

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 16748 OF 2017

In the matter of:

An Application under article 102 of the
Constitution of the People's Republic of
Bangladesh.

And

In the matter of:

Professor Dr. S.M. Iqbal Hossain

... Petitioner

-Versus-

Government of the People's Republic of
Bangladesh, represented by the Secretary Ministry
of Education, Bangladesh Secretariat, Topkhana,
Ramna, Dhaka and others.

... Respondents

Mr. Md. Khaled Ahmed, Senior Advocate for

Mr. Abu Sadeque Abdullah, Advocate

...For the petitioner

None appears

...For the respondent nos.2 and 4

**Heard on 04.12.2025, 11.12.2025
and Judgment on 11.12.2025**

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Hamidur Rahman

Md. Mozibur Rahman Miah, J.

On an application under article 102 of the Constitution of the People's
Republic of Bangladesh, a Rule Nisi was issued calling upon the
respondents to show cause as to why the impugned Memo being স্বারক নং

ব-মুরক্বি/প্রশাঃ/বাঃ ৪০২/০৬/১৫৩০ তারিখ ২৩/০৯/২০১৪ ইং issued under the signature of the respondent No. 3 should not be declared to have been made 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.

The salient facts leading to issuance of the instant rule are:

The petitioner was a professor of Department of Agricultural Enginnering, Bangabandu Sehikh Mujibur Rahman Agricultural University, Gazipur (hereinafter referred to as 'BSMRAU.'). He passed the S.S.C Examination in the year 1977, H.S.C in 1979 both in the first division and then passed B.Sc in Agricultural Enginnering in the year 1984 and M.Sc in Agricultural Engineering in the year 1995 with first class and also earned Ph.D. Degree from Central Luzon State University, Philippines with an excellent remark in Soil & Water Management. He started his carrier as a Scientific Research Officer at Sugar Cane Research Institute. Subsequently, he was appointed as Associate Professor in the Department of Agricultural Engineering, BSMRAU, Gazipur until he was removed from the service with utmost honesty, sincerity, dignity and integrity. It has further been stated that due to his golden educational carrier and excellent service records, he got extra ordinary rewards and remunerations and also held some vital important positions which was not being easily accepted by some vested quarters. While he was dedicating to the cause of educational carrier, all of a sudden without assigning reason or any show cause notice, he was suspended from service on 09.04.2014. Subsequently, after 4 days on 13.04.2014, without assigning, any source of allegation a departmental proceedings was initiated against the petitioner framing a false and

fabricated charge of Misconduct under section 92 (kha) of BSMRAU Service Rule, 1998 (shortly Service Rules, 1998) asking him to show cause within 10 days. Then by stating all facts and circumstances and denying the charges framed against him, he submitted a written reply to the show cause with a prayer of affording him personal hearing on 14.05.2014 which was denied and as such the alleged comment claimed to have made by him against the then Hon'ble Prime-Minister is untrue, which he never uttered and as such, the charge of Misconduct made under section 92 (Kha) of the Service Rules, 1998 cannot be sustained and he prayed for discharging him of the charge. It has also been stated that in the written reply the petitioner submitted has not ultimately accepted by the authority, and without giving him any opportunity of personal hearing, an inquiry committee was then formed on 23.05.2014 consisting of 3 members where one, Professor Dr. Md. Ismal Hussain Miah, Treasurer and Syndicate Member made as Convener and Dr. Md. Rafiqul Islam Mondol, D.G. BARI and one, Dr. A.H.M Razzak, D.G BINA & Syndicate members of BSMARU became members of the said inquiry committee. After forming the said inquiry committee on 23.05.2014, by another letter dated 11.06.2014 they asked the petitioner to appear before the office of the Vice Chancellor for personal hearing on 12.06.2014. Then on the basis of prayer of the petitioner, the date of personal hearing was re-fixed on 12.06.2014. But before taking personal hearing, vide a letter under memo no. বা-শমুরক্বি/প্র.শাঃ/ব্য-৪০২/০৬/৭৭৩ dated 11.06.2014, the petitioner was charged of committing Misconduct under section 92 (Kha) of BSMRAU service Rules 1998 as per inquiry report submitted on the same date that is, on 11.06.2014 proposing to impose

major punishment of dismissal of the petitioner from service. After getting the said second show cause notice dated 11.06.2014, the petitioner submitted a written reply to the Registrar, BSMRAU on 22.06.2014. It has further been stated that in the second show cause notice, reply given by the petitioner was also not accepted by the authority and eventually on 23.09.2014 the petitioner was removed from service with effect from 17.09.2014.

