

**In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)**

Present:

Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 2833 of 2019

IN THE MATTER OF :

An application under Section 115(4) of the
Code of Civil Procedure 1908

-And-

In the Matter of:

Md. Zahirul Islam

.....Petitioner

Versus

Md. Sohrab Uddin and others

.....Opposite parties

None

.... For both the parties

Judgment on: 22.01.2024.

Md. Riaz Uddin Khan, J:

This Rule was issued calling upon the opposite party to show cause as to why the judgment and order dated 18.07.2019 passed by the District Judge, Mymensingh in Civil Revision No. 06 of 2019 dismissing the same and thereby affirming the Order No. 34 dated 24.02.2019 passed by the Senior Assistant Judge and Election Tribunal, Sadar Court, Mymensingh in the Election Case No. 11 of 2016 allowing the application for recounting of votes should not be set aside and or such other or further order or orders as to this court may deem fit and appropriate.

At the time of issuance of Rule proceeding of the Election Case No. 11 of 2016 pending before the Senior

Assistant Judge and Election Tribunal, Sadar Court, Mymensingh was stayed.

No one appears to press the Rule when the matter was taken up for hearing.

The opposite party No.1 being the plaintiff filed Election Case No. 11 of 2016 before the Senior Assistant Judge, Sadar and Union Parishad Election Tribunal for declaring him as elected Member of Ward No. 6 of Number 8 Singrail Union Parishad for cancellation of the result of Election held on 23.04.2016 by which the present petitioner was declared elected Member of the said Ward.

The plaintiff during trial filed an application for re-counting the votes of the said Election. The tribunal allowed that application by his order dated 24.02.2019. Challenging that order the Defendant No.1 (present petitioner) filed Civil Revision No. 6 of 2019 before the District Judge, Mymensingh who after hearing the revision by his judgment and order dated 18.07.2019 dismissed the same and thereby affirmed the order passed by the Election Tribunal.

Being aggrieved by and dissatisfied with the aforementioned judgment and order the Defendant No.1 filed the instant leave to Revision before this Court

and obtained the Rule and order of stay as stated at the very outset.

Admittedly the election was held on 23.04.2016 and according to Section 29 of the Local Government (Union Parishad) Act, 2009 the elected persons is to hold their position for 5(five) years from the date of the 1st session of the Parishad and the 1st session is to be held within 30 days from the publication of the Gazette notification of the election result. Meanwhile, all most 8(eight) years have been passed and in the meantime another election of the aforementioned Union Parishad has been held on 05.01.2022 and accordingly a Gazette notification has been published. In such circumstances, it would be futile exercise to decide the instant Rule on merit as the Rule has already become in-fructuous. It is to be noted that not only this Rule but also the Election Case No.11 of 2016 pending in the court of Senior Assistant Judge and Election Tribunal, Sadar Court, Mymensingh has become in-fructuous as it lost its efficacy.

In the result the Rule is discharged as being in-fructuous.

Communicate the judgment and order at once.