

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

Writ Petition No. 9188 of 2016

In the matter of:

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

-And-

In the matter of :

Md. Mamunur Rashid Mamun

.....Petitioner

-Versus-

Government of People's Republic of Bangladesh,
represented by the Secretary, Ministry of Local
Government & Rural Development, Bangladesh
Secretariat Building, Ramna, Dhaka-1000 and
others

.....Respondent

Mr. A.B.M. Altaf Hossain, Advocate

.....For the petitioner.

Mr. Nawroz Md. Rasel Chowdhury, D.A.G. with
Mrs. Afroza Nazneen Akther, A.A.G with
Mrs. Anna Khanom (Koli), A.A.G with
Mr. Al Mamun, A.A.G

..... For the respondent-government.

Judgment on 6th day of November, 2023.

Present:

Mr. Justice Md. Jahangir Hossain

And

Mr. Justice SM Masud Hossain Dolon

In this application under article 102 of the constitution, the Rule
was issued on 28.07.2016 in the following terms:

“Let a Rule Nisi issued calling upon the respondents to
show cause as to why the letter vide No.

17.00.8421.035.46.199.14-355 dated 16.06.2016 issued under the signature of respondent No. 04 holding inquiry in respect of irregularities of Ward No. 3 of No. 4 Bhushonchara Union Parishad, Upazila-Barkal, District- Rangamati Hill District in violation of the Spirit of Local Government (Union Parishad) Act, 2009 and Local Government (Union Parishad) Election Rules, 2010 (Annexure-A) should not be declared to have been issued 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.”

It is stated in the writ petition that in the Union Parishad election-2016 held on 04.06.2016. The present petitioner was elected and declared as Chairman of Bhushonchara Union Parishad but his name was not published in the Bangladesh gazette dated 16.06.2016. As such he rush to the election commission and came to know that his name was not published in the gazette. Due to the order passed by the High Court Division in writ petition No. 7528 of 2016 ultimately challenging the order the petitioner filed Civil Petition for leave to appeal No. 2383 of 2016 before the appellate division and obtain an order of stay on 24.07.2016 from the hon'ble Chamber Court in appellate division.

Afterwards the petitioner submitted an application along with the certified copy of the order dated 24.07.2016 of the hon'ble Judge in chamber requesting the election commission to passed gazette notification in incorporating his name as Chairman.

However, the election commission without taking any step for publication of the gazette vide letter No. 17.00.8421.035.46.199.14-355 dated 16.06.2016, started inquiry in to the allegation made by the defeated candidate who filed the writ petition No. 7528 of 2016.

Under such circumstances the petitioner filed the instant writ petition by challenging the letter dated 16.06.2016 and obtain the Rule on 06.10.2016.

The learned Advocate Mr. A.B.M. Altaf Hossain appearing on behalf of the writ petitioner at the outset produced a copy of Bangladesh gazette and thereby submits that the election commission published gazette notification on 11.12.2016 in incorporating the name of the petitioner as Chairman of Bhushonchara Union Parishad. On the basis of the same the petitioner took oath as per law on 12.12.2016 and since then he has been discharging his duties as Chairman.

Accordingly the learned Advocate submits that the tenure of the Chairman of Bhushonchara Union Parishad as already expired and as such there are remains noting to adjudicate in this Rule. As such the Rule may be discharged for infructuous.

We have perused the documents placed by the petitioner. It reveals that the petitioner has already taken the oath as Chairman of the Bhushonchara Union, Upazilla-Barkal, District- Rangamati and by now the period of the post of Chairman has expired.

Considering as whole, we are also of the view that since the petitioner has taken oath as Chairman, so, the Rule has become infructuous.

As such, the Rule is discharged as being infructuous.

Communicate the order at once.

Mr. Justice SM Masud Hossain Dolon

I agree