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

WRIT PETITION NO. 1097 OF 2018
IN THE MATTER OF:
An application under Article 102 of the Constitution of the People's Republic of Bangladesh
AND
IN THE MATER OF:
Md. Anarul Islam and others
... Petitioners
-VERSUS-
Bangladesh, represented by the Secretary, Ministry of Health, Bangladesh Secretariat, Police Station-Shahbagh, Dhaka-1000 and others
... Respondents

Mr. Md. Salahuddin Dolon, Advocate with
Ms. Ainun Naher, Advocates
... for the Petitioners
Mr. Tanjib-ul Alam, with
Mr. M. Saquibuzzaman,
Mr. Kazi Ershadul Alam, and
Mr. Imran Anower, Advocates
... for the Respondent No. 3
Heard on: 07.07.2019, 29.07.2019,26.08.2019 & 28.08.2019
Judgment on: 30.10.2019

Present:
Ms. Justice Naima Haider
&
Mr. Justice Khizir Ahmed Choudhury

Naima Haider, J;

In this application under Article 102 of the Constitution, Rule Nisi was issued in the following terms:

Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Notification published in the Daily Prothom Alo dated 14.06.2017 issued by the respondent No. 3 so far as it relates to serial 3 as in Annexure-B to this petition should not be declared to have been made without any lawful authority and is of no legal effect and why they should

not be directed to give recognition of the MRCP of the petitioners and also to treat the same as equivalent to FCPS/MD and/ or pass such other or further order or orders as to this Court may seem fit and proper.

The petitioners are doctors. They obtained MRCP (Member of Royal College of Physicians), which is a post graduate level additional qualification to MBBS degree.

In Bangladesh, medical sector is regulated by the Bangladesh Medical and Dental Council Act 2010 ("the 2010 Act"). The 2010 Act confers BMDC the power to issue licence to practice in Bangladesh and also empowers BMDC to "recognize" specific foreign degrees in Bangladesh. Section 2(5) of the 2010 Act refers to a Schedule which stipulates, among others, the foreign degrees which are to be recognized in Bangladesh. MRCP is listed in the 3rd Schedule of the 2010 Act.

Some of the petitioners have obtained MRCP as additional qualification before 2017 and some subsequent to 2017. The petitioners are denied recognition of their MRCP degree because of the notification dated 14.06.2017 issued by the respondent No.3, which the petitioners impugn herein. The impugned notification made submission of CCT (Certificate of Completion of Clinical Training) and CSCST (Certificate of Satisfactory Completion of Specialist Training) mandatory for recognition of MRCP. This additional requirement for recognition of MRCP degree gave rise to the dispute before us. The relevant part of the impugned notification is as follows: *৩) সংশ্লিষ্ট সকল চিকিৎসকের অবগতির জন্য জানানো যাইতেছে যে, ২০০৯ইং সনের ০১লা জানুয়ারীর পর হইতে যাহারা Royal College of UK এবং Royal College of Physicians of Ireland হইতে Membership প্রাপ্ত হইয়াছেন অথবা হইবেন তাহারা কেহ তাহাদের ডিগ্রীর স্বীকৃতির জন্য বিএমএন্ডডিসিতে আবেদন করিলে আবেদন পত্রের সঙ্গে তাহাদিগকে*

Membership of Royal College of UK এর সনদের সাথে CCT (Certificate of Completion of Clinical Training) এবং Membership of Royal College of Physicians of Ireland এর সনদের সাথে CSCST (Certificate of Satisfactory Completion of Specialist Training) জমা দিতে হবে।

The petitioners submitted written representation on 23.07.2017 seeking recognition of MRCP. In the said representation, the petitioners stated that the additional requirement was arbitrary and irrelevant. However, the respondents paid no heed thereto. As a result of this, the petitioners' additional qualification remains unrecognized, as on date. The petitioners seek intervention from us, in the form of a direction for recognition of their MRCP degrees.

