

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

WRIT PETITION NO. 11473 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:

Rakhi Mondal

.....Petitioner

-VERSUS-

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

..... Respondents

Dr. Kazi Aktar Hamid, Senior Advocate with

Mr. Samiran Mallik, Advocate

..... For the Petitioner

Mr. Md. Rashadul Hassan, D.A.G with

Ms. Nilufar Yesmin, A.A.G with

Mr. Md. Moshir Rahman (Rahat), A.A.G with

Mr. Md. Mutasin Billah Parvez, A.A.G with

Mr. Bishwanath Karmaker, A.A.G

.....For the Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard on 29.04.2026 and 19.07.2026

Judgment on 22.07.2026

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 decision of the respondent No. 2 rejecting application of the petitioner seeking Monthly Payment Order (MPO) (Annexure-E); should not be declared to be without lawful authority and is of no legal effect and/or such other or further order or orders be passed as to this Court may seem fit and proper.”

Necessary facts for disposal of the instant Writ Petition, in short, are that, after passing the S.S.C. and H.S.C. examination in the year 2002 and 2005 respectively, the petitioner got herself admitted in Darul Ihsan University and obtained Bachelor Degree from Business Administration Department in the year of 2011. Thereafter she obtained professional certificate from Non-Government Teachers Registration and Certification Authority (NTRCA) in the year of 2014.

Hazi Abdul Malek Islamia College sent a requisition to the NTRCA for appointment of 2(two) teachers in History Department, one Teacher in Biology Department and one Teacher in Marketing Department of the said college. Considering the requisition, NTRCA selected 4 (four) Lecturers and after observing necessary formalities sent the list to the college authority for giving appointment. The College authority duly gave appointment to the petitioner on 17.02.2019 in the post of Lecturer of Marketing Department and she joined on 18.02.2019. Since the College was already MPO enlisted, the Principal of the said College forwarded a letter dated 20.03.2019 to the Director General of Secondary and Higher

Education Directorate requesting to take necessary steps to enlist the petitioner in the Monthly Payment Order. The respondent No. 2 rejected the application via online on the ground of "Insufficient paper description: Certificate is not satisfactory". Having been rejected, the petitioner went to the office of the respondent No. 2 in order to know the reason for which her application was rejected. The office of the respondent No. 2 verbally informed her that, they do not accept the Bachelor Degree Certificate from Darul Ihsan University and for that reason her application was rejected.

Being aggrieved by the impugned online rejection and there having no other alternative and efficacious remedy available, the petitioner has filed the instant writ petition and obtained the Rule.

Learned Senior Advocate Dr. Kazi Aktar Hamid with learned Advocate Mr. Samiran Mallik, appeared on behalf of the petitioner. At the very outset Mr. Hamid submitted that, the respondent No. 1 has approved the certificate issued by the 'Darul Ihsan University' by letter dated 01.11.2015, as such the respondent No. 2 can not disqualify the writ petitioner from getting MPO on the ground of obtaining degree from the said University. In view of the facts, the impugned decision contained in Annexure-E is liable to be declared to have been taken without any lawful authority and is of no legal effect.

He next submitted that the writ petitioner was appointed in Hazi Abdul Malek Islamia College by following necessary formalities as per law, as such her certificate is not satisfactory cannot be a ground in

rejecting enlistment in the Monthly Payment Order. In view of the fact, the impugned decision is liable to be set aside.

He finally submitted that whether the petitioner has sufficient academic qualifications to be appointed as a teacher in the Non-Government educational institution is to be decided by the NTRCA but in the instant case respondent No. 2 has refused to grant MPO for want of academic qualification, which is not sustainable in law and therefore the respondents may be directed to enlist the petitioner's name in the Monthly Pay Order.

By referring to a supplementary affidavit dated 05.05.2026 learned Senior Advocate submitted that the authority has accepted the certificate issued by the 'Darul Ihsan University' in case of another teacher, namely, Nepal Deb Nath and accordingly enlisted him in the Monthly Pay Order. Since the respondent authority considered the certificate obtained from 'Darul Ihsan University' in case of another teacher, rejecting the petitioner on the ground of having certificate from the same University has placed her in a discriminatory position and therefore, the instant decision is liable to be set aside for ends of justice.

Conversely, Mr. Md. Rashadul Hassan, the learned Deputy Attorney General contested the Rule; however without filing any affidavit in opposition. He submitted that, the certificates issued by the 'Darul Ihsan University' being a questionable one, cannot be considered while granting Monthly Pay Order and accordingly the respondent authority rightly rejected the same. No illegality having been committed by the

respondents, there is no merit in the present Rule and therefore the same is liable to be discharged.

