

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

**WRIT PETITION NO. 5739 OF 2013.**

**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) .....Petitioner.

**-Versus-**

The Government of the People's Republic  
of Bangladesh, represented by the  
Secretary, Ministry of Land, Bangladesh  
Secretariat, Dhaka and others.

...Respondents.

Mrs. Syeda Rizwana Hasan, Advocate  
with

Mr. Minhazul Hoque Chowdhury and  
Mr. Sayeed Ahmed Kabir, Advocates

.....For the petitioner

Mr. Md. Bodruddoza, Advocate

.....For the respondents No.7 & 11.

Mr. M. Sirajul Islam, Advocate

.....For the respondent No.6.

**Present :**

**Mr. Justice K.M. Kamrul Kader**

**And**

**Mr. Justice Muhammad Mahbub Ul Islam**

**Heard On: 28.10.2021, 25.11.2021 & 15.12.2021**

**And**

**Judgment on : 10.03.2022.**

**K. M. Kamrul Kader, J :**

On an application under Article 102 of the Constitution  
of the People's Republic of Bangladesh this Rule *Nisi* was  
issued on 03.06.2013, in the following terms:-

*“Let a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned tenders dated 20.04.2013 and 23.04.2013 (Annexures-‘D’ and ‘D-1’ respectively) issued by the respondent No.11 shall not be declared to have been issued without lawful authority and of no legal effect as the same is violative of applicable laws and against the public interest, and further to show cause as to why they shall not be directed to protect the ‘Uddans, playgrounds, open spaces, ponds, ditches and wetlands’ falling within the land area of the Chittaranjan Cotton Mills and thereby hand over the same to respondent No.6 for proper management and maintenance as required under the Local Government (City Corporation) Act, 2009 and/or pass such other or further order or orders as to this court may seem fit and proper.*

Facts relevant for disposal of the Rule, are that, the petitioner is Bangladesh Environmental Lawyers Association (hereinafter referred to as BELA) a society registered under the Societies Registration Act, 1860 being registration No.1457(17) dated 18.02.1992. It is stated that the rapid and uncontrolled urbanization of the Capital and the townships and vicinities around are taking away from the dwellers the last sources of relief and respite from the over congested cities. The greeneries are disappearing, wetlands shrinking and open spaces being

grabbed for the purposes of housing, industrialization and other economic activities completely denying the need of breathing spaces for the dwellers of the major cities and towns of the country. To arrest such unregulated expansion of the townships and to regulate urbanization in City areas, the Government in the year 2000 enacted Act No.36 that has prohibited any changes in the nature of open spaces, udyans, playgrounds and wetlands without clearance of the concerned agencies that can only be issued in consideration of greater public interest. Unfortunately, the great public interest purpose of this law has been largely frustrated by the leniency of the public agencies responsible for its implementation that are generally seen succumbing to the pressures of the land grabbers and corporate interests keen to change the areas intended to be protected by Act No. 36 of 2000 for short-term financial gains. The City of Narayanganj is no exception to this where the greeneries, wetlands and open spaces are disappearing fast against unregulated trend and pace of urbanization and commercialization. The industrial City of Narayanganj had many jute mills that in course of time were closed down by the Government for various reasons. Some of these mills include the Chittaranjan Cotton Mills, Lakshmi Narayan Cotton Mills, Rally Brothers and so on. Located within the Narayanganj City Corporation area, the land properties of these mills, under the ownership and

