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

Writ Petition No. 11828 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:

Abdul Baset Majumder, being dead, his legal heirs:

1. Mossammat Rowshan Jahan Meherunnesa, wife of late Abdul Baset Majumder
2. G.M. Kader
3. Fatima Akter
4. Khadiza Akter Jhuma
5. M. Sayed Ahmed, all are sons and daughters of late Abdul Baset Majumder

….Petitioners

Versus

Rajdhani Unnayan Kartripakkha (RAJUK), represented by its Chairman, 1 RAJUK Bhaban, RAJUK Avenue, Motijheel, Dhaka-1000 and others

….Respondents

Mr. Zainul Abedin, Senior Advocate, with
Mr. M. Sayed Ahmed, Senior Advocate,
Mr. Md. Tazul Islam, Advocate,
Mr. Zillur Rahman, Advocate,
Mr. Md. Abdullah Al Mamun, Advocate, and
Mr. Md. Saiful Bahar Mazumder, Advocate

….For the Petitioners

Mr. Md. Imam Hasan, Senior Advocate, with
Mr. Md. Shahinul Islam, Advocate

….For the Respondent Nos. 1-3

No one appears

….For the Respondent No. 7

Mr. Md. Bodruddoza, Senior Advocate

….For the Respondent No. 8

Present:
Mr. Justice Md. Iqbal Kabir
And
Mr. Justice S M Saiful Islam

Judgment on 08.09.2026.

Md. Iqbal Kabir, J:

This Rule Nisi, under adjudication, was issued on 07.09.2016, in the following terms:

> “Let a Rule Nisi issue calling upon the Respondents to show cause why the purported allotment of Plot No. 24, Road No. 11, Block-D, Banani, Dhaka by Respondent No. 1 should not be declared to have been made 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.”

Short facts narrated for the disposal of the Rule are that the Petitioner's wife was the owner of the land adjacent to the plot in question which is under challenge. The Petitioner resides therein with uninterrupted possession thereof. The demised plot, which is adjacent to the petitioner's plot, had been in the possession of one employee of WASA since the time the petitioners took possession of their plot and created a semi-pucca structure on the demised plot. According to the petitioner, in late 1990 the said pump was shifted to the nearby vacant land. The respondent had never given allotment of the demised plot to anyone before. In the years 2000 to 2005, the said WASA employee developed some shops thereon, against which the WASA employee received multiple notices from the Respondent No. 1 asking him to show cause as to why he should not be evicted from the demised plot. However, at one stage, the WASA employee claimed they purchased the land from one Pakistani person and continued in possession of the demised plot, in which, to the petitioners' knowledge, they were not lessees of the Respondent No. 1 for all intents and purposes. However, during their possession, the Respondent No. 1 purported to allot the same to one Md. Zaiul Hoque Zia in place of another plot. Against which Mohammad Ali Khan filed a title suit praying for declaration that the allotment of the demised plot to one Md. Zaiul Hoque Zia by RAJUK is illegal, void, and also prayed for permanent injunction. However, in February 2015, the petitioner learned that the heirs of said Mohammad Ali Khan compromised and handed over the land to the attorney holder of Md. Ziaul Hoque Zia. He has taken the initiative to construct a multi-storey building therein. In the above circumstances, the petitioner came to know the facts of the nature of allotment, and from the record it appears that the demised plot has been allotted as Bikalpo Plot by RAJUK decision No. 07/2006 under memo No. 9193 dated 14.12.06. It was apprehended that the entire process of the allotment of the demised plot is an exclusive one and Ziaul Hoque Zia is a fictitious person, falsely represented by a Power of Attorney holder whose appointment was accepted by RAJUK. However, after the demise of the petitioner, the present petitioner No. 1, being his successor and lawful heir, states that he has been residing therein for more than 3 decades, throughout which the plot in question remained as open space, with part of it being used by WASA for a pump and tin

shed, semi-pukka accommodation for the pump operator and his family. However, this open space and structure were suddenly removed in 2015, and it appeared to have been occupied by private entities. However, he came to learn that the demise plot has been allotted as Bikalpo Plot by RAJUK. The entire process of allotment is illegal, mala fide, and void inasmuch as under the Rules of RAJUK there cannot be any Bikalpo allotment; further, there is no Rule or nitimala for giving Bikalpo Allotment to anyone. According to him, said plot was allotted in violation of the RAJUK laws and rules, and thereby anyone, including the petitioners, can bring those illegalities and fraudulent activities.

