

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
Writ Petition No. 7199 of 2025.

with
Writ Petition No. 17114 of 2025.
IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

M/S Abdul Malek Enterprise.

.....Petitioner
(In writ petition No. 7199 of 2025)

Md. Kibria Helal.

.....Petitioner
(In writ petition No. 17114 of 2025)

-Versus-

Government of Bangladesh and others.

.....Respondents

Mr. Syed Mamun Mahbub, Senior Advocate with
Ms. Farhana Yasmin, Advocate

.....For the petitioner
(In writ petition No. 7199 of 2025)

Mr. Habib-Un-Nabi, Advocate

.....For the Petitioner
(In writ petition No. 17114 of 2025)

Mr. Al Reza Md. Amir, Advocate

.....For the Res. No.4
(In writ petition No. 17114 of 2025)

Mr. Syed Mamun Mahbub, Senior Advocate with
Mr. A.B. Shawket Ali, Advocate with
Ms. Farhana Yasmin, Advocate

.....For the Res. No. 7
(In writ petition No. 17114 of 2025)

Mr. Mirza Al Mahmood, DAG with
Mr. Akhtar Hossain Md. Abdul Wahab, DAG with
Ms. Khandaker Asma Hamid, AAG with
Mr. S.M. Emamul Musfiquir, AAG with
Mr. Md. Mashiur Rahman (Riad), AAG with
Mr. Md. Mehebab Hossain, AAG

..... For the respondents

Present:**Justice Fatema Najib****And****Justice A.F.M. Saiful Karim****Heard on 10.02.2026, 29.04.2026 and 10.06.2026.**
Judgment on 17.06.2026.**A.F.M. Saiful Karim , J:**

Since in these two writ petitions issue of leasing out same extracted sand from Surma River is involved, so, both the writ petitions have been taken up together for hearing and are disposed of by this single judgment.

Writ Petition No. 7199 of 2025 has been filed by M/S Abdul Malek Enterprise represented by it's proprietor Abdul Malek in which Rule Nisi was issued on 17.07.2023 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why a direction should not be given upon the respondents to lease out the extracted sand from the Surma Nodi and Dump on City Corner Housing and City Corner Housing (Golghar) land situated within mouza-Gopal-Uttar No.8, Kandirgaon Union, Sylhet Sadar, Sylhet at the Government fixed rate to the petitioner on consideration of the application dated 12.02.2025 filed by him as evident from Annexure-"B" to

the Writ Petition and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Writ Petition No. 17114 of 2025 filed by one Md. Kibria Helal, Proprietor of M/S Shahjalal Enterprise and Stone Crusher in which Rule Nisi was issued on 28.10.2025 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Memo bearing No. 508 dated 09.09.2025 (Annexure- C) issued under signature of the respondent No. 4 granting work order of removing dredged material reserved at DR-03/2022-2023 Dyke No. 02 namely City Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner Housing (Golghar) situated at Upazilla- Sadar, District- Sylhet in favor of the respondent No. 7 without concluding the auction process should not be declared to have been issued without having any lawful authority and is of no legal effect and also as to why the inaction of the respondents in concluding the auction process published under Tender Notice No. 1 bearing Memo No. 1959 dated 22.05.2025 against serial Nos. 2 & 3 and thereby granting work order of removing dredged material reserved at DR-03/2022-2023 Dyke No. 02 namely City

Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner at Housing (Golghar) situated Upazilla-Sadar, District- Sylhet in favor of the highest bidder should not be declared to be without lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.”

At the time of issuance of the Rule Nisi operation of the Memo No. 508 dated 09.09.2025 (Annexure-C) issued under signature of the respondent No. 4 granting work order of removing dredged material reserved at DR-03/2022-2023 Dyke No. 02 namely City Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner Housing (Golghar) situated at Upazilla- Sadar, District- Sylhet in favor of the respondent No. 7 was stayed for a period of 06(six) months.