administrative control of respondent Nos. 5 and 7 and the Jute Corporation, are presently lying unutilized. The land areas of these Mills include udyans, playgrounds and wetlands and the same have been targeted for selling as plots by the respective management authorities, respondent No. 6, Mayor, Narayanganj City Corporation vide its letter dated 18<sup>th</sup> March, 2008, 1<sup>st</sup> April, 2009 and 27.12.10 wrote to the then Chief Adviser, the present Prime Minister and the Minister, Ministry of Jute and Textiles seeking intervention to protect these areas as required under Act No. 36 of 2000 for maintaining the environmental balance of the City area. Subsequently, on 31<sup>st</sup> May, 2012, respondent No. 6 having been mandated to protect the open spaces, wetlands, udyans and play grounds of the Narayanganj City Corporation area under Act No. 36 of 2000 and the Local Government (City Corporation) Act, 2009 wrote to the Ministry of Jute and Textile seeking intervention to hand over it to the management and control of the playground and wetlands of the Chittaranjan Cotton Mills to ensure their proper management for public use and benefit, but is of no effect. On 19<sup>th</sup> May, 2013, the respondent No.6 once again wrote to the Prime Minister to direct the agencies concerned for maintenance of the open spaces, wetlands, playgrounds and udyans within the Chittaranjan Cotton Mills for maintaining the environmental balance of the City. Such repeated appeals of respondent No.6 for protection and proper

maintenance of the wetlands and without any prior authorization from it as mandated under the respective laws, 2 (two) advertisements were published on 20.04.2013 and 23.04.2013 in two local dailies of Narayanganj under the authorities of respondent No.11 invited tenders (the impugned calls for tender) for earth filling of the ponds and ditches of the Chittaranjan Cotton Mills. Being aggrieved by such unlawful and anti-people actions of respondent No. 11, respondent No.6 vide a letter dated 13<sup>th</sup> May, 2013 requested the respondent No.11 to stay all proceedings in connection with the said calls for tender. As the respondent No.11 didn't stop proceedings with regard to tenders for earth filling of the wetlands of the Chittaranjan Cotton Mills, the local people arranged demonstration against the same and held human chains on 15<sup>th</sup> May, 2013. Having failed to stop respondent No.11 from its unlawful pursuit of filling up the wetlands of the Chittaranjan Cotton Mills, the respondent No.6 vide letter dated 15<sup>th</sup> May, 2013 applied for legal action from the petitioner organization and after necessary field investigations and scrutiny of laws and papers, the petitioner organization served upon the respondents a Notice Demanding Justice requesting them to protect the ponds and ditches of the Chittaranjan Cotton Mills, cancel all proceedings with regard to the impugned calls for tender and inform about their

actions by 23<sup>rd</sup> May, 2013. None of the respondents till date have responded to the said Notice of the Petitioner.

Being aggrieved by and dissatisfied with the impugned tenders dated 20.04.2013 and 23.04.2013 (Annexure-‘D’ and ‘D-1’ to the writ petition) issued by the respondent No.11, finding no other alternative and efficacious remedy, the petitioner preferred this writ petition before this court and obtained the instant Rule.

Mrs. Syeda Rizwana Hasan, Advocate with Mr. Minhazul Hoque Chowdhury the learned Advocates for the petitioner submits that the action of the respondent No.11 in purporting to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd. through the impugned calls for tender are unlawful in as much as they deny the lawful authority of respondent No.6 in the matter and lack its sanction and approval as required under Act No.36 of 2000 and the Local Government (City Corporation) Act, 2009. Mrs. Hasan also submits that the unauthorized filling up the ponds and ditches and use of open spaces, park and play grounds of the Chittaranjan Cotton Mills Ltd. for establishment of so-called "Textile Polli" by respondent No.11 in violation of Articles 15(c), 18A, 31 and 32 of the Constitution of the Peoples Republic of Bangladesh, মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ, উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষণ আইন, ২০০০ (Act 36 of 2000); the

Bangladesh Environment Conservation Act, 1995 and the Environment Conservation Rules 1997 made there under; the Building Construction Act, 1952 and the Rule of 1983 made there under; the Local Government (City Corporation), Act, 2009, and other applicable laws, and took policies against the public interest. She further submits that under the Local Government (City Corporation) Act, 2009, respondent No. 6 has specific legal obligation with regard to protection of wetlands within its jurisdiction. Subject to prior approval of the Government, Schedule-III of the said Act mandates the City Corporations to declare ponds and other wetlands not under private ownership to be public wetlands and arrange for measures for recreation around such wetlands and for protection of the open spaces, udyans, playgrounds and wetlands of the Chittaranjan Cotton Mills is crucial for the safety, comfort and well-being of the dwellers of the over congested City of Narayanganj.