It is at this juncture that the petitioners, being aggrieved and dissatisfied, bring this writ petition wherein this Court issued Rule and interim order.

Mr. M. Sayed Ahmed, learned Senior Advocate in person on behalf of the petitioner, contends that the impugned allotment of the demised plot in favour of Md. Ziaul Hoque Zia was made without lawful authority, as the applicable rules contain no provision permitting such "বিকল্প প্লট" (alternative allotment). According to him, neither any rule nor any Nitimala (policy/guideline) authorizes the allotment of a Bikalpo Plot to any person, and, therefore, the impugned allotment is liable to be declared void. According to the petitioner, before allotting the open space in question as a residential plot, the said open space was required to be duly converted into a residential plot in accordance with law. Moreover, no public notification or tender was issued for the allotment, though the concerned authority was required to issue a notification and invite a tender in accordance with the law before making such allotment. He further alleges that the allotment process was neither transparent nor lawful and may have involved collusion. The petitioner also claims that, as the owner and possessor of an adjoining plot, he had a legitimate expectation of being considered for allotment. He contends that his exclusion was unfair, made in bad faith, and contrary to the principles of legitimate expectation. His deprivation thereof, according to him, is illegal, since the doctrine of legitimate expectation requires a public authority, while exercising its administrative discretion, to act fairly and justly and to take into consideration the relevant factors giving rise to such expectation.

Relying upon the decision reported in 53 DLAR (AD) 79, he submits that an open space earmarked for and enjoyed by the allottees of a planned township cannot lawfully be converted into a residential plot. According to him, the open space in question was converted into a residential plot and allotted to respondent No. 7 by practicing fraud and in violation of the procedure prescribed under laws and regulations. He claims that the petitioner has

sufficient interest in the subject matter of the dispute and is a person aggrieved within the meaning of Article 102 of the Constitution. He further submits that the petitioner has an interest in protecting the rights and interests of the general people of the country and, having sufficient interest in the matter in dispute, is entitled to maintain an action for judicial redress against a public injury arising from the breach of a public duty or violation of any provision of the Constitution or law, and to seek enforcement of such public duty and observance of such constitutional or legal provisions.

He submits that lawyers are conscious citizens of the country and, being officers of the Court, are naturally aggrieved by any unlawful act affecting the public interest. A lawyer can, bona fide, come forward before the Court of law seeking redress of a grievance of a public nature for the benefit of the public, rather than for any personal gain. In this case, fraud or illegality committed by a statutory agency, that being the position, the petitioner, being an officer of the Court, had a duty and responsibility to bring it to the notice of the Court. As a citizen of the country, he was also under a duty to disclose such acts of fraud or illegality before the Court.

He further submits that the petitioner had no personal interest or benefit in filing the instant writ petition and that the petition was not instituted for any personal gain. Rather, being a neighbor and the owner of an adjacent plot, he approached the Court bona fide for the protection of the rule of law and to prevent any illegal or fraudulent act on the part of any Government agency.

The successor of the original petitioner, namely, petitioner No. 1, is likewise seeking redress against the alleged wrongs committed by the respondents in the allotment, creation and mutation of the plot in question. In moving the instant writ petition, petitioner No. 1 is not pursuing any personal gain or acting with any oblique motive; rather, it is a bona fide endeavor to bring to the notice of this Court the alleged violation of the applicable laws and regulations in the allotment, creation and mutation of the said plot.

According to him, an act done unlawfully and without following the due process of law cannot confer any lawful right, title or interest upon a subsequent person deriving title therefrom.

However, by an application, the petitioner obtains a supplementary Rule thereby challenging some other memos and lease agreements.