The authority of the respondents to issue such additional requirement has been questioned by the petitioners, particularly when the said additional requirement runs contrary to the 2010 Act. Furthermore, the petitioners also question the propriety of the impugned notification which operates "retrospectively". According to the petitioners, CCT and CSCST have no relevance in granting MRCP and that such additional requirement was imposed at the instance of vested quarters to disqualify the petitioners who are members of the prestigious RCP (Royal College of Physicians). The purpose of the certificates being CCT and CSCST has been clarified by the General Medical College of United Kingdom in a response to a request for clarification sent by the petitioner No. 2. The relevant part of the clarification, set out in the writ petition, is quoted below for ease of reference:

> *".. A CCT is a certificate issued to UK trained specialists at the end of the training. This allows them entry to the GMC Specialist*

Register which in turn allows the doctor to work as a consultant in the National Health Service.

If overseas (excluding the EEA) trained doctors wish to enter the specialist register then they need to apply for a CESR. Please refer to our guideline..."

A further clarification was provided by Head of Examination, office of MRCP (UK) which reads as follows:

" The MRCP (UK) is a post graduate level qualification. In the UK, the MRCP (UK) examination is usually taken during the period of general professional training in medicine which follows registration with the General Medical Council (GMC) of the United Kingdom. The MRCP (UK) Diploma is recognized as an entry qualification for higher specialist training...

We note reference to the prevailing position in India under the Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998. In India, post graduate qualifications awarded by institutions in the United States of America, United Kingdom, Canada, Australia and New Zealand are recognized. In more than 40 countries, MRCP of the United Kingdom and Ireland are recognized without CCT or CSCST. Furthermore, Singapore Medical Council also confirmed that MRCP is acceptable for recognition and permission to practice as doctor in Singapore.

Against this backdrop, and being aggrieved by the impugned notification, the petitioners, having no other alternative and efficacious remedy, moved this Division and obtained the instant Rule.

Two separate Supplementary Affidavits have been filed by the petitioners. Through the first Supplementary Affidavit, some of the

petitioners annexed the relevant MRCP certificates which show the dates when the petitioners obtained the degree. The petitioners also state that the additional requirements are relevant if and only if a doctor wishes to practice in the United Kingdom and not overseas. Through this Supplementary Affidavit, argument against retrospective operation of the notification has been questioned also. In the Supplementary Affidavit, petitioners state why the appeal procedure set out in the 2010 Act is not applicable in the present context. Through the second Supplementary Affidavit, the MRCP certificates of the remaining petitioners have been annexed.

The Rule is opposed. The respondent No.3 filed an Affidavit in Opposition. Through the Affidavit in Opposition, the respondent No. 3 states that BMDC is a statutory body which has been established to ensure high standards of medical education. BMDC registers doctors to practice in Bangladesh and ensures their qualifications for protecting and promoting health and safety. According to the respondent No. 3, MRCP is not a specialist examination in the United Kingdom and therefore, BMDC made it compulsory for MRCP holders to submit CCT/CSCST in order for their MRCP degree to be recognized. The respondent No.3 states that the writ petition is premature and there is no cause of action as yet; the petitioners have not applied for recognition of the MRCP degree and in the absence of any application(s) the petitioners cannot move this Division. It is also the contention of the respondent No. 3 that alternative remedy as set out in the 2010 Act has not been availed by the petitioners and therefore, the instant writ petition is not maintainable. Referring to Section 5 of the 2010 Act, the respondent No.3 states that the notification impugned was issued in

exercise of the powers under Section 5 in order to discharge statutory obligation and therefore, the notification impugned was issued in accordance with law. In the Affidavit in Opposition, significant efforts has been placed to make a distinction between the prevailing structures in the UK and Bangladesh and as part of the effort, the respondent No.3 states that the additional requirements are necessary. The respondent No. 3 also states that in General Medical Council and Royal College of Physicians clearly stated that *"in order to be eligible for Higher Specialist Training, he/she is not a specialist until completion of HST"*. Referring to the correspondence, the respondent No.3 contends that the additional qualifications as set out in the notification impugned are necessary and desirable in the public interest. Referring to the response dated 06.01.2014, RCPS Glasgow informed that MRCP does not entitle individuals to be appointed as consultants; MRCP is entrance examination for higher specialist trainings in UK. The respondent No. 3 also referred to different jurisdictions including Malaysia where Ministry of Health of Malaysia made it compulsory for MRCP decree holder to complete 18 months of gazettement process before being recognized as specialist since MRCP is not a specialist examination in United Kingdom. According to the respondent No.3, the decision to include the requirement for additional qualification was introduced after due consultation(s). It is further stated that the additional qualification requirement set out in the notification impugned is not contrary to law; it merely supplements the existing law since the additional requirements, as set out in the impugned notification are merely condition precedents for recognition. Relying on the Annexure-D, quoted above, (filed by the writ petitioner) the respondent No.3 states