Facts of the Writ Petition No. 7199 of 2025:

Petitioner's case as it appears from the petition of Writ Petition No. 7199 of 2025 is that the petitioner has been doing business of marketing sand all over the country after purchasing sand from the authorities concerned. Water Development Board in due process with a view to maintain the depth of rivers and for navigation of the river extracted sand from the city corner area of "Surma Nodi" and

dumped more or less 2594761.48 lac cubic feet of sand at Toker Bazar by mentioning the area as City Corner Housing and City Corner Housing (Golghar) within Upazila Sadar, District- Sylhet. The authority thereafter published tender notice for leasing out those dumped sand at the rate fixed by the Government but no one has shown any interest to take lease at the Government rate, as a result those dumped sand remained unsold. The environment surrounding the area of Toker Bazar seriously affected due to the existence of those sand. The area is a highly populated residential area and during flow of wind the sand mixed-up with the entire area including the houses causing huge problem of the residence of that locality. The petitioner is the resident of that area and since he is a sand traders as well he made representation to the Honarable Advisor, Ministry of Land showing interest to take lease of those sand against payment of royalty but no decision was taken pursuant to that representation. The petitioner served a notice of demand of justice requesting the respondents to take decision on the representation dated 19.03.2025 for lease out those dumped sand to petitioner and being aggrieved by the inaction of the respondent the petitioner moved before this Honarable High Court Division and obtained the present Rule Nisi. Subsequently, on 03.08.2025 upon hearing an application for direction, this Court directed the respondent Nos. 3 and 6 to dispose of the application of the petitioner dated 20.07.2025.

Facts of the Writ Petition No. 17114 of 2025:

In Writ Petition No. 17114 of 2025 facts leading to issuance of the Rule Nisi, in brief, are that for maintaining navigability of Surma River the Bangladesh Water Development Board (herein after referred to as the BWDB) has taken a project of conducting dredging on the said river. After dredging of the river the BWDB has stacked the sand/dredged materials on several spots beside the river for selling the same through auction process and for that the respondent No. 4 has published a tender notice on 20.11.2024 and the petitioner has participated into the said tender process but due to unknown reason the respondents did not conclude the said tender process. Thereafter, again the respondent No. 4 i.e BWDB has published an open tender notice on 22.05.2025 for auction sale of the aforesaid dredged materials.

The petitioner again participated into the tender process and submitted bid for the dredged material stacked at DR-03/2022-2023 Dyke No. 02 namely City Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner Housing (Golghar) situated at Upazilla- Sadar, District- Sylhet against serial No. 2 & 3 of the tender notice by depositing 25% of the quoted amount through pay-order as security money. While the petitioner was waiting for conclusion of the auction process, all on a sudden the petitioner came

to know that the office of the respondent No. 4 has granted work order of removing of the said dredged material in favor of the respondent No. 7 (writ petitioner of Writ Petition No. 7199 of 2025) without concluding the auction process referring order dated 03.08.2025 passed in Writ Petition bearing No. 7199 of 2025. On further inquiry the petitioner came to know that the respondent No. 7 has filed an application before the Ministry of land for purchasing the said dredged material and on the said application the office of respondent No. 1 issued a letter upon the respondent No. 3 to take action on the application of the respondent No. 7 as per the provision of বালুমহাল ও মাটি ব্যবস্থাপনা আইন, ২০১০ (সংশোধন, ২০২৩) on 27.02.2025 and as the respondents were taking preparation for another tender process, without granting work order to the respondent No. 7 as per law, the respondent No. 7 has filed a writ petition bearing No. 7199 of 2025 and obtained a Rule Nisi on 19.05.2025. After obtaining the Rule the respondent No. 7 has made representations before the respondent Nos. 3 and 4 making false statement to the effect that the High Court Division has directed them to grant lease of the dredged materials in question in his favor. While the 2nd tender process was in progress the respondent No. 7 has filed another application before the respondent No. 3 and 4 for granting khas collection lease of the aforesaid dredged material (sand) on 20.07.2025 and thereafter filed an application before the High Court Division for a direction and

upon hearing Hon'ble High Court Division vide order dated 03.08.2025 directed the respondent Nos. 3 & 4 to dispose of the application of respondent No. 7 dated 20.07.2025 within 30 (thirty) days.

