

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

Writ Petition No. 10644 of 2016.

In the matter of:

An application under article 102 (2) of the
Constitution of the People's Republic of
Bangladesh.

-And-

In the matter of:

Mahbub-E-Sobhani

..... Petitioner

-Versus-

Khulna University, Khulna represented by
Vice Chancellor and others.

. . . respondents.

Mr. Md. Shah Alam Sarker, Advocate

. . . For the petitioner.

None appears

. . . For the respondents.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard on 06.03.2024 and Judgment
on 12.03.2024.

J. B. M. Hassan, J.

The petitioner obtained the Rule Nisi in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why memo No. খ্রি/প্রশা-১০৫/৯৫-৬৭৭ dated 01.06.2016 (Annexure-D) issued under signature of the Registrar (in Charge) of Kunlna University pursuant to the decision of the Syndicate meeting No. 185 dated 14.05.2016 downgrading the petitioner to the post of Assistant Professor from the post of Associate Professor should not be declared to have been issued without lawful authority and of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Relevant facts leading to issuance of the Rule Nisi are that the petitioner was Associate Professor of Biotechnology and Genetic Engineering Discipline under Khulna University and very popular to his students due to his expertise and quality teaching. He has preferred this writ petition challenging the memo No. খুবি/প্রশা-১০৫/৯৫-৬৭৭ dated 01.06.2016 (Annexure – D to the writ petition) issued under signature of the Registrar (in charge) of Khulna University pursuant to the decision of the syndicate meeting no. 185 dated 14.05.2016 downgrading him to the post of Assistant Professor. The Registrar-in charge of the Khulna University (respondent no. 4), under instruction of the authority, called for explanations from the Head of Biotechnology and Genetic Engineering Discipline by memo no. খুবি/ প্রশা-১০৫/৯৫-১৬৫৯ dated 30.12.2015 as to why class of BGE-1207, Sec - A, 15th Batch had not been started. By the said memo the respondent no. 4 also sought information about the concerned teacher along with his post and whereabouts. After receiving the said memo, the Head of Biotechnology and Genetic Engineering Discipline asked the petitioner to talk to him. Then the petitioner submitted a written explanation to the Head of Biotechnology and Genetic Engineering Discipline on 04.01.2016 detailing the fact. The Head of Biotechnology and Genetic Engineering Discipline replied to the memo (dated 30.12.2015) of the Registrar-in charge on 12.01.2016 along with said written explanation of the petitioner. The Registrar-in charge then by memo no. খুবি/ প্রশা-১০৫/৯৫-১৫৮ dated 02.02.2016 constituted a 3-Member Inquiry Committee headed by Professor Dr. Sheikh Md. Rozikul Islam, Bangla Language and Literature Discipline to submit a report after scrutinizing the

explanation of the Head of Biotechnology and Genetic Engineering Discipline and reply of the petitioner. The said committee by a letter dated 11.02.2016 asked the petitioner to appear before it on 14.02.2016 at 12:00 pm. Accordingly the petitioner appeared before the inquiry committee and replied to the query of the committee in writing. But the said committee did not allow the petitioner to keep a copy of his reply with him. Though no allegation of negligence was found through the aforesaid inquiry, but the Registrar (in charge) of Khulna University pursuant to the decision of the syndicate meeting no. 185 dated 14.05.2016 issued an order under memo no. খুবি/ প্রশা-১০৫/ ১৫-৬৭৭ dated 01.06.2016 downgrading the petitioner to the post of Assistant Professor from the post of Associate Professor. The petitioner, after receiving the said impugned order, became very surprised and shocked. Then he made a written representation to the Registrar-in charge on 09.06.2016 rebutting the allegation of negligence against him with a request to ascertain the truth. But the Registrar-in charge took the said representation of the petitioner negatively and cautioned him by a letter dated 28.07.2016 not to make such representation in future.

In this backdrop, the petitioner filed this writ petition and obtained the present Rule Nisi.

Mr. Md. Shah Alam Sarker, learned Advocate for the petitioner submits that no notice was served upon the petitioner before taking the impugned action and as such, the impugned order suffers from violation of section 51(4) of the খুলনা বিশ্ববিদ্যালয় আইন, ১৯৯০ (the Act, 1990).

None appears to represent the respondents when the matter is taken up for hearing.

It appears that while the petitioner was Associate Professor a proceeding was initiated against him and the petitioner was asked to file written explanation. Accordingly, the petitioner filed written statements and an enquiry committee was constituted by the memo dated 02.02.2016. The enquiry committee after conducting enquiry and also considering explanation of the petitioner submitted report on 12.05.2016 on the basis of which the impugned action was taken. In the circumstances, we do not find any illegality in the impugned action.

Hence, the Rule is Rule Nisi is discharged without any order as to costs.

Communicate a copy of this judgment and order to the respondents at once.

Razik Al Jalil, J

I agree.