Mr. Md. Bodruddoza, learned Senior Advocate on behalf of the Added Respondent No. 8, by filing an affidavit-in-opposition denied the material assertions made in the application and opposed the Rule and contended, inter alia, as follows:

Respondent No. 7, namely Mr. Md. Ziaul Haque Mian, submitted an application to RAJUK through Form No.50 dated 26.08.1993 along with US$.7555.00 by way of FDD No. ABD-019678 dated 19.08.1993 for provisional allotment of a plot. RAJUK, on 20.09.1994, in the daily newspaper, namely Daily Bangla, published and disclosed the names of persons who had been provisionally selected for allotment of land in Gulshan and Banani. The name of the Respondent No. 7, i.e Mr. Md. Ziaul Haque Mian, appears at Serial No. 31. At that relevant time, said Mr. Md. Ziaul Haque Mian was working under Gulf Air Apartment Company in the United Arab Emirates (UAE) and was residing in the UAE. However, RAJUK, by an allotment letter under Memo No. RAJUK/ ESTET/108/ Stha dated 16.11.1995 allotted Plot No. 26, Road No. 23 in Gulshan Residential Area in favour of Respondent No. 7, measuring 5 (five) kathas of land, and asked him to pay the consideration amount upon adjustment with the initial deposit. Respondent No. 7 deposited the consideration amount in favour of the Chairman, RAJUK, vide UCB Pay Order No.645675 dated 29.02.1996 and filed an application for the handover of physical possession. Further, on 18.07.1999 and 03.07.2001, he filed with the Chairman, RAJUK, to hand over the physical possession of this allotted plot or, in the alternative, to allot an alternative plot to him. RAJUK, vide Memo No. RAJUK Estate/ 1361/ Stha dated 20.04.2002 informed the said Mr. Md. Ziaul Haque Mian that the physical possession of the said plot allotted to him cannot be handed over to him till finalization of the layout plan of Gulshan Lake. For the same reason, the application of the said Mr. Mia for allotment of an alternative plot could not be considered by RAJUK. He also, by a letter dated 06.08.2002, requested the Secretary, Ministry of Housing, and by another letter dated 20.11.2002 requested the Chairman, RAJUK, to hand over the physical possession of his plot.

The handover of the said plot having been delayed by RAJUK, therefore, respondent No. 7, vide its application dated 18.03.2004, applied to the office of the Hon'ble Prime Minister seeking justice for getting handover of possession of the said plot. In response to that letter office of the Prime Minister vide Memo No.62.55.03.00.00.01.2004-530 dated 24.04.2004 directed the Secretary, Ministry of Housing as well as Chairman of RAJUK for taking necessary steps to handover the possession of the said plot to the respondent No. 7. At one stage he vide letter dated 12.05.2004 requested the Chairman, RAJUK to allot an alternative plot in Uttara since RAJUK is not handing over the possession of his allotted plot in Gulshan and RAJUK took such initiative. However, RAJUK vide Memo No. RAJUK/ Estate/9193/ Stha dated 14.12.2006 allotted Plot No.

24, Road No. 11, Block D, Banani, Dhaka, measuring 4 katha 15 chatak 36 square feet to respondent No. 7 as an alternative plot. The alleged memo dated 14.12.2006 also claimed that the consideration price of the said plot would be adjusted against the deposit made by him for the earlier plot. Thereafter, RAJUK executed a Lease Agreement for Residential Land in favour of the Respondent No. 7, being registered Lease Deed No. 27893 dated 18.12.2006.