Then the respondent No. 4, stopping the valid tender process and misquoting the court's order, has issued the impugned work order dated 09.09.2025 granting lease of the dredged materials in favor of the respondent No. 7 and thereafter the petitioner of Writ Petition No. 17114 of 2025 has made representation before the respondent Nos. 3 & 4 on 16.10.2025 praying for cancellation of the impugned work order dated 09.09.2025 and for completion of the tender process; and thereafter being aggrieved by the work order as well as by the inaction of the Respondent No. 4 to dispose of the representation dated 16.10.2025 the petitioner moved this Division and obtained the aforesaid Rule Nisi and order of stay.

Respondent Nos. 4 and 7 have entered appearance by filing separate affidavit-in-opposition in Writ Petition No. 17114 of 2025.

The case of the Respondent No. 4 i.e Executive Engineer (BWBD), as it appears from the affidavit-in-oppositioni, in brief, are that Bangladesh Water Development Board (BWBD) in due process with a view to maintain the depth of rivers and for navigation of the river extracted sand from the city corner area of Surma Nodi and dumped more or less 2594761.48 lac cubic feet of sand at Toker

Bazar by mentioning area as City Corner Housing and City Corner Housing (Golghor). BWDB thereafter on 20.11.2024 published tender notice for lease out those sand dumped sand but no one has shown interest to take lease of the dumped sand in the dyke and thus those sand remained unsold. One of the sand traders namely M/S Malek enterprise (Respondent No.7) on 12.02.2025 made a representation before the Ministry of land showing his interest to take lease of Dyke No. 2 and Dyke No. 3 by paying all government revenue and royalties and other sand traders also showed their interests but no decision was taken on the basis of representation.

On 16.04.2025 a meeting of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি held wherein it was decided that a fresh tender would be called for lease out 9 unsold dykes including the Dyke Nos. 2 and 3. On 22.05.2025 a new Tender Notice was published under the signature of Respondent No. 4 bearing Memo No. 1959 dated 22.05.2025 to lease out dykes including the Dyke Nos. 2 and 3 and in the Tender the petitioner participated in the tender process by submitting price for Dyke No. 2 and 3 and while the tender was on process the Respondent No. 7 as petitioner filed Writ Petition being No. 7199 of 2025 and obtained a Rule Nisi on 19.05.2025 and he again made representations showing his interest to take lease of Dyke No. 2 and Dyke No. 3 and he again filed an application before the Hon'able Court for direction upon the respondent to grant lease of the Dyke

Nos. 2 and 3 whereupon Hon'ble Court directed the Respondent Nos. 3 to 6 of that Writ Petition to dispose of the aforesaid application within 30 days from the date of receipt of a copy of this Order.

On 28.07.2025 a meeting of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি held wherein it was decided that decision of lease will be taken on basis of the judgment of this Hon'ble Court and after receiving the Hon'ble Court's order dated 03.08.2025 the respondent No. 4 vide its memo dated 09.09.2025 allotted the Dyke No. 2 and 3 to the respondent No. 7 in government rate as mentioned in the 1st tender notice.

Being aggrieved with the allotment to the Respondent No. 7 the petitioner filed writ petition challenging the memo dated 09.09.2025 allotting the Dyke Nos. 2 and 3 to the respondent No. 7 and accordingly obtained an order of stay. After receiving order of stay the Respondent No. 4 by its letter dated 03.11.2025 stopped the respondent No. 7 from releasing any sand from the Dyke no. 2 and Dyke no.3.

On 05.11.2025 Assistant Executive Engineer and Assistant Revenue officer made inspection of the Dyke no. 2 and Dyke no. 3 and found that most of the sand of the dyke no. 2 have already been released from the dyke and stopped from releasing the rest of sand from the Dyke No. 2 and entire sand from Dyke No.3

With these averments respondent No. 4 undertakes to obey any order which would be passed by the Hon'ble court in these respects.