Being aggrieved by and dissatisfied with the said impugned order of removal, the petitioner then filed an appeal before the Chancellor of the BSMRAU that is, the Hon'ble President of the republic on 10.12.2014 but after filing the said appeal to the Hon'ble President, since no response was given, he then made several representation to the respective authority of BSMRAU with an expectation that he will be reinstated in the service but they did not take any step to that effect and failing to get any reply, the petitioner then he compelled to file the instant writ petition and obtained rule.

By filing a supplementary-affidavit, the petitioner also reproduced the explanation so have been given to the Vice Chancellor as well as a letter issued by the Dean of Agricultural Faculty which was forwarded to the registrar where it has recommended that, in absence of the petitioner, the day to day teaching in the department he attended as a professor has seriously been hampering.

Mr. Md. Khaled Ahmed, the learned senior counsel appearing for the petitioner upon taking us to the writ petition and all the document appended therewith at the very outset submits that the inquiry procedure as laid down in the service rules of 1998 was not at all followed and by violating rule 97 (8), the inquiry committee proposed the punishment and thus the same is

without lawful authority and violative to the fundamental right of the petitioner as guaranteed under Article 31, 39 and 40 of the Constitution of the Peoples Republic of Bangladesh.

The learned senior counsel further contends that, the impugned order issued under the signature of respondent no. 3 is illegal, arbitrarily and without any lawful authority as without mentioning the source of complaint and without any incriminating circumstances order of suspension was issued against the petitioner out of previous enmity and with a malafide intention which is quite illegal and against the principle of natural justice. The learned counsel finally contends, since the charge leveled against the petitioner does not come within the purview of major punishment, this Hon'ble court may convert the said major punishment into minor punishment taking lenient view towards the petitioner as the petitioner has repeatedly gave explanation asserting that he did never utter any kind of slang term against the then Prime-minister rather he shared some facts with his colleagues, which does not come within the purview, for which any major punishment can be given. With those submissions, the learned counsel finally prays for making the rule absolute.

Records shows, in this writ petition, the respondent nos. 2 and 4 entered appearance by filing affidavit-in-opposition but at the time of hearing of the rule or even today, earlier fixed for passing judgment, the said learned counsel did not turn up to oppose the same.

Be that as it may, we have considered the submission so placed by the learned counsel for the petitioner, perused the writ petition and the supplementary-affidavit so filed before this court. On going through the

charge (অভি-যোগনামা) framed against the petitioner dated 13.04.2018 (Annexure-‘D’ to the writ petition) which has been framed under rule 92(kha) of Service Rules 1998 we find that petitioner has committed ‘misconduct’ and on going through the definition of misconduct as provided in section 2 (2) of the rules, 1988 we find that, it states “*অসদাচরণ” অর্থ চাকুরীর শৃংখলা ও নিয়ম-মর পরিপন্থী অথবা কোন শিক্ষক, কর্মকর্তা ও কর্মচারী অথবা ভদ্রজ-নর পক্ষ শোভনীয় ন-হ এইরূপ আচরণ, এবং নিম্নবর্ণিত আচরনসমূহও ইহার অন্তর্ভুক্ত হইবে।*” Against framing of charge, the petitioner was given an opportunity to controvert the allegation asking him to file a written reply and accordingly the petitioner filed written statement. On going through the written statement, we find that though the allegation was leveled against the petitioner by one MLSS named, Md. Mustafiz saying that when he went to supply a card of celebrating Bengali new year in the office room of Dr. Md. Abul Hossain Mollah, the petitioner remained present there and when he offered such card even to the petitioner, he uttered a very vile comment against the then Prime-minister. But in the reply given by the petitioner, it has been asserted that he did not made such filthy language rather about the quality of golden crest awarded to the foreign freedom fighters who fought for our liberation war which demeaned our prestige internationally. Though at the fag end of the explanation, he very exhaustively praised the contribution of the then Prime-minister and his father, the father of the nation ‘Bangabondu Sheikh Mujibur Rahman’ for the upliftment of the image of this country. However, to unearth the allegation a 3 member committee was formed and that very committee after examining the evidence came to a conclusion “*(কমিটির মতামত)* that:

অভিযোগকারী, অভিযুক্ত ব্যক্তি ও স্বাক্ষীগণের বক্তব্য ও অন্যান্য কাগজপত্র বিশ্লেষণ করে কমিটির নিকট স-ন্দহাতিতভা-ব প্রতীয়মান হয় যে, প্র-ফেসর ড. এস,এম ইকাল হো-সন-এর বিরু-দ্ধ আনীত, মাননীয় প্রধানমন্ত্রী সম্প-র্ক ‘বেশ্যার চাই-ত নিকুষ্ট’ কটুক্তি এর অভিযোগটি সত্য, যাএ ব-শমুরকুবি চাকুরী সংবিধি ১৯৯৮ এর অনু-চ্ছেদ ৯৩ মোতা-বক ‘অসদাচরণ’ হিসা-ব শাস্তি-যোগ্য অপরাধ।”

