

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

Writ Petition No. 1705 of 2019

IN THE MATTER OF:

An application under Article 102(2) of the  
Constitution of the People's Republic of  
Bangladesh.

AND

IN THE MATTER OF:

M/S Malancha Filling Station

....Petitioner

Versus

Bangladesh, represented by its Secretary,  
Ministry of Energy and Mineral Resources,  
Bangladesh Secretariat, Ramna, Dhaka and  
others

....Respondents

Mr. A.S.M Shahriar Kabir, Advocate

....For the Petitioner

Md. Md. Abid Chowdhury, DAG with

Mr. M Mohiuddin Yousuf, DAG,

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 18.05.2026.

Md. Iqbal Kabir, J:

This Rule Nisi was issued calling upon the respondents to show cause as to why the purported inaction of the respondent No. 2 in not giving effect to the resolution dated 17.09.2015 passed in the Board of Directors' Meeting No. 410, so far as it relates to approval for commissioning of the petitioner's petrol-filling station as contained in Annexure-'A' to the Writ Petition, should not be declared to be without lawful authority and of no legal effect and why the respondent No. 2 should not be directed to implement and give effect to the resolution dated 17.09.2015 passed in the Board of Directors' Meeting No. 410, so far as it relates to approval for commissioning of the petitioners' petrol-filling station as contained in Annexure-'A' to the Writ Petition, and /or

such other or further order or orders passed as to this Court may seem fit and proper.

The short facts leading to the issuance of the Rule are that the petitioner is a citizen and engaged in business, with a view to establishing and commissioning a new petrol filling station under the policy namely “জ্বালানী তেল বিক্রয়ের লক্ষ্যে নতুন ফিলিং স্টেশন/সার্ভিস স্থাপনে ডিলার নিয়োগ সংক্রান্ত নীতিমালা (সংশোধন), ২০১৪” (in short Nitimala, 2014) the petitioner submitted an application dated 03.09.2014 before the Managing Director of respondent No. 4, namely Meghna Petroleum Limited, praying for permission to establish a new petrol filling station at the place mentioned in the application. The petitioner submitted all necessary papers and documents as required under the aforesaid Nitimala, along with the application.

However, it appears that the petitioner’s application received favourable consideration from respondent No. 4, and thereafter the matter was placed before the Board of Directors of respondent No. 4. Subsequently, in its 410<sup>th</sup> Board Meeting held on 17.09.2015, respondent No. 4 adopted a resolution approving the petitioner’s proposal for commissioning the proposed petrol filling station. Pursuant thereto, the decision of the Board, along with the relevant papers, was forwarded on 29.09.2015 to respondent No. 3, namely Bangladesh Petroleum Corporation, for taking necessary steps and obtaining final approval in accordance with the prevailing policy and legal framework.

It further appears that respondent No. 3, upon scrutiny and examination of the proposal and recommendation made by respondent No. 4, concurred with the decision taken in favour of the petitioner and transmitted the matter to respondent No. 2/the Ministry concerned for necessary approval in accordance with Article 7(৩) of the amended Nitimala, 2014, which came into force through Gazette Notification dated 08.01.2015. Thereafter, on 28.11.2017, authorization and permission were also issued for commissioning the proposed filling station in the name and style of “MS SS Filling Station”. However, despite such approval and recommendation by the concerned subsidiary authority and despite forwarding the matter for final approval, respondent No. 2 did not take any effective decision regarding the implementation and commissioning of the petitioner’s proposed filling station.

According to the petitioner, after approval of the proposal by respondent No. 4 and transmission of the matter to respondent No. 2 through respondent No. 3, the matter remained pending for years together without any lawful explanation. The petitioner repeatedly approached the respondents requesting implementation of the Board decision dated 17.09.2015 and also served demand justice notices seeking immediate compliance with the said Board resolution, but the respondents failed to take any positive action in the matter.

It is contended that respondent No. 4 is admittedly a subsidiary concern of respondent No. 3/Bangladesh Petroleum Corporation and that under the relevant statutory framework and the policy namely “জ্বালানী তেল বিক্রয়ের লক্ষ্যে নতুন ফিলিং স্টেশন/সার্ভিস স্থাপনে ডিলার নিয়োগ সংক্রান্ত নীতিমালা (সংশোধন), ২০১৪”, there is no provision empowering respondent No. 2 to indefinitely withhold or ignore a proposal duly approved by the competent subsidiary authority. It has further been contended that the respondents, being instrumentalities of the Government, are under a legal obligation to act fairly, transparently and in accordance with law. According to the petitioner, the prolonged silence and inaction on the part of respondent No. 2 in not giving effect to the Board resolution dated 17.09.2015 is arbitrary, unreasonable, without lawful authority and of no legal effect.

The petitioner also stated that the relevant Nitimala of 2014 was subsequently amended by Gazette Notification dated 21.06.2018, whereby the earlier requirement of prior approval from the Ministry was withdrawn and the power relating to disposal of such matters was restored to Bangladesh Petroleum Corporation. Consequently, pending applications, including that of the petitioner, were returned by the Ministry vide letter dated 15.07.2018 to respondent No. 3 for necessary action and disposal. However, despite such policy change and despite the return of the petitioner’s case for disposal, no final decision was communicated to the petitioner.