The case of Respondent No. 7, in brief, are that the petitioner filed the Writ Petition against Memo bearing No. 508 dated 09.09.2025 (Annexure- C) granting work order of removing dredged material stacked at DR-03/2022-2023 Dyke No. 02 namely City Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner Housing (Golghar) in favor of the respondent No. 7 and inaction of the respondents in concluding the auction process published under Tender Notice No. 1 bearing Memo No. 1959 dated 22.05.2025 against serial No. 2 & 3 and thereby granting work order of removing dredged material stacked at DR-03/2022-2023 Dyke No. 02 namely City Corner Housing and DR-03/2022-2023 Dyke No. 03 namely City Corner Housing (Golghar) situated at Upazilla-Sadar, District-Sylhet in favour of the highest bidder and obtained instant Rule Nisi alongwith an order of stay operation of the Memo dated 09.09.2025.

After issuance of order of stay the authority vide memo dated 03.11.2025 stopped all kinds of activities and thus the respondent no. 7 could not remove any sand which he purchased in due course.

With these averments respondent no. 7 prays to discharge the Rule Nisi of Writ Petition No. 17114 of 2025.

The learned Counsel, Mr. Habibun-Un-Nabi appearing for the petitioner of the Writ Petition No. 17144 of 2025 submits that as per the বালুমহাল ও মাটি ব্যবস্থাপনা আইন, ২০১০ (সংশোধন, ২০২৩) there is no provision to stop any valid tender process under which granting lease or work order of any dredged material or balumahal in any one's favour and therefore the impugned work order is liable to be declared as illegal and without lawful authority and is of no legal effect.

He vigorously submits that the High Court Division did not direct the respondents to grant work order in favor of the respondent No. 7 (writ petitioner of Writ Petition No. 7199 of 2025) rather the High Court Division directed the respondents to dispose of the application of the respondent No. 7 as per law; that the respondent Nos. 3 & 4 could have rejected the application of the respondent No. 7 as the law does not permit the respondents to grant lease or work order directly while a tender process is on but the respondent No. 4 in violation of the provision of বালুমহাল ও মাটি ব্যবস্থাপনা আইন, ২০১০ (সংশোধন, ২০২৩) has granted the work order in favor of the respondent No. 7 and therefore the impugned work order is liable to be declared as illegal and without lawful authority and is of no legal effect.

He also submits that tender process is the only way permitted for granting lease or work order of any balumohal or dredged material as per law and the government gets better and competitive rate by leasing out through tender process and therefore being the

highest bidder the writ petitioner i.e Md. Kibria Helal is entitled to get the sand.

Per contra, Mr. Syed Mamun Mahbub, Senior counsel along with Ms. Farhana Yasmin, the learned Advocates appearing for the respondent no. 7 of Writ Petition No. 17114 of 2025 submits that on consideration of the representation of Mr. Abdul Malek, the respondent No. 4 issued memo dated 27.08.2025 allowing him to remove dredged material (sand) on payment of the price fixed by the authority and the respondent No. 7 accepted the offer and purchased those dredged sand by payment of the price fixed by the respondent authority and therefore the impugned work order dated 09.09.2025 has been issued and the respondent No. 7 took over the possession of the said sand and as per work order the respondent No. 7 removed portion of the sand and therefore the petitioner as valid purchaser and possessor of the sand is entitled to remove and sell the rest sand and thus the Rule Nisi is liable to be discharged.

The learned counsel, Mr. Al Reza Md. Amir, appearing on behalf of the Respondent No. 4 submits that in the 1st tender no one participated and subsequently the Respondent No. 4 in accordance with the resolution of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি dated 16.04.2025 called for 2nd Tender but in the meantime the Respondent No. 7 of writ petition no. 17114 of 2025 as petitioner filed writ petition being No. 7199 of 2025 in which Hon'ble Court

passed a direction to dispose of the application of the Respondent No. 7 and in disposing of the application of the Respondent No. 7 another meeting of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি was held on 28.07.2025 wherein it was decided that decision regarding Dyke No. 2 and 3 will be taken as per the judgment of this Hon'ble High Court Division.

