

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

**WRIT PETITION NO. 5971 OF 2019**

**IN THE MATTER OF:**

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

AND

**IN THE MATTER OF:**

Md. Iqbal Kabir

.....Petitioner

-VERSUS-

The Government of Bangladesh, represented by the Secretary Ministry of Education and others

..... Respondents

Mr. Golam Abbas Chowdhury, Senior Advocate  
with

Mr. Md. Mokhlesur Rahman, Advocate

..... For the Petitioner

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

**Present:**

**Mr. Justice Sashanka Shekhar Sarkar**

**And**

**Justice Urmee Rahman**

**Heard on 29.04.2026**

**Judgment on 30.04.2026**

**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 impugned decision of the respondent No. 2 refusing to include petitioner’s name in the MPO list as reflected in the Online notification dated 16.11.2018 in the online portal maintained by the Directorate of Secondary and Higher Education, under Docket No. U27/A5/10-8/2018224357 (Annexure-D) shall not be declared to have been issued without lawful authority and is of no legal effect; and also as to why a direction shall not be given upon the respondents to include the name of the petitioner in the list of MPO (Monthly Payment Order) under Kajir Chawra High School, Lalmonirhat Sadar, Lalmonirhat and/or such other or further order or orders passed as to this Court may seem fit and proper.”*

At the time of issuance of the Rule Nisi it was further ordered that,

*“Pending disposal of the Rule, the respondent No. 2 is hereby directed to dispose of the application dated 21.03.2019 so made by the petitioner (as contained in Annexure-G) in accordance with law within a period of 4(four) weeks from the date of receipt of the copy of this order.”*

Necessary facts for disposal of the instant Rule, in short, are that, the petitioner completed his S.S.C and H.S.C examination in the years 1986 and 1989 respectively. He completed his first graduation in Bachelor

of Social Science from National University in 2002. Thereafter he completed Bachelor of Education degree in 2007 from Dhaka International University and appeared in Non-Government Teacher's Registration and Certification Authority (NTRCA) examination in the year 2008 and duly passed the said exam as an English Teacher.

Pursuant to an appointment circular the petitioner applied for the post of Assistant Teacher in English in Kajir Chowra High School, Mahendranagar, Lalmonirhat Sadar, Lalmonirhat. Following due process, he was given appointment on 22.04.2015 and he joined on 23.04.2015 as an Assistant English Teacher of the said school. After joining the school, the petitioner through the Head Master of the institution applied for inclusion of hisname in the Monthly Pay Order (MPO) in the prescribed manner but that the application was rejected on 16.11.2018 on the grounds that, the required 300 marks in English subject and recognition letter from the University were not found.

The petitioner on 21.03.2019 filed an application before the respondent No. 2 i.e. the Director General of Secondary and Higher Secondary Education Directorate, Dhaka. That application not having been responded by the respondent No. 2, the petitioner sent a legal notice through his lawyer on 16.05.2019 but without any result till date.

Being aggrieved thereby and there having no other alternative and efficacious remedy available, the petitioner filed the instant writ petition and obtained the present Rule.

Learned Senior Advocate Mr. Golam Abbas Chowdhury appeared with Mr. Md. Mokhlesur Rahman on behalf of the petitioner. At the very outset learned Senior Advocate submitted that, the respondents acted illegally in rejecting petitioner's application for enlistment in the MPO with the finding that he does not have 300 marks in English subject inasmuch as the petitioner stood for Non-Government Teachers' Registration and Certification Authority (NTRCA) Examination in the year 2008 and duly passed the said exam and at that time according to the NTRCA Exam Circular, 2008 there was no such requirement of securing 300 marks in English language. This requirement was introduced in the following year in 2009, which is evident from NTRCA Circulars dated 12.08.2008 and 12.08.2009 and in view of this matter the impugned decision rejecting petitioner's application is liable to be declared to have been done without lawful authority and is of no legal effect.

Learned Senior Advocate next submitted that, the respondents' other ground in rejecting petitioner's application for MPO that, they did not find recognition letter of certification of Bachelor of Education from Dhaka International University is also not tenable in law inasmuch as petitioner duly submitted the recognition letter of certification of Bachelor of Education from Dhaka International University dated 11.05.2018, which respondents could not find due to the reasons best known to them. As such the impugned decision of respondent no. 2's office rejecting the petitioner's application is liable to be declared to have been passed without any lawful authority.

He further submitted that, the petitioner being an appointee in the year 2015, has not yet been considered for M.P.O. which is unfair and discriminatory and therefore the Rule is liable to be made absolute.

He finally submitted that, the other teachers of the institution have already been listed in the M.P.O. but respondent nos. 2 and 3 clearly deprived the petitioner from enjoying his rightful entitlement provided by law as well as they violated his constitutional right guaranteed under Articles 27, 31 and 40 of the Constitution of the People's Republic of Bangladesh. As such he finally prayed that, the respondents may kindly be directed to enlist petitioner's name in the Monthly Payment Order (M.P.O).

None appeared to contest the Rule.

