

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

**Present**

Mr. Justice Sikder Mahmudur Razi  
And  
Mr. Justice Raziuddin Ahmed

**Writ Petition No. 11422 of 2018**

Md. Forkan Ali Howlader  
.....Petitioner.

**-Versus-**

Chief Election Commissioner  
and another.

.....Respondents.

Mr. Mohammad Saiful Islam, Adv.  
.....For the petitioner.

None appears  
.....For the respondents.

**Heard on: 20.11.2025**

**And**

**Judgement on: The 23<sup>rd</sup> November, 2025**

**Sikder Mahmudur Razi, J:**

In an application under Article 102 of the Constitution of the People's Republic of Bangladesh the petitioner obtained a Rule Nisi from this court on 06.09.2018 in the following terms;

“এই মর্মে প্রতিপক্ষের প্রতি কারণ দর্শানোপূর্বক রুল নিশি জারী করা হইল, কেন  
বাংলাদেশ কৃষক শ্রমিক পার্টি (কে,এস,পি) কে নিবন্ধন দেওয়ার নির্দেশ প্রদান করা  
হইবে না এবং দরখাস্তকারী আর যে সকল প্রতিকার পাইতে পারেন তাহারও আদেশ কেন  
দেওয়া হইবে না”

It appears that subsequently the petitioner filed an application for issuance of a supplementary Rule before this court and upon hearing this court issued a supplementary Rule on 04.09.2025 in the following terms;

*“Let the supplementary Rule be issued calling upon the respondents to show cause as to why the impugned office order bearing Memo No. 17.00.0000.025.50.044.18-303 dated 11.06.2018 issued by the Election Commission as communicated under the signature of its Deputy Secretary rejecting the petitioner's application for registration of his political Party (Annexure-C-6) and office order bearing Memo No. 17.00.0000.025.50.035.18-671 dated 21.10.2018 issued by the Election Commission as communicated under the signature of its Deputy Secretary rejecting the petitioner's review application for registration of his Political Party (Annexure-C-8) shall not be declared to have been issued without lawful authority and is of no legal effect”.*

Facts leading to the issuance of the rule nisi, in brief, are that the petitioner is the Secretary General of the Bangladesh Krishok Shromik Party (KSP) established by Sher-e-Bangla A K Fazlul Haque in 1953, having its political Head Office in Dhaka and other offices in the different districts and upazillas across the country. The respondent No.1 i.e. the Election Commission of Bangladesh by a public Notice dated 30.10.2017 invited application for registration of political party and the petitioner being aware of the said notice, as Secretary General of Bangladesh Krishok Shromik Party (KSP) applied by an application to the Election Commission to have registration as political party appending all the requiring documents under the Representation of the People Order, 1972 (herein after referred as “RPO-1972”) as well as Political Party Registration Rules, 2008 (herein after referred as “Rules-2008”) which was received the by the Election Commission on 31.12.2017 under dairy No.14943 and after scrutinizing of the petitioner's application and the documents submitted therewith for registration of the party, the Election Commission through a letter dated

08.04.2018 informed the petitioner that few documents has not been submitted with the application as per the Clause ১(৬)(৭)(২) of the “Rules-2008” and few conditions has not been complied with as per the Article 90B(1)(b)(ii)(iii)(iv) of the “RPO-1972” and requested him to submit those necessary documents and also to amended the Constitution of the Party in compliance with Article 90B(1)(b)(ii)(iii)(iv) of the “RPO-1972” within 15 days.

The petitioner complied with all the requirements of the Election Commission including amending the constitution of the party and thereafter, the petitioner on 22.04.2018 submitted all the required documents as per the provisions of Clause ১(৬)(৭)(২) of the Rules-2008 and submitted the amended constitution to the Election Commission on 15.05.2018. But the Election Commission without considering the documents submitted by the petitioner, rejected the petitioner’s application for registration of the political party vide a letter dated 11.06.2018 under the Rule 7 of the Political Party Registration Rules, 2008. Thereafter the petitioner filed an application to the Election Commission on 24.06.2018 to re-consider the application of the petitioner for registration of the Political Party and review their earlier decision dated 11.06.2018. But since the Election Commission remain silent over the review petition of the petitioner, therefore, the petitioner as a last resort filed the instant writ petition and obtained a Rule and direction upon the respondent No.1 to dispose of the petitioner’s application for re-consideration dated 24.06.2018 within 30 days from the date of receipt of the order. Thereafter, the Election Commission without giving the petitioner any opportunity of being heard rejected the petitioner’s application for

registration of the political party vide a letter dated 21.10.2018. Subsequently the petitioner obtained a supplementary Rule Nisi challenging the office order dated 11.06.2018 and office order dated 21.10.2018 issued by the Election Commission as communicated under the signature of its Deputy Secretary.

