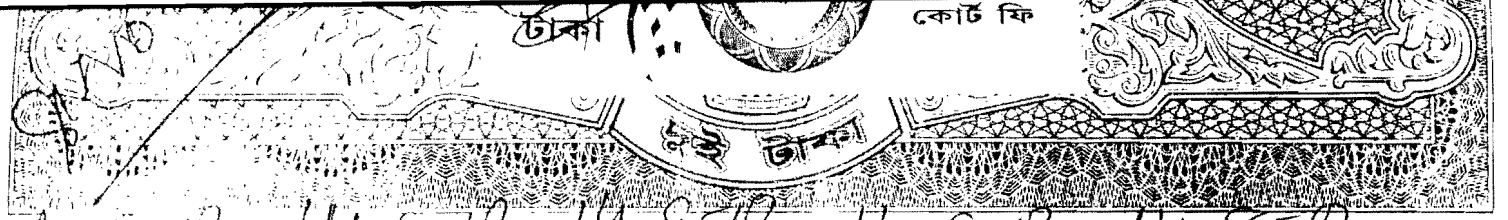
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14-8-06, 14-8-06, 14-8-06, 14-8-06, 14-8-06

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In the matter of:

1. Farid Ahmed son of late Shamser Ahmed, Village Konda, Post Office Nagar ~~Konda~~ Konda Savar, Dhaka
  2. Bangladesh Environmental Lawyers Association (BELA) represented by its Director (Programs) Syeda Rizwana Hasan, Advocate, Supreme Court.
- ..... Petitioners

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1. Bangladesh, represented by the Secretary, Ministry of Land, Government of the People's Republic of Bangladesh, Bangladesh Secretariat, P.S. Ramna Dhaka
2. The Secretary, Ministry of Local Government and Rural Development and Cooperatives, Bangladesh Secretariat, Ramna, Dhaka
3. The Secretary, Ministry of Environment and Forest Bangladesh Secretariat, Ramna, Dhaka
4. The Secretary, Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka

Vh



5. The Mayor, Dhaka City Corporation, Nagor Babhon, Dhaka
6. The Chairman, Rajdhanl Unnayan, Kartripakkha, RAJUK/Bhaban, Dhaka
7. The Director General Department of Environment Paribesh Bhaban, F-16 Sher-E-Bangla Nagar, Agargaon, Dhaka
8. The Director, Dhaka Division, Department of Environment, Paribash Bhaban, F-16, Sher-E-Bangla Nagar, Agargaon, Dhaka
9. The Deputy Commissioner, Dhaka Office of the Deputy Commissioner Court House, Street, Dhaka
10. The Project Director, Dhaka Mohanogoreer Bibhinno Flakar Obokatthar o Paribash Unnayan Prokolpa, ঢাকা মহানগরীর বিভিন্ন এলাকার আবর্জনা উৎস পরিষ্কার প্রকল্প — Dhaka City Corporation, Dhaka ... Respondents

In the matter of:

Patent failure of the respondents to protect the sub flood flow zone near Amin Bazar from illegal conversion of the same as waste dumping site by respondent Nos. 5 in total disregard to the laws of the country.

- And -

In the matter of:

Letters of respondent Nos. 6 and 8 dated 22.02.2004, bearing memo No. সাজুতিক/সং পঃ/৩০-৬৯ (সংস-২৫)/২৬৭ স্ম: and 06.01.2005, bearing memo No. পরিবেশ/জবি/৬২২৩/৭৬ (Impugned letters) respectively giving conditional no objection and site clearance to the proposed dumping site of respondent Nos. 5 and 10.

Present:

- Mr Justice Syed Muhammad Dastagir Husain
- And
- Mr. Justice Mamnoon Rahman

The 6th August, 2006

- Mr. Ozair Faruque with
- Mr. M. Iqbal Kabir Advocates ... For the Petitioner

Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned No. Objection letter bearing No. সাজুতিক/সং পঃ/৩০

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14.8.06 (24) ref: dated 22.02.2004 (Annexure- F) the site clearance letter bearing Memo No. ~~১১২৩৪/৬২১১/৯৬~~ ~~১১২৩৪~~ dated 06.01.2005 (Annexure- 1) purporting to allow conversion/use of sub/flood flow zone and ~~১১২৩৪~~ agriculture band of mouza Baliarpur and Konda as ~~১১২৩৪~~ Waste Dumping Depot by respondent No. 5 and 10 shall not be declared to have been done without lawful authority and are of no legal effect and why the ~~১১২৩৪~~ respondents ~~১১২৩৪~~ should not be directed to take appropriate measure to protect the said area of Konda and Baliarpur Villages and why the respondents should not be directed to frame appropriate Rules under the Environment Conservation Act and ~~১১২৩৪~~ the Dhaka City Corporation Ordinance prescribing the procedure for waste management and/or pass such other or further order or orders as to this court may seem fit and proper.

Pending hearing of the Rule, let the operation of the impugned No. ~~১১২৩৪~~ Objection Letter and the Site Clearance Letter (Annexure- F and I) dated 22.02.2004 and 06.01.2005 respectively be stayed and also the respondent No. 5 and 10 by an order of injunction from dumping any further waste in the land under acquisition of villages Konda and Baliarpur Sever, Dhaka for a period of 3(three) months from date.

The rule is made returnable within 3(three) weeks from date.

S.M.D.Husain  
Mamnoon Rahman

Monen/14.8.06

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অতিরিক্ত সিনিয়র জজ/সিনিয়র জজ

*[Signature]*

14.8.06

সিনিয়র জজ

সিনিয়র জজ/সিনিয়র জজ