At one stage, Respondent No. 7 appointed Mr. Md. Mesbah Uddin Khan as his constituted attorney in respect of the disputed plot through a registered Irrevocable Power of Attorney dated 18.12.2006. RAJUK subsequently recognized Mr. Md. Ziaul Haque Mian as the allottee of the plot and took steps to remove illegal occupants. At the direction of RAJUK, the constituted attorney deposited the eviction cost of Tk.70,000. The illegal occupants, heirs of late Mohammad Ali Khan, filed Title Suit No. 378 of 2009 challenging the allotment in favour of Mr. Md. Ziaul Haque Mian and sought an injunction. Although the trial court initially granted an injunction, the Additional District Judge later set it aside. The suit was ultimately withdrawn following a compromise between the parties. Thereafter, Mr. Md. Ziaul Haque Mian mutated his name in the relevant records and obtained an additional 1.97 kathas of land from RAJUK after making the required payment. RAJUK executed a registered lease deed in respect of the additional land. In 2015, with RAJUK's prior permission, Mr. Md. Ziaul Haque Mian transferred the plot to Mr. Md. Atiq Ullah. RAJUK and the Assistant Commissioner (Land) subsequently mutated the plot in Atiq Ullah's name. He obtained permission to use the plot for non-residential purposes and approval for construction of a building. The writ petitioner thereafter challenged the allotment process and requested RAJUK to stop approving any construction plan. Despite this, RAJUK permitted Atiq Ullah to transfer the plot to Elegant Washing Plant Limited, and the transfer was completed by a registered sale deed dated 15.10.2015. The company was subsequently mutated as the owner/transferee, and RAJUK's Authorized Officer approved a plan for construction of a 10-storied building on the plot. From the sequence of facts detailed above, it is crystal clear that the respondent No.8 has acquired absolute right, title and interest over the said plot in a lawful manner. Therefore, the Rule issued in the writ petition has no merit to stand, and hence the same is liable to be discharged with costs for ends of justice.

Mr. Md. Bodruddoza, learned Senior Advocate, submits that, before the initiation of the allotment process, the petitioner had neither expressed any desire nor shown any interest in obtaining the subject land. It was only after completion of the allotment process that, by way of a representation, the

petitioner claimed that, being the owner and resident of the adjoining plot, his wife had a legitimate expectation to seek allotment of the subject plot. He contends that such a belated objection lacks bona fides and appears to be a retrospective attempt to obstruct a lawful administrative process without any prior basis or foundation.

It is further submitted that the petitioner had not paid any consideration or otherwise taken any step demonstrating a legitimate or enforceable interest in the subject land. In the absence of any financial, contractual, or other legal commitment in respect of the land, the petitioner has acquired no vested right, enforceable claim, or *locus-standi* to challenge the allotment process.

He submits that, according to the petitioner's own case, a WASA employee initially constructed a semi-pucca structure on the demised plot and possessed the same, although the respondent had never previously allotted the said plot to anyone. Between 2000 and 2005, the said WASA employee developed some shops on the plot. However, the petitioner claims that the designated plot is an open space. According to the respondent, such contention is factually incorrect, as the subject plot was never designated as an open space, public park, green belt, or common utility area. Rather, it is a disposable piece of land eligible for allotment under the governing rules and regulations. The respondent further submits that the plot had already been earmarked as a separate plot from the inception of the creation of Banani R/A and, therefore, its allotment does not contravene any zoning law, public-interest doctrine, or community right to confer upon a neighboring landowner any legally enforceable ground to feel aggrieved.

Further, mere status as an adjacent landowner or neighbor does not, by itself, confer any legal right upon a person to object to, restrain, or interfere with the lawful disposal or allotment of government land or land under the authority's control. A neighbor cannot claim any right to, or exercise a veto over, an allotment unless such right is specifically conferred by statute or any other applicable law. He submits that, to maintain an application, a person must establish that he has a personal or individual right in the subject matter of the proceeding and that such right has either been infringed or is under a real and imminent threat of infringement. The petitioner, therefore, is required to demonstrate direct legal injury or infringement of any legal or constitutional right. Since the subject land is neither a public open space nor does the petitioner have any proprietary, possessory, or other legally enforceable interest therein, the petitioner cannot be regarded as an aggrieved person in the eyes of

law. His objection is, therefore, merely speculative, vexatious, and devoid of any legal merit.

Mr. Md. Imam Hasan, learned Senior Advocate appearing for respondent Nos. 1-3 entered appearance by filing an affidavit-in-opposition, thereby denying the material assertions made in the application. However, upon placing the relevant facts before the Court at length, he endorsed the submissions made on behalf of respondent No. 8. He further submits that the petitioner has no *locus standi* to maintain the instant application and that the respondents lawfully allotted the land in question to respondent No. 7, who subsequently transferred the same.