He candidly concedes that subsequently misquoting order dated 03.08.2025 passed by the Hon'ble High Court Division in Writ Petition No. 7199 of 2025 the Respondent No. 4 allotted the sand of dyke Nos. 2 and 3 in government rate as mentioned in the 1st tender in favour of the Respondent No. 7 and therefore he verbally undertakes to obey the decision of the court disposing of these writ petitions.

We have perused both these writ petitions and annexures thereto; affidavit-in-opposition filed by the Respondent Nos. 4 and 7 of the Writ Petition No. 17114 of 2025 and other materials on record.

The only point for consideration in these Rule Nisi whether impugned work order dated 09.09.2025 issued in favour of M/S Abdul Malek Enterprise under the signature of the respondent no. 4 (BWDB) and inaction in granting work order in favour of Md. Kibria Helal (petitioner of Writ Petition No. 17114 of 2025) has been issued after following the provision of law and whether the writ petitioner

of the Writ Petition No. 17114 of 2025 is entitled for work order as prayed for.

In order to address the issue, it is necessary to consider the events that had taken place prior to the issuance of the impugned work order.

It is admitted position that writ petitioner of the Writ Petition No. 17114 of 2025 has participated in the first tender for selling dredged materials (Sand) stacked on various spot beside Surma River through auction but the said tender process was not concluded. Thereafter, the Respondent No. 4 called for 2nd tender on 22.05.2025 and the writ petitioner Md. Kibria Helal participated in the tender process by submitting price for Dyke Nos. 2 and 3 and became the highest bidder for Dyke No. 3 and second highest bidder for Dyke No. 2 but M/S Malek Enterprise i.e the writ petitioner of Writ Petition No. 7199 of 2025 on 12.02.2025 made representation before the Ministry of Land showing his interest to purchase the Sand of Dyke No.2 and Dyke No. 3 by paying all government revenue and royalties and other sand traders also showed their interests but the Respondent authority did not take any decision on the said representation rather in a meeting of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি it was decided to issue fresh tender notice for Dyke Nos. 2 and 3 along with other Dykes and while the tender was on process the

writ petitioner (Writ Petition No. 7199 of 2025) obtained an order of direction dated 03.08.2025 from this court to dispose of the representation dated 20.07.2025. In the meantime on 28.07.2025 a meeting of জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি was held wherein it was decided that next steps will be taken as per the judgment of Writ Petition No. 7199 of 2025 and subsequently the Executive Engineer, Sylhet Water Development Division sold the sand of Dyke Nos. 2 and 3 to the Respondent No. 7 (Writ Petition No. 17114 of 2025) in government rate as mentioned in the 1st tender notice and subsequently issued impugned work order dated 09.09.2025 and thereafter upon receipt of order of stay dated 28.10.2025 the Executive Engineer stopped releasing sand from the Dyke Nos. 2 and 3 vide letter dated 03.11.2025 and the total sand of Dyke No. 3 remains reserved though substantial portion of sand of Dyke No. 2 has been removed which is evident from inquiry report dated 13.11.2025 (Annexure-X-12 of Affidavit-in-opposition filed by the respondent no. 4). Due to the air pollution for wind flow with un-removed staked sand the environment of the surrounding area is heavily affected.

We have gone through the provision of sections 10 and 11 of বালু মহাল ও মাটি ব্যবস্থাপনা আইন, ২০১০ which is reproduced herein below:

“১০। বালুমহাল ইজারা প্রদান, ইত্যাদি। (১) সকল বালুমহাল, বিধি দ্বারা নির্ধারিত পদ্ধতিতে, উন্মুক্ত দরপত্রের মাধ্যমে ইজারা প্রদান করিতে হইবে।

(২) এই আইনের অধীন ইজারা প্রদান সংক্রান্ত সকল বিষয়ে জেলা প্রশাসককে সহায়তা করিবার জন্য প্রতিটি জেলায় জেলা বালুমহাল ব্যবস্থাপনা কমিটি নামে একটি কমিটি থাকিবে।

