

Present:

Mr. Justice Mohammad Bazlur Rahman

and

Mr. Justice Md. Ruhul Quddus

Writ Petition No.5683 of 2009

Md. Nazrul Islam

...Petitioner

-Versus-

Bangladesh Bank and others

...Respondents

Mr. Subrata Chowdhury, Advocate

... for the petitioner

No one appears for the respondents

Judgment on 03.06.2013

*Md. Ruhul Quddus, J:*

In this Rule an order of Bangladesh Bank containing Memo No. বৈমুনী-(অবা)/144/478/2003-1489 dated 19.05.2003 issued under the signature of its Assistant Director (herein respondent 3) canceling the petitioner's money changer license has been challenged.

In the writ petition it is contended that the petitioner obtained a money changer license being No. বৈমুনী-(অবা)/144/98/-2433 dated 19.10.1998 from Bangladesh Bank and was carrying business of foreign exchange under the name and style of Jasia Money Changer following the terms and conditions of the license, and the directives of Bangladesh Bank embodied in its various circulars on foreign exchange. At one point of time, Bangladesh Bank by its Memo No. ব্যঃ পঃ বিঃ ২ (এনসিবি-১)/7003/2003-304 dated 29.1.2003 informed the petitioner that an Inspection Team headed by its Deputy Director Mr. Swapon Mitra would inspect his business firm. Accordingly, the Inspection

Team conducted an inspection at his firm on 04.02.2003 and thereafter, the Foreign Exchange Policy Department of Bangladesh Bank cancelled his money changer license and asked him to return the same within ten days by issuing the impugned order dated 19.05.2003. In doing so, the Bank did not serve him with any notice to show cause or give him any opportunity of being heard. In the recital part of the said order the Bank brought allegations, *inter alia*, that the petitioner did not keep any rate board at the place of business; that he issued foreign currency against some expired passports; that he had purchased U S Dollar 5,000/= from one Abdul Hamid (Passport No.P 0688887) on 18.01.2003 without keeping any declaration; that he failed to show the balance amount of foreign currency according to the registrar; and that there was no possibility on his part to achieve the target of transaction of U S Dollar 2,50,000/= as fixed by Foreign Exchange Circular No.03/ 2002.

On receipt of the impugned order the petitioner, without prejudice to his right to challenge the same, stopped his business of foreign exchange and informed Bangladesh Bank that he had submitted the license to Bangladesh Bank for renewal. Thereafter, the petitioner filed an application dated 23.02.2004 to the Governor of Bangladesh Bank denying the allegations made against him in the impugned order and requesting for withdrawal of the same. He filed another application dated 16.03.2004 to that effect, but without any result. In that event he moved Writ Petition No.6503 of 2003 before the High Court Division challenging the impugned order but did not press it as the applications were still pending for consideration. Thereafter, he waited for a long time and after filing one more application, moved in this Court with the instant writ petition and obtained the Rule.

Mr. Subrata Chowdhury, learned Advocate for the petitioner at the very outset submits that the petitioner on obtaining the money changer license from Bangladesh Bank was carrying the business of foreign exchange and did never violate any terms and conditions of the license or any directives of Bangladesh Bank, but all on a sudden Bangladesh Bank cancelled his license without giving him any opportunity of being heard and as such the impugned order is without lawful authority and of no legal effect.

Bangladesh Bank and its officials are made respondents in the present writ petition, but no one has appeared to controvert the facts placed in the writ petition.

We have considered the submission of Mr. Chowdhury and gone through the record. The writ petitioner annexed photocopies of four passports [annexes: D to D (3)] to controvert the allegations regarding issuance of foreign currency against three expired passports and purchase of U S Dollar 5,000/= from one Abdul Hamid without keeping any declaration. In the applications [annexes: C (2) and C (4)] the petitioners denied the allegations made in the impugned order and gave explanations thereto.

We have also consulted the foreign exchange circulars and the guidelines for foreign exchange transactions, volume-1 published by Bangladesh Bank. It appears from clause 11, chapter 1 of the guidelines that Bangladesh Bank may not consider any prayer for renewal unless the volume of transaction in the previous year exceeds the threshold amount fixed by Bangladesh Bank from time to time. In the impugned order there is no such allegation that the petitioner's firm had failed to achieve the target,

but on speculation that there was no possibility on its part to achieve the target, cancelled the license.

However, since the petitioner did not press his earlier writ petition on the ground of pendency of the said applications which he filed for withdrawal of the impugned order, we are also not inclined to give a decision on merit in the present writ petition as those applications are still pending. Under the circumstances, we think it just and proper that the applications filed by the writ petitioners should be disposed of first.

Accordingly, the Rule is disposed of. The respondents (Bangladesh Bank and its concerned officials) are directed to dispose of the applications dated 23.02.2004 and 16.03.2004 filed by the writ petitioner Md. Nazrul Islam, Proprietor, Jasia Money Changer [annexes:- C (2) and C (4) respectively ] within three months from receipt of this judgment.

Mohammad Bazlur Rahman. J:

I agree.