Mrs. Syeda Rizwana Hasan, learned Advocate for the petitioner further submits that the representations of the Mayor, Narayanganj City Corporation for "management control" of the natural wetlands, ponds and open spaces of the Mill area have definite legal basis. In the representations of the Narayanganj City Corporations as evident Annexure-"A" and "B" to the writ petition, only "management control" of wetlands and open spaces after developing the "Textile Polli" and not

ownership was sought. Such representations of the Narayanganj City Corporation have clear legal basis under Act No.36 of 2000 (an Act that specifically aims to protect open spaces, wetlands and playgrounds of urban local government areas), the Environment Conservation Act, 1995 and the Local Government (City Corporation) Act, 2009 that prohibit filling up of wetlands and conversion of open spaces, and mandate the City Corporations to (i) maintain, manage and recover all wetlands within their jurisdictions, and also to (ii) declare, subject to government's approval, wetlands as public lands. Thus, the representations of the Narayanganj City Corporation seeking approval from the Ministry of Textiles to manage the wetlands and open spaces of the Mills have clear legal basis and indeed became necessary as the Ministry, BTMC and the Mill authorities, negating public use and importance and ignoring legal prohibitions, were attempting to unlawfully fill up the wetlands and sell the said filled up wetlands as commercial plots. She further submits that the action of the respondent No. 11 in purporting to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd. through the impugned calls for tender are unlawful in as much as they deny the lawful authority of respondent No. 6 in the matter and lack its sanction and approval as required under Act No. 36 of 2000 and the Local Government (City Corporation) Act, 2009. She lastly submits that the application is filed *bonafide*,



in public interest to protect the local people from the negative impact of unlawful acts and omissions of the respondents and the reliefs sought herein, if granted, shall be effective, efficacious and complete for the protection of environment and ecology and the right of the dwellers of the Narayanganj City and as such, she prays for making the Rule absolute.

Mr. Md. Bodruddoza, learned Advocate appearing on behalf of the respondents No.7 and 11 by filing affidavit-in-opposition opposes the Rule and submits that the entire property of Chittaranjan Cotton Mills belongs to the Government initially by dint of the Bangladesh Industrial Enterprises (Nationalization) Order, 1972 wherein the Mill has been included under Serial No.14 of the 2<sup>nd</sup> Schedule and since the enacted Act 36 came into force in 2000, it has got no manner of application or implication in respect of the property of the Government *vis-a-vis* the BTMC. He further submits that since the present respondents while controlling and managing the entire properties of the said Mills by their representation on 01.02.2012 submitted the "Project Profile" to manage the properties in different ways and the same proposal was approved by the concerned Ministry of the Government on 29.02.2012, it is immaterial as to whether any 3<sup>rd</sup> party like Narayanganj City Corporation made any representation to manage any land/part of the said property of the Chittaranjan Cotton Mills as nothing was approved by the Government. He

also submits that since the Government /Ministry of Textile and Jute before filing of the Writ Petition and issuance of the interim order passed in the said Writ Petition, on 06.03.2013 submitted a comprehensive proposal to the Cabinet Committee of Economic Affairs by way of Summary to establish "Textile Polli" over the land of the said Mills and the Cabinet Division on 27.03.2013 approved the said proposal for establishment of "Textile Polli" within the compound of the said Mills, the said decision of the Government being a policy decision cannot be challenged in any writ jurisdiction in any form on the plea of any Act of 2000 or Local Govt. (City Corporation) Act, 2009, because, the same provision of law is hit by Article 35(1) of the Constitution of Bangladesh since at the time of handing over the property under P.O. 27 there was no existence of such law in operation and since the City Corporation Act, 2009 as well as the enacted Act 36 of 2000 have not given retrospective effect, the petitioner is not entitled to have any protection under the said law they are relied upon. The concerned Ministry of Textile and Jute after approval of establishing "Textile Polli" within the compound of the said Mills, to meet the cost of running other Mills sent a Proposal/Summary to the Cabinet Division of the Government for selling out 10(ten) Plots out of 22 plots within the vicinity of the said mills. Accordingly, the Cabinet Division headed by the Hon'ble Prime Minister of Bangladesh approved the said