(৩) উপ-ধারা (২) এর অধীন গঠিত জেলা বালুমহাল ব্যবস্থাপনা কমিটির গঠন ও কার্যপদ্ধতি বিধি দ্বারা নির্ধারিত হইবে।

(৪) উপ-ধারা (১) এর অধীন উন্মুক্ত দরপত্রে জেলা প্রশাসনের নিকট এই আইনের অধীন তালিকাভুক্ত কোন ব্যক্তি বা প্রতিষ্ঠান ব্যতীত অন্য কেহ অংশগ্রহণ করিতে পারিবেন না।

(৫) উপ-ধারা (৪) এর অধীন তালিকাভুক্তির শর্তাদি, মেয়াদ ও পদ্ধতি বিধি দ্বারা নির্ধারিত হইবে।

(৬) কোন বালুমহাল ইজারার প্রস্তাব অনুমোদিত হইবার পর, জেলা প্রশাসক ইজারা প্রদত্ত বালুমহালের সুনির্দিষ্ট বর্ণনাসহ ইজারার শর্তসমূহ সুনির্দিষ্টভাবে উল্লেখপূর্বক বিধি দ্বারা নির্ধারিত পদ্ধতি ও ফরমে, ইজারা চুক্তি সম্পাদন করিবেন।

(৭) ইজারা মূল্যের সম্পূর্ণ অর্থ আদায়ের পর সংশ্লিষ্ট ইজারাগ্রহীতাকে বালুমহালের দখল হস্তান্তর করিতে হইবে।

১১। ইজারা ব্যতীত বালুমহাল হইতে বালু বা মাটি উত্তোলন, ইত্যাদি ও রাজস্ব আদায় নিষিদ্ধ। কোন বালুমহাল ইজারা প্রদান করা না হইয়া থাকিল, উক্ত বালুমহাল হইতে এই আইনের অধীন ইজারা প্রধান ব্যতীত অন্য কোন পদ্ধতিতে বালু বা মাটি উত্তোলন, পরিবহন, বিপণন

ও সরবরাহ করা যাইবে না এবং এই মর্মে কোন রাজস্বও আদায় করা যাইবে না।”

Section 11 of the said Act, 2010 has been amended in 2023 and the provision of the amended section 11 of the Act, 2010 is as follows:

“১১। ইজারা বহির্ভূত বালুমহাল হইতে সরকারি রাজস্ব আদায়। কোনো বালুমহাল ইজারা প্রদান করা সম্ভব না হইলে, উক্ত ইজারা বহির্ভূত বালুমহাল হইতে সরকারি রাজস্ব আদায়ের উদ্দেশ্যে, বিধি দ্বারা নির্ধারিত পদ্ধতিতে, খাস আদায়ের মাধ্যমে বালু বা মাটি উত্তোলন, পরিবহণ, বিক্রয় ও সরবরাহ করা যাইবে।”

From the plain reading of the above provision, it is clear that all Balumahal shall be leased out through open auction and if it is not possible to lease through auction out then sand can be sold out by collecting Khas.

We have considered the impugned work order dated 09.09.2025 which is reproduced herein below:

“বাংলাদেশ পানি উন্নয়ন বোর্ড
নির্বাহী প্রকৌশলীর দস্তম
সিলেট পানি উন্নয়ন বিভাগ, বাশাউবো, সিলেট।
www.bwdb.gov.bd

স্মারক নং ৫০৮

তারিখ: ০৯/০৯/২৫

বরাবর,
মেসার্স আব্দুল মালেক এন্টারপ্রাইজ
প্রোপাইটর: আব্দুল মালেক
গ্রাম: গৌরীপুর, ডাকঘর: টুকেরবাজার, থানা: সিলেট সদর
জেলা: সিলেট।

বিষয়: সিটি কর্নার হাউজিং এবং সিটি কর্ণার হাউজিং (গোলঘর) সিলেট, ড্রেজড ম্যাটেরিয়াল সংরক্ষণ ডাইক (DR-03/2022-2023 Dyke No-02) এবং (DR-03/2022-2023 Dyke No-03) এর ড্রেজড ম্যাটেরিয়াল প্রদান প্রসঙ্গে।