that it is clear from the said document that CCT is a part of the overall training and is a requirement for entering GMC Specialist Register; that being the position, there is no illegality in requiring CCT as precondition for recognition of MRCP. It has also been pointed out that the technicalities raised in the instant writ petition cannot be adjudicated in writ jurisdiction and therefore, the writ petition should be discharged.

An Affidavit in Reply was filed by the petitioners against the Affidavit in Opposition. The petitioners state the Rule can be made absolute on the following three grounds:

(a) 3rd Schedule of the 2010 Act clearly states that MRCP/any other Post Graduation/Diploma Degree obtained from the United Kingdom/Royal College of Physicians will be recognized for practicing doctor and such Schedule can only be changed pursuant to Section 35 of the 2010 Act and not through mere notification;

(b) Those who have obtained the MRCP have acquired a vested right to have their degrees recognized and such right cannot be taken away by a notification which has been issued retrospectively; and

(c) The notification impugned was issued at the instance of vested quarters.

In the Affidavit in Reply, the petitioners also state that through the impugned notification, the respondents have attempted to do something indirectly which cannot be done directly; that practice is contrary to the settled principle and therefore, the notification impugned should be set aside. Furthermore, the requirement of CCT and CSCST is applicable in case someone intends to practice in UK and it is not necessary for those

who intend to practice in Bangladesh. Referring to the composition of the recognition committee, the petitioners state that the impugned notification was purposely issued at the instance of vested quarters to ensure that recognition of MRCP is made as difficult as possible.

A Counter Affidavit was filed by the respondent No.3 against the Affidavit in Reply. It has been pointed out that the three grounds, as set out aforesaid are manifestly misconceived. Furthermore, it has been stated that the petitioners merely denied without any explanation and such general denials are contrary to specific Rules under the Code of Civil Procedure 1908, which apply to proceeding under Article 102 of the Constitution; such general denials cannot be taken into cognizance by the High Court Division. The respondent No.3 also denies the allegations of biasness raised by the petitioners. The respondent No.3 also states that the argument advanced regarding vested right and retrospective operation of the notification is misconceived.

Before we proceed with our Judgment, we wish to point out that the pleadings filed by the parties are exhaustive and very useful.

Mr. Salahuddin Dolon, the learned Counsel for the petitioners and Mr. Tanjib-ul Alam, the learned Counsel for the respondent No.3 took us through their respective pleadings and elaborated on what is stated therein. We thus find no reason to repeat their respective submissions once more.

We have perused the pleadings and the documents annexed therein. We have heard the learned Counsels at length.

The learned Counsels have raised different issues in course of the hearing. Some of the issues are peripheral to the issues before us, being (a) whether the notification impugned is without lawful authority and (b)

whether direction should be issued upon the respondents give automatic recognition to the MRCP degrees obtained by the petitioners.

Section 12 of the 2010 Act deals with মেডিকেল প্রতিষ্ঠানের মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্বীকৃতি and Section 13 of the 2010 Act deals with মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্নাতকোত্তর ডিগ্রী বা ডিপ্লোমার স্বীকৃতি. These provisions are enacted to ensure, among others, that degrees obtained from recognized institutions and recognized degrees can be used in medical profession. The 2010 Act contains Schedules which sets out recognized degrees. Schedule 3 of the 2010 Act contains a list of medical institutions and recognized degrees. The relevant part of Schedule 3 is set out below for ease of reference:

তৃতীয় তফসিল

(ধারা ১৩ (২) দ্রষ্টব্য)

বাংলাদেশে অবস্থিত ও বাংলাদেশের বাহিরে অবস্থিত মেডিকেল প্রতিষ্ঠান কর্তৃক প্রদত্ত স্বীকৃত চিকিৎসা-শিক্ষা- যোগ্যতা