Learned advocate for the petitioner submits that the Election Commission's refusal to register KSP is arbitrary, malafide, and without lawful basis. He contends that KSP fulfilled all statutory requirements under the RPO 1972 and the Political Party Registration Rules 2008 for registration. In particular, the learned advocate points out that KSP's constitution, as amended, complies with all provisions of law, it affirms loyalty to the Constitution of Bangladesh, ensures democratic practices within the party, provides for 33% female representation in committees (as per legal mandate), and prohibits any discrimination or creation of auxiliary forces contrary to law. The petitioner furnished evidence of a broad organisational network across more than the minimum one-third of administrative districts including required number of upazillas, with the requisite number of voters as its members, thereby satisfying the quantitative criteria for registration. It is argued by the learned advocate that the EC's reference to "lack of branch organizations/offices" or similar grounds is factually incorrect and was conclusively addressed by the documents on record. The learned advocate further submits that the impugned refusal violates the petitioner's fundamental right to form associations guaranteed by Article 38 of the Constitution, which includes the right to form a political party. Any restriction on this right must be reasonable and imposed by law.

The Election Commission cannot, in the guise of regulatory discretion, impose extralegal conditions or act in an unreasonable, discriminatory manner.

The learned advocate relies on several precedents where the higher courts intervened to ensure lawful exercise of the Election Commission's powers. Learned advocate cites recent cases regarding registration of *Bangladesh Republican Party [Writ Petition No.11122 of 2018]* and *Bangladesh Development Party (BDP) [Writ Petition No.6431 of 2023]* and *Amar Bangladesh Party [Writ Petition No. 10917 of 2023]* in which the High Court Division directed the EC to register the said political parties after finding that those had met all legal criteria, and declared the EC's refusal to register those parties to be illegal. The learned advocate argues that KSP's case is on all fours with those precedents. KSP has done everything required by law, and the EC's refusal is a naked, unjust act, amenable to correction by this Court. The learned advocate finally prays that the impugned refusal letters be declared to have been passed without lawful authority and of no legal effect, and a direction be issued upon the EC to register Bangladesh Krishok Shromik Party forthwith, along with allocation of an electoral symbol, within a time fixed by the Court.

No one appears to oppose the Rule.

We have carefully perused the materials on record and given our anxious consideration to the submissions of the learned advocate. At the outset, it must be observed that the right to form a political party is an extension of the fundamental right to form associations guaranteed by

Article 38 of the Constitution. While this right is not absolute and may be subject to reasonable restrictions imposed by law, any such restriction must be lawful, proportionate, and non-arbitrary. The scheme of the RPO, 1972 (as amended) and the Political Parties Registration Rules, 2008 provides the legal framework for regulating this right in the context of elections. These laws lay down objective criteria for registration – including (i) submission of a duly adopted constitution of the party pledging allegiance to the state Constitution and other legal norms, (ii) existence of a functional organizational structure in a certain percentage of administrative districts-upazillas and/or a minimum number of members, and (iii) compliance with requirements such as internal democracy, financial transparency, and inclusion of women in committee positions. The role of the Election Commission is to verify whether an applicant party meets these criteria. The Commission does not have unfettered discretion to deny registration on whims or extraneous considerations. Its decisions must be grounded in law and fact, and are subject to judicial review by this Court under Article 102 of the Constitution for any illegality, irrationality, or procedural impropriety. Indeed, the High Court Division and even the Appellate Division have in several instances reviewed and corrected decisions of the Election Commission regarding political party registrations. Notably, when the Commission had unjustifiably refused to register legitimate political groups, the courts intervened to protect citizens' associational rights.

