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বাংলাদেশ
কোর্ট ফি

০৩.০২.১৬, ০৪.০২.১৬, ০৫.০২.১৬ ৫.২.১৬, ৫.২.১৬

In the Supreme Court of Bangladesh
High Court Division.
(Special Original Jurisdiction)

Writ Petition No. 2482 of 1998.

In the matter of :

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

And

In the matter of :

Bangladesh Environmental Lawyers
Association (BELA) a society registered under
the Societies Registration Act,1860 having its
office at House No.9 Road No.8,Dhanmondi
Residential Area P. S. Dhanmondi, Dhaka being
represented by Chief Executive Officer Syeda
Rejwan Hasan and another.

...Petitioner.

Vs.

Bangladesh, represented by the Secretary
Ministry of Housing and Public Works,
Government of the People's Republic of
Bangladesh, Bangladesh Secretariat
P. S. Ramna, Dhaka and others.

... Respondents.

Mr.Minhazul Hoque Chowdhury, Advocate.

..for the petitioners.

Mr. Rafique Ul Huq, Senior Advocate with

Mr. Ahmed Naquib Karim, Advocates.

..for the added respondent No.7

Mr. Khalifa Shasun Nahar Bari with

Mr. Hefzul Bari, Advocate.

..for the respondent No.2

Heard on : 27-08-2015, 15-09-2015 and 16-09-2015.

Judgment on: 11-11-2015.



Present :

Mr. Justice Nozrul Islam Chowdhury

And

Mr. Justice Md. Salim.

Nozrul Islam Chowdhury, J.

In this writ petition rule was issued on 02-05-1999 in the following terms:- Let a Rule Nisi issue calling upon the respondent Nos.1 and 2 (the Secretary Ministry of Housing and Public Works and Chairman RAJUK) to show cause as to why the allotment of plot of the lake side area in Gulshan, Banani and Baridhara Model Town causing threat to the natural environment of the area and the water body shall not be declared to have been undertaken in violation of the Town Improvement Act, 1953 and against public interest as such of no legal effect and without any lawful authority and the said respondents be directed to restore the public property in a manner best suited to public interest and/or such other or further order or orders passed as to this court may seem fit and proper."

The respondent No.2 is directed to prepare and submit the detailed and complete statement regarding the allotment of plot and filling up the lake water and/or lake side in violation of the approved master lay out plan and encroaching upon the said

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Gulshan, Banani and Baridhara Model Town rendering hereby water bodies of the lake into private properties(Annexure-L) along with a list of names and address of persons in whose favour such allotments have been made and those encroaching upon the lake water, within 3(three) weeks, from date.

Let the respondent No.2 be directed by way of injunction to take immediate measures for suspending all construction and filling up of the water body and lake side areas in Gulshan, Banani and Baridhara Model Town mentionably at Road No.71(plot No.26) Road No.76(plot Nos.28,10) Road No.78 (plot Nos.9) of the Gulshan Model Town, Road No.11(plot No.76C) of Banani Model Town and western side of plot No.56 of Road No.11 and plot No.45 of Road No.12 of Baridhara Model Town for a period of 3(three) months, from date."

RAJUK the respondent No.2 having entered appearance filed an affidavit denying the allegations made in the writ petition stating inter alia that the allotment of plots created by upgrading and redevelopment of unused and un-develop land were made long before the letter forwarded by the Director General of Environment Department. After that letter no filling has been made to the lake side. As the allotments made quite legally and

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most of the allottees have got their lease agreement registered and many of them constructed their building as per plan approved by RAJUK, and RAJUK had nothing to do with that letter. It was also stated in the affidavit in opposition that neither any filling of land nor any allotment was made by the RAJUK by the side of lake after the circular issued from the Prime Minister's Secretariat on 15.04.1998.

We have also seen the affidavit in opposition filed by respondent No.7 which has also adopted the aforesaid assertions made by RAJUK in its affidavit in opposition. In a situation like this it appears to us that the rule has already lost its efficacy which could not be repelled by the learned Advocate for the petitioner showing any material before us, therefore, we are of the opinion that the instant rule having lost its efficacy, therefore, it is of no use to go to the details any further.

In view what has been stated above, this rule is discharged without any order as to cost.

N.I. Chowdhury.

Md. Salim, J:

I agree.

Md. Salim.

Typed by: Mahfuz:04.02.2016.

Read by: *Mizan* 04.02.16.

Exam. by: *Salim* 04.02.16

Readied by:

Handwritten signature
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প্রশাসনিক কর্মকর্তা
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