proposal for selling of 10 (ten) plots through open tender and those 10 (ten) plots have already been sold out by the Government and as such, there being no violation of Law or Rule, the writ petition itself is not maintainable and the Rule is liable to be discharged.

Learned Advocate Mr. Bodruddoza in his affidavit-in-reply referring the Annexure-‘H’ and ‘H-1’ has contended that the land of the respondent No.11 is recorded in Daag No.3523, Khatian No.3 and Mouza-Godnail as ‘Beel’, but the facts remain that in the S.A. Khatian No.1206, the land was recorded as Mill and also in R.S. Khatian No.03 and R.S. (amended) Khatian No.03 it has been shown in R.S. Daag No.3523 as Mill not ‘Beel’ and in support of their contentions the respondent No.11 provided with the copies of the Khatians and other documents as evident as Annexure-6, 6-A, 6-B, 6-C, 6-D, and 6-E respectively.

Mr. Md. Sirajul Islam, the learned Advocate appeared on behalf of the respondent No.6 submits that he has no submission to controvert any of the statements made in the writ petition by the petitioner. In addition, it is relevant to mention in this regard that content of the issued Rule also sought explanations from the respondents as to why the respondents shall not be directed to protect the ‘uddyans’ playgrounds, open spaces, ponds, and ditches and wetlands falling within the land are of the Chittaranjan Cotton Mills and

thereby hand over the same to the respondent No.6 for proper management and maintenance as required under the Local Government (City Corporation) Act, 2009. He further submits that the respondent No.6, Mayor, Narayanganj City Corporation has already been involved with such type of maintenance and development work of different infrastructures accessed or enjoyed by the inhabitants of the locality situated within the territory of the corporation. The respondent No.6 has possess enough experiences and capacity to take proper care and look after the management and the maintenance works of pond as required.

Heard the learned Advocates of both sides and perused the writ petition, affidavit-in-opposition, supplementary affidavits and other materials on record available thereto.

In the instant writ petition, the petitioner challenging the impugned tenders dated 20.04.2013 and 23.04.2013 respectively (Annexure-'D' and 'D-1' to the writ petition) issued by the respondent No.11, in purporting to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd.

On perusal of the records, we find that the entire property of Chittaranjan Cotton Mills belongs to the Government. The respondent No. 11, on 01.02.2012 has submitted the "Project Profile" to manage the properties in different ways and the same proposal was approved by the

concerned Ministry of Textile and Jute on 29.02.2012. The Ministry of Textile and Jute submitted a comprehensive proposal to the Cabinet Committee of Economic Affairs to establish "Textile Polli" over the land of the said Mills and the Cabinet Division on 27.03.2013 approved the same. Next, the Ministry of Textile and Jute after approval of establishing "Textile Polli" within the compound of the said Mills, to meet the cost of running other Mills sent a Proposal/Summary to the Cabinet Division of the Government for selling out 10(ten) Plots out of 22 plots within the vicinity of the said mills. Accordingly, the Cabinet Division headed by the Hon'ble Prime Minister of Bangladesh approved the said proposal for selling of 10 (ten) plots through open tender and those 10 (ten) plots have been sold out by the Government.