Mr. Aminul Hoque, learned Advocate on behalf of Respondent No. 7, entered appearance by filing an affidavit-in-opposition but did not remain present. However, from the affidavit it appears that RAJUK executed a registered Lease Deed dated 18.12.2006 in favour of Respondent No. 7, who subsequently obtained an additional 1.97 kathas of land from RAJUK upon payment of the requisite consideration and obtained a registered lease deed in respect thereof. With the prior approval of RAJUK, Respondent No. 7 transferred the plot to Mr. Md. Atiq Ullah in 2015, whose name was duly mutated by RAJUK. Thereafter, with RAJUK's permission, Mr. Atiq Ullah transferred the plot to Elegant Washing Plant Limited by registered Sale Deed dated 15.10.2015. The company was subsequently mutated as transferee, and RAJUK approved its plan for construction of a 10-storied building. Thus, the record shows that the right, title and interest in the plot passed through successive transactions with the approval and recording of the competent authority. The petitioner challenged the said transactions in 2016, and the Rule was issued in 2017.

We have heard the learned Advocate for the parties and perused the application, affidavit-in-opposition, supplementary affidavit, other materials and examined the documents annexed thereto along with the cited decisions given by the parties before us.

It is pertinent to note that the petitioner earlier claimed that respondent No. 7 was a fictitious person and that the appointment of his power-of-attorney holder had been accepted by the authority. This issue has already been settled by a Division Bench vide its order dated 29.06.2021, which held that respondent No. 7 is not a fictitious person.

It transpired that respondent No. 7 applied for allotment of a plot pursuant to the notification published in 1993 and was provisionally allotted a plot in 1995, for which part payment was made. Subsequently, on 14.12.2006,

he was allotted an alternative plot as RAJUK was unble to handover earlier one. The respondents contend that no fresh notification or tender was necessary, as the alternative allotment was made instead of the previously allotted plot. Although no specific rules have been framed governing such allotment, the respondents contend that, by virtue of sections 101 and 40 of the Town Improvement Act, 1953, the Board is vested with the statutory authority to make such allotment (Authority 7 BLC (AD) 304.

It is at this juncture the moot question before us is whether the petitioners have any *locus-standi* to file the writ petition, and whether the petitioners are aggrieved persons under the present scenario.

Upon hearing, it appears that the petitioner, by way of representation, contended that his wife, being the owner and resident of the plot adjoining the subject land, had a legitimate expectation to seek allotment of the plot in question. However, the petitioner himself has failed to demonstrate any ownership, contractual entitlement, financial commitment, or other legally cognizable interest in the subject land. The mere ownership and residence of his wife in the adjoining plot, even if accepted, does not confer upon the petitioner any vested or enforceable right in respect of the subject land. Furthermore, the objection raised by the petitioner at such a belated stage, without any demonstrated prior legal or contractual foundation, appears to have been made only to obstruct the ongoing administrative process. In the absence of any other legally cognizable interest in the subject land, the petitioner has failed to establish an independent *locus-standi* to challenge the impugned allotment.

Further, the case of the petitioner was that the subject plot is an open space. However, the petitioner himself states that a WASA employee has been occupying the plot and has constructed a semi-pucca structure thereon. It is further stated that the respondent had not previously allotted the subject plot to any person and that, during the period from 2000 to 2005, the said WASA employee developed shops on the plot. From the aforesaid facts, however, it appears that the subject plot was not designated as an open space, public park, green belt or common utility area. Rather, according to the respondent, including RAJUK, the plot is a disposable piece of land eligible for allotment under the governing rules and has been earmarked as a plot for a long time. In such circumstances, the allotment of the subject plot does not, on the materials placed before the Court, appear to contravene any zoning restriction or otherwise affect any public interest or community right to confer upon an adjoining neighbor a legally enforceable ground of grievance.

Lastly, it was argued that, being a lawyer, the petitioner (M. Sayed Ahmed) has a duty to uphold and comply with the law. According to the petitioner, M. Sayed Ahmed, the entire allotment process is unlawful, since the applicable rules and regulations of RAJUK do not contemplate or permit any “Bikalpo allotment”. He further contended that there is neither any statutory provision nor any Nitimala authorizing RAJUK to make such an allotment in favour of any person. Accordingly, it was submitted that the impugned allotment, having been made without any lawful authority or supporting legal framework, is liable to be declared void.