However, after filing of the said report, the petitioner was again asked to assert his claim giving explanation and the petitioner gave explanation which has been annexed as of is Annexure-‘I’ to the writ petition and he echoed the same assertion he made earlier stating that he did not utter such filthy language though he sought unconditional apology if any misdeed was committed by him addressed to the said registrar. However, in spite of that explanation, the petitioner was awarded major punishment removing him from service. But on going through the explanation so have been given twice by the petitioner, we are of the view that the petitioner uttered such indecent language against the then Prime-minister, else he would not have praised her and the father of the nation. But as a Professor, highest position at a University cannot utter such despicable comment even in their casual chatting let alone with regard to quality of crest to have awarded to our foreign freedom fighters. Furthermore, the explanation so have been given to the Vice Chancellor which has been re-produced in the supplementary affidavit and the photocopy of the same has also been supplied to us by the learned counsel for the petitioner at the time of hearing, which it also construe that the petitioner uttered such filthy language who clearly asserted

“ ক্রেস্ট তৈরীর ঘটনা-ক উদ্দেশ্য করে একটি অশালীন উক্তি করে ফেলেছি এটা মাননীয়

প্রধানমন্ত্রী সম্পর্ক বলিনি তবুও কা-রা সম্পর্কই এরূপ মন্তব্য করা ঠিক নয়। আমি বক্তব্যটি প্রত্যাহার ক-র নিচ্ছি এবং ক্ষমা চাচ্ছি।” That very statement clearly denotes not only he raised the question of the quality of crest rather he uttered such objectionable comment towards the Prime-minister which is totally undesirable from a highest position of a University like a Professor. However, on going through the enquiry report (Annexure- ‘H’ to the writ petition) we find that some office colleagues of the petitioner have also gave statement who at the end, recommended to award lenient punishment to the petitioner in place of major punishment where we find from the testimony of Professor Dr. Khorshed Alam Bhuiyan who stood one of the witness has said “এই জন্য তিনি প্র-ফসর ড. ইকবাল সা-হব-ক এরূপ উক্তি না করার জন্য নিষেধও করেছেন। তিনি ড. ইকবাল সাহেবকে লঘু -কান শাস্তি দেওয়া যায় কিনা সে বিষ-য় বি-বচনা কর-ত ব-লন।” Furthermore, one Professor Dr. Md. Abul Hossain Mollah in whose chamber, the very incident was occurred when the complainant, Md. Mustafizur Rahman went to distribute the card also stated that “এ সময় প্র-ফসর ড. আবুল হোসাইন মোল্লা, প্র-ফসর ড. আব্দুল করিম গুরু দন্ডের পরিব-র্ত কোন লঘু দন্ড দেওয়া যায় কিনা তা বি-বচনা কর-ত ভিসি ম-হাদয়-ক অনু-রাধ ক-রন।” We have also very meticulously gone through the definition of “**misconduct**” as has been stated hereinabove and what has been uttered by the petitioner definitely come within the purview of “ভদ্রজ-নর প-ক্ষ শোভনীয় নয় এরূপ আচরণ।” even if, we take it to account of the last explanation re-produced in the supplementary-affidavit filed today, we clearly find that the petitioner had uttered such objectionable language which even cannot be mentioned even in any judgment and admitting so, the learned senior counsel for the petitioner, frankly submits that, since by this time 11 years have elapsed from the date of removal of service of the petitioner, his family

has been going through very hardship, so by reversing the major punishment, this Hon'ble court may consider to award a minor punishment instead. We find substance in the final submission of the learned senior counsel basing on the above facts and circumstances and the discussion made. Because, the persons on whose presence the incident took place also took lenient attitude towards his colleague the petitioner. However, considering all the facts and circumstances we are convinced with the submission made by the learned senior counsel for the petitioner to provide minor punishment to the petitioner in place of imposing major punishment.

Accordingly, the rule is disposed of however without any order as to costs.

The petitioner is thus awarded punishment as provided in rule 93(1)(আ) of Rules, 1998 by suspending his 02(two) increment for two years..

The respondents is thus directed to take necessary steps reinstating the petitioner in his service with all arrear service benefits apart from the above mention punishment within a period of 02(two) months from the date of receipt of the copy of this judgment and order and allow the petitioner to continue rest of his service term.

Let a copy of this judgment and order be communicated to the respondents forthwith.

Md. Hamidur Rahman, J.

I agree.