(স্নাতকোত্তর ডিগ্রী বা ডিপ্লোমা)

বিশ্ববিদ্যালয় এবং মেডিকেল প্রতিষ্ঠানের নাম	স্বীকৃত মেডিকেল চিকিৎসা- শিক্ষা যোগ্যতা	নিবন্ধনের জন্য সংক্ষেপণ	মন্তব্য
(১)	(২)	(৩)	(৪)

"ক" অংশ

বাংলাদেশে অবস্থিত মেডিকেল প্রতিষ্ঠানসমূহ কর্তৃক প্রদত্ত স্বীকৃত মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্নাতকোত্তর ডিগ্রী বা বা ডিপ্লোমা

"খ" অংশ

দেশ, বিশ্ববিদ্যালয় এবং মেডিকেল প্রতিষ্ঠানের নাম	স্বীকৃত মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতা	নিবন্ধনের জন্য সংক্ষেপণ	মন্তব্য
(১)	(২)	(৩)	(৪)

বাংলাদেশের বাহিরে অবস্থিত মেডিকেল প্রতিষ্ঠান কর্তৃক প্রদত্ত স্বীকৃত মেডিকেল চিকিৎসা--শিক্ষা যোগ্যতার স্নাতকোত্তর ডিগ্রী বা ডিপ্লোমা

The "খ" অংশ sets out the list of degrees from certain medical institutes which are recognized/স্বীকৃত. We note from the "খ" অংশ that MRCP

from Royal College of Physicians is regarded as being recognized degree. The implication of Schedule 3/3rd Schedule is set out in Section 13 of the 2012 Act. Section 13 of the 2010 Act is quoted below for ease of reference:

১৩। (১) বাংলাদেশে অবস্থিত বা বাংলাদেশের বাহিরে অবস্থিত কোন মেডিকেল প্রতিষ্ঠান কর্তৃক প্রদত্ত মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্নাতকোত্তর ডিগ্রী বা ডিপ্লোমাধারী কোন ব্যক্তি বাংলাদেশে উক্ত ডিগ্রী ব্যবহার করিতে চাহিলে, উহা এই আইনের অধীন কাউন্সিল কর্তৃক স্বীকৃত হইতে হইবে।

(২) বাংলাদেশে অবস্থিত বা বাংলাদেশের বাহিরে অবস্থিত মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্নাতকোত্তর ডিগ্রী বা ডিপ্লোমা প্রদানকারী কোন মেডিকেল প্রতিষ্ঠানের নাম তৃতীয় তফসিলের, যথাক্রমে, "ক" অংশে বা "খ" অংশে অর্ন্তভূক্ত না থাকিলে, উক্ত প্রতিষ্ঠানকে বা, ক্ষেত্রমত, উক্ত ডিগ্রীধারী ব্যক্তিকে এই আইনের অধীনে উক্ত যোগ্যতার স্বীকৃতি অর্জনের লক্ষ্যে কাউন্সিলের নিকট আবেদন করিতে হইবে।

(৩) উপ-ধারা (২) এর অধীন আবেদন প্রাপ্তির পর কাউন্সিল, নির্ধারিত মানদন্ড ও নীতিমালার আলোকে যোগ্য বিবেচনা করিলে, আবেদনকারী বা, ক্ষেত্রমত, আবেদনকৃত মেডিকেল প্রতিষ্ঠানের সংশ্লিষ্ট মেডিকেল চিকিৎসা-শিক্ষা যোগ্যতার স্বীকৃতি প্রদানের জন্য তৃতীয় তফসিলের "ক" অংশ বা, ক্ষেত্রমত, "খ" অংশ সংশোধনক্রমে উক্ত প্রতিষ্ঠানের নাম উক্ত যোগ্যতাসহ উক্ত তফসিলের সংশ্লিষ্ট অংশে অর্ন্তভূক্ত করিবে।

The scheme of Section 13, to the extent relevant for the present purpose, is as follows:

(a) Only post graduate medical degrees recognized by the Council can be used by a doctor in Bangladesh;

(b) The recognized degrees are set out in the Schedule;

(c) If any person intending to use any degree not listed in the Schedule, then the person so intending must apply to the Council for "recognition of the degree" [উক্ত ডিগ্রীধারী ব্যক্তিকে এই আইনের অধীনে উক্ত যোগ্যতার স্বীকৃতি অর্জনের লক্ষ্যে কাউন্সিলের নিকট আবেদন করিতে হইবে।];

(d) In the event any person applies under Section 13(2) for recognition of any degree, not listed in the Schedule, then the Council, by following the procedures set out in Section 13(3) of the 2010 Act, may recognize the degree.

