

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

Writ Petition No. 16246 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:

Milan Kumar Mredha and others
...Petitioners

-Versus-

Present:

Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmee Rahman

The Government of the People's Republic
of Bangladesh, represented by the
Secretary, Ministry of Primary and Mass
Education and others

... Respondents

Mr. Md. Mahbubur Rahman Kishore, Advocate with
Mr. Mohammad Mosfequs Salehin, Advocate
...For the petitioners

Mr. Mohammad Waliul Islam Oli, D.A.G with
Mr. Mohammad Rashadul Hassan, D.A.G,
Ms. Nilufar Yesmin, A.A.G,
Mr. Md. Moshir Rahman (Rahat), A.A.G,
Mr. Md. Motasin Billah Parvez, A.A.G and
Mr. Bishwanath Karmaker, A.A.G

... For the respondents

Heard and Judgment on 30.06.2026

Urmee Rahman, J:

In the instant matter a Rule Nisi was issued on an application under
Article 102 of the Constitution of the People's Republic of Bangladesh in the
following terms:

*“Let a Rule Nisi be issued calling upon the
respondents to show cause as to why the respondents*

should not be directed to nationalize West Gava Community Primary School at Village and Post Office-Gava, Police Station-Banoripara, District-Barishal and absorb the petitioners Nos. 1 to 6 in the said school as Government Primary School Teachers and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Relevant facts for disposal of the Rule, in short, are that, petitioners are the current teachers and staff of the West Gava Community Primary School, which was established in the year 1993 at village-Gava, Banoripara, District-Barisal. Thereafter the school authority applied for registration of the school as a non-government primary school. On an investigation, the respondent no. 4 i.e. the District Primary Education Officer, Barisal by the memo dated 12.11.1998 recommended for the registration of the said school. By the memo dated 07.03.1999 approval was given for providing primary education at this school by the respondent no. 2.

By the memo dated 20.03.2012 a tender was called for from the office of Local Government Engineering Directorate for reconstruction of four primary schools in Banaripara, Barisal including the petitioners' school under the 'Third Primary Education Development Project (PEDP-3)' of the Government.

In 2013 the Government took a decision to nationalize all the registered and unregistered non-government primary schools all over the country. On 05.09.2012, 10.06.2018, 15.06.2018 the

petitioners made several representations before the Respondent no. 2 i.e. the Director General of Directorate of Primary and Mass Education praying for initiating necessary steps for nationalization of the school and its teachers and staffs. Finally, on 02.12.2018 a Notice Demanding Justice was served upon the respondents through the learned Advocate of the petitioners but without any response till date.

Being aggrieved thereby and finding no other available, alternative and efficacious remedy, the petitioners have been constrained to file this writ petition and obtained the present Rule.

Learned Advocate Mr. Md. Mahbubur Rahman Kishore with Mr. Mohammad Mosfequs Salehin, learned Advocate appeared on behalf of the petitioners. Learned Advocate for the petitioners submitted that, since the inception of the school it is functioning with donations of local people and the Managing Committee. Due to non co-operation of the respondents, this institution's name was not listed in the list of non-government primary school list. Several representations were submitted by the petitioners before the respondents for nationalization of the school but no step has yet been taken.

Learned Advocate strongly submitted that, in 2013 the Government of Bangladesh decided to nationalize the non-government primary schools as well as its teachers and staffs and with this end in view on 17.01.2013 a notification was published by the Ministry of Primary and Mass Education. Terms and conditions

of the Service of Teachers of Nationalized Primary School Rules 2013 was also promulgated on 23.09.2013. Furthermore, there is no government school in the area where the petitioners' school is situated and it qualifies all the requirements but yet no steps have been initiated by the respondents to nationalize the same and the school is still functioning without any support from the government. Hence he prayed that, the respondents may be directed to consider nationalizing the school.

In support of his submission, learned Advocate referred to the judgment dated 18.10.2023 in Writ petition No. 7841 of 2019 regarding another school of this upazilla, namely, Malikandha Community Primary School, Banaripara, Barisal. In this case High Court Division was pleased to dispose of the Rule directing the respondents to consider the petitioners' claim for nationalization in accordance with law. He prayed that, the instant Rule may as well be disposed of in the similar manner.

On the other hand, learned Deputy Attorney General Mr. Mohammad Waliul Islam Oli contested the Rule, however without filing any affidavit in opposition and submits that, nationalization of the non-government primary schools is purely a policy decision of the Government. In view of the latest principle set out by the Hon'ble Appellate Division, no direction can be made upon the executive to nationalize any school.

We have heard the learned Advocate for the petitioner as well as the learned Deputy Attorney General and perused the writ petition and all the documents annexed therewith.

On perusal of the documents annexed with the writ petition, we find that, the school was established in 1993 and in 1998 permission was given by the government to provide primary education in this school. This school is situated in a remote area of the locality and there is no other government school in the vicinity. The school building was re-constructed under the government project in 2012; it is also receiving the free primary textbooks from the government. The school is still functioning and the teachers and staffs are receiving salaries from the private resource. In 2013 government took a policy decision to nationalize all the non-government primary schools of the country. Pursuant to this decision, petitioners made several representations before the respondents praying for nationalization of their school but no response has ever been made.

In view of the facts and circumstances mentioned hereinabove and considering the submissions made by the learned Advocates, we are of the view that, justice would be better served if we dispose of the Rule with the following direction upon the Respondents:

The Respondents are hereby directed to consider the petitioners' application for nationalization of West Gava Community Primary School situated at Banaripara, District-

Barishal, including its existing teachers and staffs, in accordance with law within a period of 90 (ninety) days from the date of receipt of a copy of this judgment if the school and its teachers and staffs qualify the criteria set forth by the respondents in this regard.

In the result, the Rule is disposed of.

However, there is no order as to costs.

Communicate the judgment and order at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO