

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

Writ Petition No. 14769 of 2018

IN THE MATTER OF:

An application under Article 102 of the Constitution
of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Hosnara Begum

Wife of the late Professor Rafiqul Islam

House No. 5/11, Block-B, Humayun Road,
Mohammadpur, Dhaka

....Petitioner

Versus

Government of Bangladesh, represented by the
Secretary, Ministry of Housing and Public Works,
Bangladesh Secretariat, Ramna, Dhaka-1000 and
others

....Respondents

Mr. Jyotirmoy Barua, Advocate with

Mr. Ripon Kumar Barua, Advocate,

Ms. Bilkis Nasima Rahman, Advocate and

Ms. Fatema-Tuz-Zahura, Advocate

....For the Petitioner

Mr. Mohammad Arshadur Rouf, Additional Attorney
General with

Mr. Md. Abid Chowdhury, DAG with

Mr. M Mohiuddin Yousuf, DAG,

Mr. Abdullah Al Mahmud, DAG,

Mr. A.S.M. Sayem, AAG,

Mr. Monjur Elahi Porag, AAG,

Mr. Ariful Alam, AAG,

Mr. Nazmul Hasan Chowdhury, AAG and

Mr. Md. Shahidul Islam, AAG

.... For the respondents

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 06.07.2026.

Md. Iqbal Kabir, J:

This Rule was issued calling upon the respondents to show cause as to why the impugned notice vide memo No. 25.43.0000.005.33.00.009/বিবিধ/27 dated 04.02.2018 issued by the respondent No. 5 upon the petitioner to annul the allotment of the abandoned house situated at House No. 5/11, Block-B, Humayun Road, Mohammadpur, Dhaka and transfer the possession of said

house without allotting any other alternative accommodation, which was allotted by the Government of Bangladesh to the petitioner as the Liberation War Martyrs Family (Annexure-H) should not be declared to have been issued without any lawful authority and/or such other or further order or orders passed as to this Court may seem fit and proper.

Short facts stated in the application are that an abandoned house was allotted in favour of the petitioner on 26.07.2000, and since then she, with her family, has been residing therein. However, the respondent No. 5 issued the impugned notice vide memo dated 04.02.2018 to the petitioner to annul the allotment and transfer the possession of the abandoned house situated at House No. 5/11, Block B, Humayun Road, Mohammadpur, Dhaka, which was allotted by the authority to the petitioner as the Liberation War Martyrs Family.

Being aggrieved and dissatisfied with the impugned memo, this application is thereby made to obtain Rule and an interim order.

Mr. Jyotirmoy Barua, Advocate, in his submission, states that the husband of the petitioner is respected as a prominent intellectual of Bangladesh who sacrificed his life for acquiring the independence of our country.

Mr. Barua submits that the respondents are trying to evict the petitioner from the allotted house without allotting any other alternative accommodation. He claims the petitioner's family is a martyr's family and is enjoying the privileges of an abandoned house for being a martyr's family. In support of his claim, he has drawn the attention of this Court to the Memo dated 21.12.1986, which provides that eviction of a martyr's family from its allotted government residence without first arranging suitable alternative accommodation is illegal and without lawful authority.

He submits that the eviction notice is illegal and arbitrary, without serving any prior notice and without affording the petitioner any opportunity of showing any cause as to why the allotment of the petitioner should not be cancelled. The respondent issued an impugned notice, which is a violation of the principles of natural justice. In support of his submission cited a decision (56 D.L.R. (AD) 24-25 and 19 MLR (AD) 97.

Mr. Abdullah Al Mahmud, learned DAG for the respondents, brings to this court's notice that, in response to the claim, i.e., the Government has not done anything for the petitioner or for the families of martyrs, which is wholly incorrect and misleading. The Government has taken numerous steps to support freedom fighters and families of martyred individuals, including the petitioner. The petitioner was appointed in the post of Deputy Director of the National Education and Research Academy in recognition of her status as the

wife of martyred Professor Rafiqul Islam, which is evident from official documents, including Annexure-'D' to the writ petition.

He brings to this court's notice that the case house was allotted to the petitioner as she was a government service holder; it was not allotted to the Liberation War Martyrs' Family. According to him, the house in question has been included in the list of reserve categories of the Government, which was selected to meet the accommodation problems of the Government employees, and the same was handed over to the Government accommodation directorate. He claims the petitioner was Deputy Director (NAEM), is an employee under the Ministry of Education, and applied for accommodation as a teacher of a government college, i.e., a government service holder. Considering her application, the authority allotted the case house in her name as she was a government service holder.

It is further brought to notice that the petitioner reached her PRL and prayed to be allowed to live in the case house for one year more. Considering her application, the authority allowed her to live there one year more, and that one-year period came to an end on 30.06.2010; thereafter, she was requested to vacate the house and transfer the possession of the same to the authority concerned. It was informed that the authority decided to build a few high raise building on the 20 plots of abandoned houses situated in Gulshan, Dhanmandi, and Mohammadpur area to meet the accommodation problems of the Government employees, martyrs, and crippled freedom Fighters. He claims the construction of a multistoried building; the case house was included in that list. The authority issued notice to the petitioner on 04.02.2018 for the transfer of possession of the case house to the authority concerned, but the petitioner, without complying with the request from the authority, filed the instant writ petition.

Mr. Jyotirmoy Barua, learned Advocate, submits that the Multi-Storey Apartment Development Project concerning Nine Abandoned Properties located in the Gulshan, Mohammadpur, Lalmatia, and Dhanmandi Areas has already been cancelled. According to him, as a member of a Shaheed family, the Petitioner is entitled to continue to possess the allotted house in accordance with Rule 7 of the Bangladesh Abandoned Property (Buildings in the Urban Areas) Rules, 1972. Therefore, the impugned notice issued by the Respondent No. 5 is liable to be declared to be illegal, without lawful authority, and of no legal effect.

He further submits that the Ministry of Works, by Memo dated 06.06.1984, directed that where an allotted abandoned house of a Shaheed

family is released from the abandoned property list, the family must be provided with an alternative abandoned house before eviction.

He also submits that Rule 7 of the Bangladesh Abandoned Property (Buildings in the Urban Areas) Rules, 1972 gives priority to Shaheed families in the allotment of abandoned properties. However, the respondents have denied the petitioner this statutory benefit, making the impugned notice illegal and without lawful authority.

Mr. Abdullah Al Mahmud, learned DAG submits house in question was temporarily allotted in the name of the petitioner for residential accommodation. The said allotment was made strictly on a temporary and conditional basis for accommodation purposes only and did not create any ownership, proprietary, or vested rights in favour of the petitioner over the said government property. As per the terms of allotment, the Government retains full authority to revoke the allotment and reclaim possession of the property as and when necessary. Accordingly, the petitioner's occupancy is revocable and conditional in nature, conferring no permanent interest in the property. Therefore, the writ petition, being misconceived and not maintainable in law, is liable to be dismissed.

Upon hearing the parties, it appears that the property in question is an abandoned property under Government control and included in the reserve category. Based on an application, on 16.01.2000, the petitioner was granted temporary allotment. The said allotment clearly stated that possession would revert to the Government when needed. The record shows that the land in question is required by the Government for the construction of high-rise buildings intended to accommodate more employees, freedom fighters, and other martyrs' families, individuals of the same class and status as the petitioner herself. The authority implement the project cancelled the petitioner's temporary allotment through a letter dated 04.02.2018. The petitioner's allotment was purely temporary and conditional, and the Government retains the authority to cancel such allotment under its executive powers as recognized by administrative law. Further, upon scrutiny, it appears that the gazette by which the petitioner claims the project relates with High rise Building has cancelled are not correct. Upon plain reading of the said gazette, it appears that part of the project has been cancelled; the Mohammadpur project still subsists. Thus, the claim of the petitioner is not correct.

It is pertinent to note that the petitioner, a beneficiary of the same class, had a moral and legal obligation to facilitate the public project by vacating the temporary allotment. By creating obstacles and continuing to occupy the property despite being offered alternative accommodation, the petitioner is

frustrating a vital initiative aimed at addressing the accommodation crisis faced by similarly placed deserving persons. However, the respondent argued authority had already provided alternative accommodation by an allotment order dated 31.10.2023. Once such alternative accommodation has been allotted, the petitioner cannot claim any continuing right to occupy the previously allotted temporary residence. Consequently, the relief sought in the writ petition has become infructuous and devoid of any legal basis.

However, it transpires that after issuance of the Rule, the concerned authority provided the petitioner with alternative accommodation by allotting Flat No. 2-B (E-Class), House No. 7/2, Block-A, Aurangzeb Road, Mohammadpur, Dhaka, vide Memo No. 25.43.0000.003.14.004.23.296 dated 31.10.2023. Consequently, the petitioner is under a legal obligation to vacate the previously allotted premises, namely House No. 5/11, Block-B, Humayun Road, Mohammadpur, Dhaka, in terms of the letter dated 25.08.2024. In view of the fact that the petitioner has been provided with an alternative residence and the relief sought in the writ petition has thus become redundant, there is no reason to adjudicate the present Rule; the Rule has already become redundant.

Accordingly, the Rule is discharged.

However, the petitioner is allowed 4(four) months to vacate the existing house and shift to the newly allotted accommodation. The respondent authorities are directed to extend all necessary cooperation to the petitioner, if required, to facilitate such shifting and peaceful handing over of the existing premises.

The order of stay and status-quo granted at the time of issuance of the Rule is hereby recalled and vacated.

There will be no order as to cost.

Communicate the order.

S M Saiful Islam, J:

I agree.