In our view, the cumulative meaning of Sections 13(2) and 13(3) is that certain degrees are automatically recognized under the 2010 Act. These are the degrees listed in the Schedule. In respect of those degrees, not listed in the Schedule, the Council will determine whether or not to recognize such degree(s). Since under the Schedule of the 2010 Act, certain degrees are automatically recognized, the Council is not left with any discretion but to recognize the same, without any qualifications. It may so happen that with the passage of time, recognition of certain degrees which are otherwise automatically recognized, need to be recognized with certain qualifications. In such event, in respect of those degrees, the Schedule must be amended in the prescribed manner to insert the additional qualification; nothing short of that would suffice. Desirability does not merit the executives to issue any order(s) or do any act(s) which would be contrary to legislative provision.

Through the Supplementary Affidavits, the petitioners annexed their MRCP degrees. There is no dispute regarding the authenticity of those degrees. The only issue is whether, for recognition, additional conditions, as set out in the notification impugned, is necessary. For ease of reference, we once again, set out the relevant provision of the impugned notification below:

৩) সংশ্লিষ্ট সকল চিকিৎসকের অবগতির জন্য জানানো যাইতেছে যে, ২০০৯ইং সনের ০১লা জানুয়ারীর পর হইতে যাহারা Royal College of UK এবং Royal College of

Physicians of Ireland হইতে Membership প্রাপ্ত হইয়াছেন অথবা হইবেন তাহারা কেহ তাহাদের ডিগ্রীর স্বীকৃতির জন্য বিএমএন্ডডিসিতে আবেদন করিলে আবেদন পত্রের সঙ্গে তাহাদিগকে Membership of Royal College of UK এর সনদের সাথে CCT (Certificate of Completion of Clinical Training) এবং Membership of Royal College of Physicians of Ireland এর সনদের সাথে CSCST (Certificate of Satisfactory Completion of Specialist Training) জমা দিতে হবে।

The impugned notification provides that recognition of MRCP degree, submission of CCT or CSCST, as appropriate, is necessary. Therefore, through the impugned notification, the statutory affirmation that MRCP would be "automatically recognized" has been taken away. This is on the ground that CCT and CSCST are necessary in United Kingdom. This logic is erroneous in certain ways. Firstly, from the pleadings of both the parties that CCT and CSCST are required in United Kingdom for a different purpose; these are additional qualifications necessary to render medical service in United Kingdom. The petitioners would not be practicing in United Kingdom. Secondly, it undermines the existing legal position that MRCP would be subject to automatic recognition. Thirdly, the argument introduces the doctrine of "desirability"; one may argue that CCT and CSCST, as appropriate, would be desirable. Indeed it may be, but desirability cannot permit the respondents to take any steps that undermine any legal provision in a manner which is not compatible with our Constitutional scheme.

There is another issue that the impugned notification has given rise to. The impugned notification was issued in 2017 but the requirement of

CCT and CSCST has been given retrospective effect because the requirement would be applicable those doctors who had obtained MRCP after 1st January, 2009 "সংশ্লিষ্ট সকল চিকিৎসকের অবগতির জন্য জানানো যাইতেছে যে, ২০০৯ইং সনের ০১লা জানুয়ারীর পর হইতে... ". The Courts have always been careful in permitting retrospective operation of statutory instruments and executive orders. It is settled principle that legislation is deemed to be prospective unless by clear intendment or necessary implication it has to be construed as retrospective also. However, this power of clothing legislation with retrospectivity is an attribute primarily of the plenary powers of the legislature itself. Power to legislate retrospectively is a hydra-headed weapon which must be wielded with care and circumspection and it is therefore that its exercise is normally left to the wisdom of the legislature itself rather than its delegates. To this rule, there is, however, one clear exception that the legislature whilst delegating its power to the subordinate authority may in express terms or by necessary intendment clothe the same with the identical power to make retrospective laws. We have carefully perused the 2010 Act but we did not find any provision that permits the respondents to amend the status of MRCP retrospectively. Therefore, giving retrospective effect through the impugned notification, no doubt, is illegal.