So far the present case is concerned; we find that the petitioner's party has substantially fulfilled the statutory requirements for registration. The record discloses that KSP's party constitution (as amended) contains all

provisions necessary to comply with the RPO, 1972 and the 2008 Registration Rules. It affirms loyalty to the sovereignty, integrity, and spirit of the Constitution of Bangladesh, and does not contain any provision contrary to the Constitution or any law. It establishes an executive committee and other committees through democratic elections within the party, and includes a policy for at least 33% representation of women in all committees by the stipulated timeframe, in line with the law. The constitution also renounces the formation of any front organisations or militant wings, complying with the RPO's requirements aimed at preventing sectarian or violent political activities. These amendments were carried out by the petitioner upon the EC's own advice during scrutiny of the initial application. Thus, the petitioner remedied the issues initially raised by the Commission. The respondents have not been able to point out any persisting flaw in the party's constitution that violates the registration criteria.

On the quantitative and organisational requirements, the petitioner has produced uncontroverted evidence of having functional committees in well over one-third of the districts of Bangladesh, as well as in numerous Upazilas (sub-districts), with a party membership roll exceeding the minimum threshold set by the Election Commission's regulations. We note from the documents that the petitioner included lists of its central committee members, district and upazilla Committees and members/supporters' list including all other necessary documents. The EC's impugned letter dated 11.06.2018 vaguely mentioned that the submitted documents were not proper but no specifics were provided. The material on record suggests that KSP's organisational presence is comparable to, if not greater than, other

new parties which have been granted registration in recent times by either the EC or pursuant to court orders. We are persuaded by the petitioner's submission that any minor discrepancies in documentation (if there were any) could have been addressed through a show-cause or further inquiry, rather than outright refusal. It appears that EC did not accord the petitioner a fair opportunity to be heard on the alleged grounds of rejection, especially after KSP had complied with the initial directives to amend its constitution. This failure to communicate specific concerns or to allow the petitioner to clarify matters amounts to a violation of natural justice and fairness in administrative action.

Furthermore, the reasoning in the EC's rejection letters is a demonstration of its failure to exercise its power in a just, rational manner. A constitutionally guaranteed right, the right to form a political association cannot be curtailed by opaque and unexplained decisions of a statutory body. The EC is certainly empowered to reject applications that *genuinely* fall short of legal requirements, but that decision must be transparent and founded on evidence. In the present case, we find no legal infirmity on the petitioner's part that could justify the refusal. To allow the EC's decision to stand would be to condone an error of law and an infringement of fundamental rights. Any power exercised beyond what the law permits is *ultra vires* and correctable by the courts. In our view, the EC's refusal to register KSP, despite the party's compliance with the law, is an act beyond the EC's lawful authority. It effectively imposes an additional unwritten restriction on the right to association, which neither the RPO nor the 2008 Rules envision. Such an act cannot withstand judicial scrutiny.



We also find merit in the petitioner's contention that the impugned refusal violates Article 38 of the Constitution. Every citizen and by extension, any lawful collective of citizens has the right to form associations, including political parties, subject only to reasonable restrictions imposed by law. The laws in question here provide certain conditions, and apparently KSP's has fulfilled those conditions and therefore, there is no scope to deny KSP the right to be an association of citizens in the political arena. Denying registration in these circumstances is not a "reasonable restriction imposed by law" but rather an unreasonable and extralegal obstruction. Registration with the Election Commission is a *de facto* prerequisite for a political party to contest national elections. An unlawful refusal to register KSP not only harms the petitioner's rights but also undermines the broader democratic premise that citizens may freely choose among diverse political alternatives.

In view of the foregoing discussion, we are constrained to hold that the Election Commission's impugned decisions dated 11.06.2018 and 21.10.2018 are without lawful authority and of no legal effect.

For the reasons above, the Rule is made Absolute. The impugned memos issued by the Election Commission dated 11.06.2018 and 21.10.2018, refusing to register the Bangladesh Krishok Shromik Party (KSP) as a political party, are hereby declared to have been made without lawful authority and are of no legal effect. Consequently, Bangladesh Election Commission, is directed to register **Bangladesh Krishok Shromik Party (KSP)** as a political party under the relevant provisions of the Representation of the People Order, 1972 and the Political Parties

Registration Rules, 2008 within 30 (thirty) days from the date of receipt of a copy of this judgment.

There is no order as to costs. The office is directed to communicate a copy of this judgment to the Election Commission at once for immediate compliance.

(Sikder Mahmudur Razi, J:)

I agree.

(Raziuddin Ahmed, J:)