Thus, Mr. Md. Bodruddoza, learned Advocate appearing on behalf of the respondents No.7 and 11 argued that the said decision of the Government being a policy decision cannot be challenged in under writ jurisdiction in any form on the plea of any Act of 2000 or Local Govt. (City Corporation) Act, 2009, because, the same provision of law is hit by Article 35(1) of the Constitution of Bangladesh. On the contrary, Mrs. Syeda Rizwana Hasan learned Advocate for the petitioner argued that admittedly, the respondent No. 11 on 01.02.2012 has submitted the "Project Profile" which approved by the Ministry

of Textile and Jute on 29.02.2012. The said Ministry submitted a proposal to the Cabinet Committee of Economic Affairs to establish "Textile Polli" and the Cabinet Division on 27.03.2013 has approved the said proposal. However, neither in the Project Profile nor in the Project proposal to the Cabinet Committee of Economic Affairs have considered or mentioned by concerned authority, the existence of uddyans' playgrounds, open spaces, wetland, or water bodies and pond within the vicinity of the said mills. The policy decision of the Government in favour of the "Textile Polli" merely allows creation of plots and for all valid reasons, has never proposed nor authorized filling up of pond / wetlands in violation of existing laws and judicial order.

We noticed that the protection of the open spaces, udyans, playgrounds and wetlands of the Chittaranjan Cotton Mills is crucial for the safety, comfort and well-being of the dwellers of the over congested City of Narayanganj and for defending their right to life as guaranteed under Article 31 and 32 of the Constitution. The action of respondent No. 11 in purporting to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd. by virtue of the impugned calls for tender being violative of the provisions of the State Acquisition and Tenancy Act, 1950, Act No. 36 of 2000 and the Local Government (City Corporation) Act, 2009, unlawful and

against public interest. Further, the petitioner did not challenge the establishment of "Textile Polli" in the Chittaranjan Cotton Mills Ltd.

In this writ petition, we are not questioning the authority of the respondents relating to the implementation of the policy decision namely the establishment of "Textile Polli" in the Chittaranjan Cotton Mills Ltd. But we are expressing our reservation about the propriety of the decision, the manner of implementation of the decision and its process. There may be situations where the aforesaid decisions are acceptable, but the manner of implementation and its process is unacceptable. The issues raised in this writ petition is that the action of respondent No. 11 in purporting to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd. in violation of existing law. Now, the question is whether or not such manner of implementation of the project namely "Textile Polli" in the Chittaranjan Cotton Mills Ltd is manifestly illegal, arbitrary, unreasonable, malafide or lack of transparency. In the case of *Council of Civil Service Unions vs Minister for the Civil Service* ("GCHQ ") 3 All ER 935, Lord Diplock preferred to use threefold classification of the grounds of judicial review, these are illegality, irrationality and procedural impropriety, this proposition was adopted by the Judiciary in most of the common wealth countries. Lord Diplock in the GCHQ case

used the term of irrationality with *Wednesbury* unreasonableness. *Wednesbury* unreasonableness is evolved in the English case of *Associated Provincial Picture Houses v. Wednesbury Corporation* (1947). In that case, Lord Greene, the Master of the Rolls, described two forms of unreasonableness.

First, unreasonableness can be a general description of a public authority doing things that must not be done, such as not directing itself properly in law by considering matters which it is not bound to consider and taking into consideration irrelevant matters.

Another type of unreasonableness occurs when a public authority does something that is "so absurd that no sensible person could ever dream that it lay within the powers of the authority", as illustrated by the dismissal of a teacher because of her red hair. The latter has now come to be termed as *Wednesbury* unreasonableness.

In our jurisdiction, the principle has been adored in the decision of *Soya-Protein Ltd. vs Secretary Ministry of Disaster Management and Relief* 22, BLD, (2002) HC 378, wherein it is held that:-

*"There is no doubt that the Government can always change its policy and the Courts will not interfere*



*with such change, if made for a better one or for public interest or for some overwhelming reason for which a change of policy had become unavoidable, provided of course, the Government acts fairly and reasonably. In this case, in discontinuing the School Feeding Program, the Government had failed to implement its own policy decision thwarting the legitimate expectation of the petitioner that Government would continue their said program which was solemnly accepted in their policy decision.*

*Still the action of the Government in discontinuing the School Feeding Program cannot be struck down by judicial review unless it can also be shown that such discontinuance was also irrational and unreasonable on the facts and circumstances of the case. This principle of unreasonableness test was propounded in the case of Associated Provincial Picture House Ltd. v. Wednesbury Corporation (1947) 1 KB 223/ (1947) 2, All ER,680"*

Considering the facts and circumstances of the instant writ petition and relevant law, we cannot allow a policy decision to be based on wrong legal premises or violate the fundamental rights guaranteed by our Constitution. Thus, we are of the view that the argument as advanced by the learned

Advocate appearing on behalf of the respondents No.7 and 11 relating to policy decision has no leg to stand.