However, the aforesaid contention, by itself, does not confer locus standi upon the petitioner. Mere status as an advocate or association with a lawyers’ association does not entitle a person to challenge every administrative action in the guise of public interest. The petitioner has not shown any prior involvement in public-interest litigation or any other material establishing a recognized public-interest function. His activities for the welfare of advocates, without more, do not create a sufficient legal interest in the allotment in question. Accordingly, the petitioner cannot maintain the present challenge merely on the ground of his concern for compliance with law. The petitioner’s status as a lawyer, by itself, does not confer upon him an unrestricted right to challenge every action taken by a public authority. Although an advocate has a professional duty to respect and uphold the law, that general duty does not, by itself, establish a sufficient legal interest or *locus-standi* to institute proceedings against an administrative decision. In the present case, the petitioner has not shown that he has any personal, proprietary, or legally recognizable interest in the allotment made by RAJUK. Accordingly, even if the petitioner raises a question concerning the legality of the “Bikalpo allotment” and contends that RAJUK acted without lawful authority, the existence of an arguable legal issue does not dispense with the requirement of *locus-standi*. A person cannot acquire standing merely by virtue of being an advocate or by asserting a general duty to uphold the law. In the absence of a demonstrated personal legal interest or circumstances sufficient to establish genuine public-interest standing, the petitioner cannot maintain the challenge merely in his capacity as a lawyer.

Initially, the petitioner claimed that the plot has been allotted to a fictitious person, thereafter asserting a right to seek allotment or purchase of the subject plot based on his ownership of the adjacent property, thereby treating the subject land as property capable of private allotment. Subsequently, however, the petitioner took the contrary position that the subject land is an “open space” or public utility area which cannot lawfully be privately allotted or transferred.

Thereafter, the petitioner sought to recast the dispute as one of public interest by relying upon his professional status as an advocate and raising alleged procedural irregularities in the allotment process. Such successive and inconsistent reasons substantially undermine the legal foundation of the present challenge. In the context, it is a settled principle that a litigant cannot ordinarily be permitted to approbate and reprobate in the same proceedings. The petitioners' objections appear to be speculative and raised as an afterthought, rather than in assertion of any genuine and enforceable legal right. The petitioner cannot, on the one hand, assert a personal interest in the subject land as an adjacent owner and, on the other hand, contend that the same land is incapable of private allotment to invalidate an allotment made in favour of another person. The successive alteration of the petitioner's position also raises a serious question as to whether the present challenge is founded upon any subsisting legal right or enforceable interest of the petitioner(s).

His claim of a personal right to acquire the subject land as an adjacent owner is inconsistent with his simultaneous assertion that the land constitutes a public open space. Moreover, his claim of public-interest standing is weakened by his asserted personal interest in acquiring the very property in question. His status as a lawyer, by itself, does not confer any independent or generalized right to challenge the impugned allotment. Thus, none of the grounds relied upon by the petitioner establishes a direct and legally enforceable interest in the subject land. His mutually contradictory pleas further erode the credibility of the position asserted by him, as the law does not permit a litigant to approbate and reprobate or to adopt inconsistent stands to suit his convenience.

In the instant case, the petitioner has failed to establish any direct and enforceable legal right in respect of the subject property. His inconsistent stands and failure to demonstrate any lawful *locus-standi* materially affect the maintainability of the writ petition. In the absence of a legally enforceable right, the petitioner is not entitled to invoke the extraordinary jurisdiction of this Court. Such matters are to be determined before the appropriate forum in accordance with law. Therefore, the writ petition is not maintainable at the instance of the present petitioner for want of *locus-standi*.

In light of the above facts and discussion, we are of the view that there is no necessity to enter into the merits of the case. In the present case, Mr. Sayed Ahmed has failed to establish any legal interest or enforceable right to be aggrieved in the subject plot and, that being the positon petitioners have no *locus-standi* to maintain the writ petition. On this ground alone, the Rule is discharged.

The order of direction granted at the time of issuance of the Rule is hereby recalled and vacated.

There are no other costs.

Communicate the order.

S M Saiful Islam, J:

I agree.