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

It transpires from Annexure-D to the writ petition that, the petitioner's application dated 10.08.2018 for being enlisted in the M.P.O. was rejected, which was published online on 16.11.2018 and for reason of such rejection it has been stated that,

*“Reason: Others Description: Not found 300 Marks in English Degree level. ::: Mark By: dd\_rangpur Date: 16-Nov-2018 Comments: Previous history removed.*

*B.Ed from DHAKA INTERNATIONAL UNIVERSITY  
in 2007. Recognition letter not found.”*

It also appears from the comment part that a recommendation was made stating that, “This application may be considered for MPO at pay code-10.” However, ultimately the application was rejected, which is evident from this online rejection order.

Being directed by this Division at the time of issuance of the Rule on 28.05.2019, to dispose of the petitioner’s application dated 21.03.2019, a reply was made from the office of the respondent No. 2 by the memo dated 04.02.2020 as evident from Annexure-II as annexed with the application for issuance for supplementary Rule dated 07.12.2021. (It is pertinent to mention that no supplementary Rule was issued and the application was kept with the record.)

In that reply dated 04.02.2020 it has been categorically stated by the respondent no. 5 that:

*“এমতাবস্থায়, স্নাতক পর্যায়ে ইংরেজি বিষয়ে ৩০০ নম্বর না থাকায়  
জনাবল কাঠামো অনুযায়ী সহকারী শিক্ষক (ইংরেজি) পদে জনাব মোঃ  
ইকবাল কবির-এর এমপিও ভুক্তির সুযোগ নাই। বিষয়টি নির্দেশক্রমে  
অবহিত করা হলো।”*

At this juncture, we are referring the requirements set forth by the NTRCA in the notification dated 12.08.2008 regarding the 4<sup>th</sup> Teacher’s Registration Examination held in the year 2008 in which the petitioner participated. In 2008 the educational qualification for an Assistant

Teacher (Social Science) in the subject including Bangla, English etc. was as follows:

“২য় শ্রেণীর বি.এড. সহ স্নাতক ডিগ্রি, তবে স্নাতক পর্যায়ে সংশ্লিষ্ট বিষয় তাঁর পাঠ্যসূচিভুক্ত থাকতে হবে।”

This educational qualification was subsequently amended in the following year for the 5<sup>th</sup> Teachers’ Registration Examination of 2009 and from the memo dated 12.08.2009 (Annexure VI) the qualification appears to be as follows:

“২য় শ্রেণীর বি.এড. সহ স্নাতক ডিগ্রি, তবে স্নাতক পর্যায়ে সংশ্লিষ্ট বিষয় (বাংলা ও ইংরেজির ক্ষেত্রে ৩০০ নম্বরসহ) তাঁর পাঠ্য সূচিভুক্ত থাকতে হবে;”

It is therefore apparent on the face of the record that, the required educational qualification for 4<sup>th</sup> Teachers’ Registration Examination in 2008 did not have the requirement of securing 300 marks in the concerned subject.

From the documents on record we find that, the petitioner duly passed the Bachelor of Social Science Degree and Bachelor of Educational Degree with Second Division and he was registered under NTRCA in 2008 as an English Teacher and obtained the certificate, which has been annexed as Annexure-E-1 to the writ petition.

The petitioner, in his application dated 21.03.2019, unequivocally stated, supported by relevant documents, that no such requirement existed at the relevant time. Despite this, respondent No. 3, by its reply dated

04.02.2020, mechanically reiterated that there was no scope to enlist him under the M.P.O. scheme on the alleged ground that he did not have the requisite 300 marks in English. It is noteworthy that, the other deficit of a recognition letter, stated in the online rejection order, was not mentioned in the said reply.

The memo dated 04.02.2020 clearly reveals a complete non-application of mind on the part of the respondents and reflects a wholly arbitrary, capricious, and mala fide exercise of authority, passed without proper consideration of the petitioner's application and supporting documents.

In the given facts and circumstances, we find that the grounds, on which the application for enlistment in the MPO was rejected, was not a valid ground in the eye of law.

The petitioner was given appointment following due process of law and that has not been controverted by the respondents. He applied for enlistment in the M.P.O. in the prescribed manner with all supporting documents. The eligibility of enlistment must be based on the requirements prevailing at the time of his appointment not by the subsequent requirements added by the respondent. A subsequent incorporation introducing the requirement of holding certain marks cannot thus be made applicable in case of the petitioner and his right to be enlisted in the M.P.O. cannot be denied on that ground.

In view of the facts and circumstances discussed hereinabove, we find that there is substance in the submissions made by the learned Advocate for the petitioner and there is merit in the Rule.

In the result, the Rule is made absolute.

However, without any order as to costs.

The impugned online rejection order issued by the respondent No. 2 is hereby declared unlawful and without lawful authority and the respondents are directed to enlist the petitioner's name in the MPO within 30 (thirty) days of receipt of this judgment and order with effect from the date from when he was eligible to get M.P.O. in accordance with law.

Let a copy of this judgment and order be communicated to the authorities concerned at once.

**Justice Sashanka Shekhar Sarkar, J:**

I agree.