In response to the Rule, respondent No. 3 entered an appearance and filed an affidavit-in-opposition. In the said affidavit, respondent No. 3 admitted that the petitioner had indeed submitted an application dated 03.09.2014 before the Managing Director of respondent No. 4 for commissioning a new petrol filling station. It was further admitted that in the 410<sup>th</sup> Board Meeting held on 17.09.2015, respondent No. 4 approved

the petitioner's proposal and forwarded the same to respondent No. 3/Bangladesh Petroleum Corporation for final approval.

However, he brought notice that the authority has stopped new approvals; thereafter, provision of Article 7(e) of Policy 2014 has been repealed, and a new provision has come into play. As a result, the writ petitioner's proposal for the establishment of a new filling station is required to fulfill the new criteria as per the amended Policy and has to be duly approved by the competent authority; as such, there is nothing to be aggrieved by the inaction of the respondent since no direction is required.

It was further stated by respondent No. 4 that thereafter, on 08.01.2025, vide memo No. 28.22.0000.703.04.005.25, respondent No. 4 again reminded respondent No. 3 regarding the pendency of the petitioner's application and requested necessary steps for obtaining final approval for commissioning the proposed petrol filling station. However, according to respondent No. 4, under the prevailing Nitimala, respondent No. 3/Bangladesh Petroleum Corporation is the ultimate authority for granting final approval regarding the establishment and commissioning of new petrol filling stations in the country, and such authority may consider necessity, requirement, and internal policy considerations while deciding the matter.

However, the learned Advocate, in support of his submission, brought to the notice of this Court that, in identical matters, another Division Bench has already made the Rules absolute in the Rules Nisi issued in Writ Petition Nos. 1495 of 2018, 15430 of 2018, 1326 of 2019, 1704 of 2019, 5025 of 2020, 5073 of 2021, and 5088 of 2019.

We have heard the parties, examined the documents, and considered the submission and relevant law and policy.

Upon consideration of the pleadings, documents annexed to the writ petition, and the affidavit-in-opposition, it prima facie appears that the petitioner's proposal had long ago been duly processed and approved by the concerned subsidiary authority. Despite such approval and recommendation by the subsidiary company, and despite issuance of the necessary permission for commissioning the proposed filling station, the matter remained pending for a considerable length of time without any effective decision from respondent No. 2.

Further, upon scrutiny of the records, it appears that the petitioner had been recommended by the relevant authorities as an eligible candidate for approval of his case, and at no stage did any government office raise any objection or dissent against his claim. It appears that the Policy, 2014, was subsequently amended by the Nitimala, 2018; however, the amended provisions incorporated therein do not apply to the present case. The records reveal that all requisite formalities had already been completed and a decision had been taken under the Policy, 2014, before the amended Nitimala, 2018, came into force.

It also transpires that similarly situated persons in the same category were approved the establishment of their proposed filling stations, whereas the case of the present petitioner alone was left unattended and manifestly ignored for no fault attributable to him. By neither approving nor rejecting the petitioner's case in accordance with the law, the respondent authority violated the doctrine of legitimate expectation, thereby depriving the petitioner of his lawful entitlement. At present, the entire obligation to resolve the issue rests upon the Bangladesh Petroleum Corporation (BPC), which, in law, cannot avoid or evade its statutory responsibility.

In view of the facts and circumstances of the present case, the existing position of law, and the decisions referred to hereinbefore, we are of the view that the petitioner had already completed the entire process required for obtaining approval under the prevailing Policy/Nitimala, 2014, before the amended Nitimala, 2018 came into force through Gazette Notification dated 01.07.2018. Consequently, the amended Nitimala, 2018 has no manner of application to the case of the present petitioner. We, therefore, find substance in the Rule and hold that the same is liable to be made absolute.

Accordingly, the impugned inaction of respondent No. 2 in not giving effect to the resolution dated 17.09.2015 adopted in the 410<sup>th</sup> Board Meeting, insofar as it relates to approval for commissioning the petitioner's petrol filling station, as contained in Annexure-'A' to the writ petition, is declared to have been made without lawful authority and to be of no legal effect.

Respondent No. 3 is hereby directed to accord permission to the petitioner, in accordance with the provisions of the Policy/Nitimala, 2014

dated 16.04.2014, for setting up and commissioning his petrol filling station, provided that the petitioner fulfils all requirements stipulated therein, without subjecting him to any condition subsequently imposed by the Nitimala, 2018 dated 21.06.2018, which may operate to his detriment or cause disadvantage to his business entity.

The respondent No. 3 is further directed to carry out the aforesaid direction within a period of 60 (sixty) days from the date of receipt of a copy of this judgment and order.

With the above observation and direction, the Rule is made absolute.

There will be no order as to costs.

Communicate the order.

S M Saiful Islam, J:

I agree