The learned Counsel for the respondent No.3 takes the view that the impugned notification does not make any amendments to the law but supplements the same. We are however, unable to agree with the said argument. Under the Schedule of the 2010 Act, MRCP is "automatically recognized"; addition of further requirements for MRCP to be recognized undermines the statutory provision. This addition, in our view, cannot be

said to be in the supplemental in nature. The notification impugned surely has the effect of modifying the existing statutory provision and therefore, any change to it can only be done through amendment of the relevant part of 3rd Schedule in accordance with the procedure set out in the 2010 Act and not through notification or executive decisions. If the legislation provides for "automatic recognition of a degree" the executives cannot pass any order which undermines the automatic recognition of the said degree. The requirement in the notification impugned herein is not a technical requirement. For instance, if the requirement was that for the MRCP to be recognized, the degree would need to be attested and the attested copy would need to be submitted with the original, such requirement would be clearly supplemental. Here, by the impugned notification, additional qualifications are imposed for "recognition"; if the impugned notification stands, the petitioners would need to do course(s) after their MRCP. This is clearly not "supplemental" in nature and has the effect of undermining "statutory recognition".

The learned Counsel for the respondent No.3 further argues that the writ petition is premature because the petitioners failed to comply with Section 18(8) of the 2010 Act. For ease of reference Section 18(8) of the 2010 Act is set out below:

(৮) এই ধারার অধীন নিবন্ধিত বা সাময়িকভাবে নিবন্ধিত কোন ব্যক্তি তৃতীয় তফসিলে অর্ন্তভূক্ত কোন স্নাতকোত্তর চিকিৎসা-শিক্ষা যোগ্যতা অর্জন করিলে, উক্ত ব্যক্তির আবেদনক্রমে, কাউন্সিল রেজিস্টারে উক্ত ব্যক্তির নামের সহিত তাহার উক্ত স্নাতকোত্তর চিকিৎসা-শিক্ষা যোগ্যতা যুক্ত করিবে।

The learned Counsel's argument is that the petitioners did not apply as yet under Section 18(8) of the 2010 Act. Section 18(8) envisages that if

someone obtains post graduate degree, he would need to apply to have his degree added to his name. The learned Counsel's argument would have been sound if the impugned notification was not in place and the petitioners, instead of applying came before us for direction. What the learned Counsel has failed to understand is that in light of the decision impugned, there was no scope to recognize the degree obtained by the petitioners since they do not have the additional qualifications. The petitioners had no other option but to challenge the notification in question. Thus, in our view, the argument regarding the writ petition being premature is misconceived.

The learned Counsel for the respondent No.3 further argues that alternative forum was not exhausted and questions the maintainability of the instant writ petition. That argument is also misconceived given that the petitioners have challenged the legality of the decision taken which purports to negative statutory provision.

The argument advanced regarding the need of CCT and/or CSCST in UK is not relevant for our present purpose. These additional requirements are necessary for working in United Kingdom. Under the 2010 Act, these additional qualifications are not necessary for "recognition of MRCP"; had it been so, it would have clearly been so stated in the 3rd Schedule. It would not be right to conclude that just because CCT and/or CSCST are necessary to become eligible for the post of consultant in United Kingdom, such requirement would also be necessary for us. As we have stated earlier, if the Parliament intended CCT and/or CSCST to be necessary for

"recognition of MRCP" the 3rd Schedule of the 2010 Act would have clearly specified. (underlined by us)

In light of the above, we are inclined to hold that there is merit in the Rule. The Rule is made absolute with the following directions:

> *"The respondents are directed to recognize the MRCP degree without the need for CCT and/or CSCST in respect of the petitioners who have applied for recognition. In respect of those petitioners who have not applied as yet, the respondents are directed to recognize the MRCP degrees when they apply."*

With the above directions and observations, the Rule is made absolute without any order as to costs.

Communicate the Judgment and Order at once for immediate compliance.

Khizir Ahmed Choudhury, J:

I agree.