Learned Advocate Mr. Bodruddoza for the respondents No.7 and 11 further argued that the land of the respondent No.11 is recorded in Daag No. 3523, Khatian No.3 and Mouza-Godnail as 'Beel', but the facts remain that in the S.A. Khatian No.1206 the land was recorded as Mill and also in R.S. Khatian No.03 and R.S. (amended) Khatian No.03 it was shown in R.S. Daag No.3523 as 'Mill' not 'Beel' and in support of his contentions, he provided the copies of the Khatians and other documents as evident as Annexure-6, 6-A, 6-B, 6-C, 6-D, and 6-E respectively. On the contrary, Mrs. Syeda Rizwana Hasan learned Advocate for the petitioner argued that an area of 14.60 acres of land in the Dag No. 3523 is 'Beel' and an area of 10.48 acres of land in the Dag No. 3545 is 'Mill' and there are existence of other uddyans' playgrounds, open spaces and *nal* land within the vicinity of the said mill in C.S. Khatian No.3 under Mouza-Godnail as evident Annexure- H and H-1 to the affidavit-in-reply.

Admittedly, the plot Nos. 14, 15, 16, 17, 18, 19 and 20 are situated in the pond as per the sketch map of "Textile Polli" in the Chittaranjan Cotton Mills Ltd. as evident Annexure-'J' to the affidavit-in-reply. It also appears from the record that the representations of the Mayor, Narayanganj City

Corporation has been seeking for “Management Control” of the natural wetlands, ponds and open spaces of the Mill area have definite legal basis. In the representations of the Narayanganj City Corporations (Annexure “A” and “B” to the writ petition), only “Management and maintenance” of wetlands and open spaces after developing the “Textile Polli” and not ownership was sought. Such representations of the Narayanganj City Corporation have legal basis under Act No.36 of 2000 (an Act that specifically aims to protect open spaces, wetlands and playgrounds of urban local government areas), the Environment Conservation Act, 1995 and the Local Government (City Corporation) Act, 2009 that prohibit filling up of wetlands and conversion of open spaces, and mandate the City Corporation to (i) maintain, manage and recover all wetlands within their jurisdictions and also to (ii) declare, subject to government’s approval, wetlands as public lands. Thus, the representations of the Narayanganj City Corporation seeking approval from the Ministry of Textiles to manage the wetlands and open spaces of the Mills have clear legal basis and indeed became necessary as the Ministry, BTMC and the Mill authorities, negating public use and importance and ignoring legal prohibitions, were attempting to unlawfully fill up the wetlands and sell the filled in wetlands as commercial plots. The respondent Nos. 5, 7 and 11 have no legal authority to convert/approve conversion of the wetlands and open

spaces of the Mill area “in different ways” as the wetlands that are being purported to be converted and sold as industrial/commercial plots, though addressed as “ponds” are actually recorded as “beel” (dag No. 3523, Khatian 3, Mouza-Godnail) and as such, are well protected under the provisions of Act No. 36 of 2000 and also the Environment Conservation Act, 1995 from contrary conversion and arbitrary approval. Act No. 36 of 2000 which does not give exemption to any public authority in converting wetlands and open spaces for contrary purposes; instead, the Act is applicable to open spaces and wetlands that are recorded such as, in government documents. Moreover, it is a constitutional commitment to protect wetland for present and future citizens that cannot be subservient to claims of ownership.

