

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

Writ Petition No. 13597 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:

Rainbow Guest House

..... Petitioner

-Versus-

Government of Bangladesh represented by
the Secretary, Ministry of Energy and
Mineral Resources and others.

.. Respondents.

Mr. Ashfaqur Rahman, Advocate

.. For the applicant-respondent No.3.

None appears

... For the petitioner.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

The 15th May, 2024

This is an application for discharging the Rule Nisi.

The writ petitioner is the consumer of gas fuel from the Jalalabad Gas Transmission and Distribution System Limited taking gas line in its establishment. During enjoyment of gas connection, the respondent gas company issued impugned letter asking to disconnect the Geyser line (Water Heater) from the petitioner's Hote1. Challenging the said letter the petitioner filed this writ petition and obtained the present Rule Nisi.

Mr. Ashfaqur Rahman, learned Advocate appearing for the applicant-respondent-gas company at the very out set has drawn our attention to

section 40 of the Bangladesh Energy Regulatory Commission Act, 2003 and the regulation 3 of the Bangladesh Energy Regulatory Commission Dispute Settlement Regulations, 2021 which runs as follows:

“40. Arbitration - Settlement by the Commission—

(1) Notwithstanding anything contained in the Arbitration Act, 2001 (Act No. 1 of 2001) or any other Act, any dispute arising between the licencees, or licencees and consumers, shall be referred to the Commission for its settlement: Provided that a contract, executed between the Government or any of its agency and a private company, in respect of energy, immediate before this Act comes into force, the conditions of the said contract shall be applicable for the settlement of the disputes.

(2) Commission as an arbitrator may, suomoto, take steps and award adjudication of a dispute or appoint arbitrator for settlement of dispute.

(3) Methods and procedures for the said settlement shall be specified by regulations.

.....”

Regulation No.3 of “বাংলাদেশ এনার্জি রেগুলেটরি কমিশন বিরোধ নিষ্পত্তি প্রবিধানমালা,” ২০২১ are as follows:

“৩। বি-রাধীয় বিষ-য় আ-বদন দাখিল।-(১) লাই-সন্সি-দর ম-ধ্য অথবা লাই-সন্সি এবং ভোক্তাদের ম-ধ্য উদ্ধৃত কোন বিরোধ নিষ্পত্তির জন্য আই-নর ধারা ৪০ এর অধীন কমিশন বরাবর লিখিত আ-বদন দাখিল করা যাই-ব।

(২) আ-বদ-নর সহিত তফসিল-ক দ্বারা নির্ধারিত ফরম্যাট নিম্নবর্ণিত তথ্য-উপাত্ত ও অন্যান্য প্র-য়োজনীয় দলিলাদি দাখিল করি-ত হই-ব, যথাঃ-

.....”

In view of above legal provisions, we are of the view that the petitioner’s remedy lies before the Energy Regulatory Commission and hence the writ petition is not maintainable having the alternative forum under the statute.

Hence, the application is allowed.

Resultantly, **the Rule is discharged without any order as to costs.**

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