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

Admittedly the petitioner obtained certificate of Bachelor Degree in Marketing from 'Darul Ihsan University' in the year 2011 (Annexure-A). Thereafter, she took part in the professional examination of the NTRCA authority and obtained a certificate in the year 2014 following due process of law. Concerned authority of the College gave her appointment on 17.02.2019 in the vacant post of the Marketing Department. From the documents annexed as Annexures-B, B-1 and B-2 with find that, the Governing Body of the College gave appointment to the petitioner having been satisfied with all the academic certificates submitted by her along with the NTRCA certificate and she has been working there ever since. By the application dated 20.03.2019 the Principal of the College made a forwarding to the Director General Secondary and Higher Education Directorate requesting to enlist the petitioner's name in the Monthly Pay Order (Annexure-E). That application was rejected via online and on the bottom of the online result the reason has been stated that, "Insufficient paper, Description: Certificate is not satisfactory". However, nothing was specifically mentioned as to why the certificate was not found to be satisfactory. It is the petitioner's submission that she was verbally informed by the respondent authority that her Bachelor Degree Certificate

having been obtained from ‘Darul Ihsan University’, the respondent authority were not inclined to accept the same and accordingly, rejected her application.

From annexure-I to the supplementary affidavit filed by the petitioner dated 05.05.2026 we find that, by the memo dated 28.08.2018 the office of the Secondary and Higher Education Division, Education Ministry has issued an office order stating that as per the decision of Bangladesh Supreme Court regarding the certificate, obtained from ‘Darul Ihsan University’ the decision of the Governing Body/Managing Committee of the concerned institution shall be deemed to be final and any application for enlistment in the M.P.O. on the basis of those certificates shall be considered by the Secondary and Higher Education Directorate. The memo dated 28.08.2018 is reproduced below:

অফিস আদেশ

মহামান্য সুপ্রীম কোর্টের নির্দেশ মোতাবেক দারুল ইহসান বিশ্ববিদ্যালয় হতে অর্জিত সনদের গ্রহণযোগ্যতার বিষয়ে স্ব স্ব শিক্ষা প্রতিষ্ঠানের গভর্নিং বডি/ম্যানেজিং কমিটির সিদ্ধান্ত চূড়ান্ত বলে গণ্য হবে এবং উক্ত সনদের ভিত্তিতে ইতোমধ্যে বিধি মোতাবেক নিয়োগপ্রাপ্ত শিক্ষক/কর্মচারীদের এম.পি.ও ভুক্ত সংক্রান্ত সকল কার্যক্রম মাধ্যমিক ও উচ্চ শিক্ষা অধিদপ্তর গ্রহণ করবে।

২.০ যথাযথ কর্তৃপক্ষের অনুমোদনক্রমে এ আদেশ জারি করা হলো

৩.০ এ আদেশ অবিলম্বে কার্যকর হবে।

(মো: কামরুল হাসান)
উপসচিব
ফোন: ৯৫৪০৫১৭

On careful examination of the judgment of the High Court Division dated 13.04.2016 in the case of *Professor Syed Ali Naki and others Vs.*

Bangladesh and others reported in 36 BLD 417 by which all the activities of the ‘Darul Ihsan University’ were declared illegal and unlawful and which was subsequently affirmed by the Appellate Division, we find that, it has been categorically stated by this Division that:

“Notwithstanding the above finding about the Darul Ihsan University, this Court, in this judgment, is not making any declaration on the certificates issued by the Darul Ihsan University as to whether those are valid or invalid. It is up to the authorities of the relevant profession and the employers of the different sectors, be it the private or public sector employer, either to accept the Certificates issued by the Darul Ihsan University or to dishonour those certificates.”

On perusal of the documents annexed to the writ petition we have already seen that, the Governing Body of the concerned College upon scrutinizing all the certificates submitted by the petitioner found her eligible for the post and gave her appointment in the year 2019. Considering the judgment as well as the memo dated 28.08.2018 issued by the Ministry the certificates obtained from Darul Ihsan University has been given recognition by the Governing Body. Therefore we find that, the impugned online rejection stating that the certificate was found not to be satisfactory cannot be sustained in the eye of law.

We have also seen from Annexures-G, G-1 and G-2 that another teacher with the certificate from the same University has been granted M.P.O by the respondents authority. The petitioner has been discriminated in this regard. The respondent authority cannot make a pick and choose

policy while granting M.P.O if they found the applicant to be otherwise eligible.

Therefore, we find substance in the submission made by the learned Advocate for the petitioner and accordingly we find merit in the Rule.

In the result, the Rule is made absolute.

The respondents are hereby directed to enlist the name of the petitioner in the Monthly Pay Order considering the documents submitted by her unless she is not otherwise found disqualified and the respondents are further directed to comply with the order within 30 (thirty) days from the date of receipt of a copy of this judgment and order accordingly.

However, without any order as to costs.

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

Justice Sashanka Shekhar Sarkar, J:

I agree.