Bangladesh is blessed with unique ecology of river, wetland, water bodies, sea, hills and forests and their natural riches, the unparalleled beauty of which attracts people of both home and abroad. However, the environment of the country is being continuously endangered and threatened by various unplanned activities originating from both private and public sources. Such activities are not only resulting in pollution of our resources but are also threatening the ecology of fragile areas greatly diminishing natural beauty and appeal of ecologically sensitive areas like Narayanganj City Corporation.

Such contamination and derogation of the ecological situation of the significant areas are adversely affecting people's material and spiritual well-being. Amongst the primary causes and sources of such environmental degradation remains the unplanned and unauthorized use of natural resources like uddyans' playgrounds, open spaces, ponds, ditches, water bodies, wetlands and land without considering even the minimum environmental requirements and flouting legal prohibitions. Such an unfortunate state of lawlessness prevails mainly due to the reluctance of the authorities to administer and enforce law at the relevant time, due to their negligence, involvement in the mischief in defiance of law, its lawful authorities and public trust. Due to this reason, the Government enacted the Environment Conservation Act, 1995 and the Environment Conservation Rules of 1997, Act No.36 of 2000 and the Local Government (City Corporation) Act, 2009 to protect our environment. However, the concerned authorities are reluctant to administer and enforce laws relating to environment and we deprecate that kind of propensity of the respondents.

It is evidently clear that the respondent No. 11 as well as other Respondents never performed its legal obligation to protect the uddyans' playgrounds, open spaces, ponds, ditches, water bodies, wetlands for the public interest at large.

Such actions of respondent No. 11 and attempting to justify contrary use of the land in violation the provision of মহানগরী, বিভাগীয় শহর ও জেলা শহরের পৌর এলাকাসহ দেশের সকল পৌর এলাকার খেলার মাঠ, উন্মুক্ত স্থান, উদ্যান এবং প্রাকৃতিক জলাধার সংরক্ষণ আইন, 2000 (Act No. 36 of 2000) and the Local Government (City Corporation) Act, 2009 and other applicable laws are illegal and malafide. Further, the actions of respondent Nos. 5, 7 and 11 are contrary to its own legal mandate which requires protection and maintainance of the uddyans' playgrounds, open spaces, ponds, ditches, water bodies, and wetlands. Thus, we are of the view that the action of the respondent No. 11 to fill up the ponds and ditches of the Chittaranjan Cotton Mills Ltd is illegal and without lawful authority.

Admittedly, as per Act No.36 of 2000 and the Local Government (City Corporation) Act, 2009, the respondent No. 6 Mayor, Narayanganj City Corporation is responsible for the maintenance, management and recovery of all wetlands within its jurisdiction (Schedule-3, item 8 and 25). Local Government (City Corporation) Act, 2009 reads as follows:

৮.১৭ কর্পোরেশন জলাধার আইনের বিধান অনুযায়ী কর্পোরেশনভুক্ত সকল জলাধার রক্ষণাবেক্ষণ ও ব্যবস্থাপনার জন্য দায়ী থাকিবে।

In that view of the matter, we find merit in this writ petition.

In the result, the Rule is made absolute-in-part and the impugned tenders dated 20.04.2013 and 23.04.2013 (Annexure-‘D’ and ‘D-1’ to the writ petition) respectively, issued by the respondent No.11 are hereby declared as illegal, without lawful authority and is of no legal effect. The respondent Nos. 5, 7 and 11 are directed to protect, preserve and control the ‘uddyans’ playgrounds, open spaces, ponds, and ditches and wetlands falling within the land of the Chittaranjan Cotton Mills. The respondent Nos. 5, 7 and 11 are further directed to allow and assist the respondent No.6 to take proper care, management and maintenance of the ‘uddyans’ playgrounds, open spaces, ponds, ditches and wetlands situated at the Chittaranjan Cotton Mills, in accordance with law, without fail.

There is no order as to cost.

Communicate the judgment and order at once.

**Muhammad Mahbub Ul Islam, J:**

I agree.