সূত্রঃ অত্র দপ্তর স্মারক নং-৪৩০, তারিখঃ ২৭/০৮/২০২৫ খ্রিঃ

উপরোক্ত বিষয়ে আপনার অবগতির জন্য জানানো যাচ্ছে যে, "সিলেট জেলার সিলেট সদর ও বিশ্বনাথ উপজেলায় দশগ্রাম, মাহতাবপুর ও রাজাপুর পরগণা বাজার এলাকা সুরমা নদীর উভয় তীরের ভাঙন হতে রক্ষা (১ম সংশোধিত)" প্রকল্পের আওতায় সুরমা নদী ড্রেজিং করে প্রাপ্ত ড্রেজড ম্যাটেরিয়াল মহামান্য হাইকোর্টের ডিভিশন রিট পিটিশন নং-7199 of 2025 তারিখ: ০৩/০৮/২০২৫ খ্রিঃ মোতাবেক মেসার্স আব্দুল মালেক এন্টারপ্রাইজ, প্রোপাইটর: আব্দুল মালেক, গ্রাম: গৌরীপুর, ডাকঘর: টুকেরবাজার থানা। সিলেট সদর জেলা: সিলেট কে সরকার নির্ধারিত রাজস্ব (অর্থ) সম্পূর্ণ পরিশোধ সাপেক্ষে বিষয়ে বর্ণিত প্যাকেজের ডাইক সমূহের ড্রেজড ম্যাটেরিয়াল প্রদানের সিদ্ধান্ত দেয়া হয়। এমতাবস্থায় সূত্রস্থ স্মারক অনুসারে আপনার প্রতিষ্ঠান কর্তৃক ড্রেজড ম্যাটেরিয়ালের সম্পূর্ণ অর্থ এবং ভ্যাট ও আয়কর জেলা প্রশাসক, সিলেট বরাবর পরিশোধ করায় নিম্নবর্ণিত শর্ত প্রতিপালন পূর্বক ড্রেজড ম্যাটেরিয়াল অপসারণের অনুমতি প্রদান করা হইল।

শর্তসমূহঃ

- ১। নদীর ড্রেজিংকৃত মাটি/ বালি বাতিত অন্য কোন স্থান হতে মাটি/বালি সংগ্রহ করা যাবে না এবং বিদ্যমান কৃষি জমি অপরিবর্তিত রেখে মাটি/বালি সংগ্রহ করতে হবে। মাটি/বালি সংগ্রহ করার ফলে নদীর গতিপথ বন্ধ হয়ে যায় এমন ভাবে মাটি/বালি সংগ্রহ করা যাবে না। নদীর দুইপারের স্লোপ/ঢালের কোনরূপ ক্ষতি করা যাবে না।
- ২। নদীর ড্রেজিংকৃত মাটি/বালি এলাকার অভ্যন্তরে কেউ অবৈধ অনুপ্রবেশ করলে তার দায়িত্ব নিলাম গ্রহীতাকে বহন করতে হবে।
- ৫। ড্রেজড ম্যাটেরিয়াল অপসারণের সময় কোন রাস্তা/সরকারি/বেসরকারি সম্পদ ক্ষতিগ্রস্ত হলে তা নিলাম গ্রহীতার নিজ খরচে মেরামত করে দিতে হতে। ডাইকের গমনযোগ্যতা বালি অপসারণ পরিবহন এবং ভূমি মালিকের ক্ষতিপূরণসহ ইত্যাদি যাবতীয় মূল্য বিবেচনা করবেন।
- ৪। মাটি/বালি অপসারণের সময় নিলামকৃত স্থান সমূহে সতর্কতামূলক ব্যবস্থা হিসাবে লাল পতাকা প্রদর্শন করতে হবে।
- ৫। মাটি/বালি অপসারণের সময় স্থানীয় জনগণের জায়গা জমির কোন প্রকার ক্ষয়-ক্ষতি করা যাবে না এবং ক্ষতির সম্মুখীন হলে নিলাম গ্রহীতা নিজ উদ্যোগে তা সমাধান করবে। তাতে কর্তৃপক্ষ কোনরূপ হস্তক্ষেপ করবে না বা দায়ী থাকবে না।
- ৬। মাটি/বালি অপসারণের সময় কোন প্রকার দুর্ঘটনার জন্য নিলামদাতা/কর্তৃপক্ষ দায়ী থাকবেন এবং কোন প্রকার ক্ষতিপূরণের দাবি আসলে তা দিলাম গ্রহীতাকেই বহন করতে হবে।
- ৭। মাটি/বালি অপসারণের বিষয়ে সরকার কর্তৃক সময় সময় জারিকৃত সকল সার্কুলার, বিধান ও আইনসমূহ মেনে চলতে হবে।

৮। মাটি/বালি অপসারণের সময় আদালতের স্থগিতাদেশ/স্থিতাবস্থা/নিষেধাজ্ঞা বলবৎ থাকার কারণে নিলাম গ্রহীতা ক্ষতিগ্রস্ত হলে বা যে কোন পর্যায়ে নিলাম বাতিল হলে তার জন্য কোন প্রকার ক্ষতিপূরণ দাবি করা যাবে না।

৯। বর্ণিত কোন শর্ত ভঙ্গ করা হলে নিলামদায়া/কর্তৃপক্ষ তাৎক্ষণিক ভাবে মাটি/বালু অপসারণ কার্য বন্ধ করে দিতে পারবেন এবং তাতে কার্যাদেশ বাতিল বলে গণ্য হবে।

(দীপক রঞ্জন দাশ)
নির্বাহী প্রকৌশলী
আইডি নং-৮১১৯২৬০
সিলেট পানি উন্নয়ন বিভাগ, বাপাউবো, সিলেট ও সদস্য সচিব,
জেলা পানি সম্পদ উন্নয়ন ও ব্যবস্থাপনা কমিটি।
E-mail xen.bwdb.sylhet@gmail.com.”

It is pertinent to reproduce the relevant portion of the order dated 03.08.2025 passed in Writ Petition No. 7199 of 2025 and thus reproduced as follows:

“In the facts and circumstances of the case, we deem it fit and proper to direct the respondent Nos. 3 and 6 to dispose of the application of the petitioner dated 20.07.2025 (Annexure-X-2 to the Application) within a given time-frame. Accordingly, we direct the respondent Nos. 3 and 6 to dispose of the aforesaid application within 30(thirty) days from the date of receipt of a copy of this order.”

From the discussions made above we find that in the present case while tender process was going on for selling the dredged material (sand) for Dyke Nos. 2 and 3, the sand of the said two

Dykes has been sold by collecting khas. It appears to us that action of the respondent no. 4 in this regard is not justified under the provision of law as well as under the circumstances of the case.

Considering the above facts and circumstances we find substance in the submissions made by the learned counsel of writ petitioner of Writ Petition No. 17114 of 2025 and considering the practical position of the sand of Dyke Nos. 2 and 3 and environmental pollution created with the dumped sand we are of the view that justice would be best served if the Rule Nisi of Writ Petition No. 17114 of 2025 is made absolute-in-part and Rule Nisi of Writ Petition No. 7199 of 2025 is disposed of and if an order of direction is passed upon the respondent no. 4 to give work order in favour of the petitioner of Writ Petition No. 17114 of 2025 for the Sand of Dyke No. 3 only.

Resultantly, Rule Nisi of Writ Petition No. 17114 of 2025 is made absolute-in-part. Order of stay granted at the time of issuance of the Rule stands vacated.

Rule Nisi of Writ Petition No. 7199 of 2025 is disposed of.

However, the Respondent No. 4, the Executive Engineer, Sylhet Water Development Division, is directed to give work order in favour of Md. Kibria Helal in respect of the sand of Dyke No.3 within 3(three) days from the date of receipt of this judgment.

There will be no order as to cost.

Let a copy of this judgment immediately be transmitted to the respondents at once.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J:

AZOM(BO)