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

Present:

Mr. Justice Md. Badruzzaman
And
Mr. Justice Sk. Tahsin Ali

IN THE MATTER OF:

An application under Article 102 read with Article 44 of the Constitution of the People's Republic of Bangladesh.

-AND-

IN THE MATTER OF :

WRIT PETITION NO. 2587 OF 2009.

Md. Idris Miah

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Md. Kaisaruzzaman with
Mr. K.M Rashidul Islam, Advocates

... For the Petitioner.

Mr. A.S.M Sharif Newaz, Advocate

.. For respondent Nos. 2-5 and 7

With

Writ Petition No. 4364 of 2009

Nilufa Yasmin Khan

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Mohammad Ali, Senior Advocate with
Mr. Md. Mahbubur Rahman, Advocate with
Mr. Md. Anowar Hossain, Advocates

... For the Petitioner.

With

Writ Petition No. 2588 of 2009

Sultan Salahuddin

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Md. Kaisaruzzaman with
Mr. K.M Rashidul Islam, Advocates

... For the Petitioner.

Mr. A.S.M Sharif Newaz, Advocate

…For the respondent Nos. 2-5 and 7

With

Writ Petition No. 2276 of 2009

Shahana Ali

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Md. Moniruzzaman Asad, SeniorAdvocate

... For the Petitioner.

With

Writ Petition No. 2277 of 2009

Md. Kawser-E-Alam

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others..

... Respondents.

Mr. Md. Moniruzzaman Asad, Senior Advocate

... For the Petitioner.

With

Writ Petition No. 2589 of 2009

Mafruha Selim

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Md. Kaisaruzzaman with
Mr. K.M Rashidul Islam, Advocates

... For the Petitioner.

Mr. Md. Sayed Alam (Tipu), Advoate

…For the respondent Nos. 2-7

With

Writ Petition No. 3878 of 2009.

Md. Anwar Hossain

…….. Petitioner

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Mohammad Ali, Senior Advocate with
Mr. Md. Mahbubur Rahman, Advocate with
Mr. Md. Anowar Hossain, Advocates

... For the Petitioner.

Mr. Mohammad Imam Hossen Tareq, D.A.G
with Mr. Mohammad Rashedul Hasan, D.A.G
with Mr. Shakir Uddin Ahmed Bappy, D.A.G
with Mr. Mohammad Anowar Hossain, A.A.G
with Mr. Md. Shahidul Islam, A.A.G with
Mr. Kamrunnahar Lipi, A.A.G

…For Respondent No.1 in all petitions.

Heard on: 27.10.2026.
Judgment on: 10.11.2026.

Md. Badruzzaman, J:

In Writ Petition No. 2587 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order

contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪২৫ dated 19.2.2009 (Annexure-H), issued by respondent No. 3, cancelling the allotment and the registered lease deed No. 4816 dated 17.10.2006 in respect of the leasehold residential Plot No. 28, Block No. C, Road No. 27, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner applied for allotment of a residential plot on 04.11.2002 to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of the petitioner on 30.04.2006. Thereafter, on 08.08.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents further delivered possession of the plot to the petitioner on 04.09.2006. Subsequently, the respondents received the consideration money from the petitioner and executed and registered Lease Deed No. 4816 dated 17.10.2006 (Annexure-D-1) for a period of 99 years.

Thereafter, the petitioner obtained mutation of the said plot from the concerned Assistant Commissioner (Land), Sadar, Tangail, and the mutation proceedings were duly completed. The petitioner has also been paying the requisite land rent.

All of a sudden, on 03.12.2008, respondent No. 3 issued a show-cause notice upon the petitioner alleging that the aforesaid plot had been allotted to him illegally and asking him to show cause as to why the allotment and registration of the lease deed in respect of the said

plot should not be cancelled. The petitioner, by his reply dated 21.12.2008, stated that the aforesaid plot had been allotted and registered lawfully upon fulfilment of all the criteria prescribed under the allotment policy. However, without considering the petitioner's reply, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 4364 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪২৭ dated 19.02.2009 (Annexure-G), issued by respondent No. 3, cancelling the allotment and the registered Lease Deed No. 3579 dated 22.05.2008 in respect of the leasehold residential Plot No. 8, Block No. C, Road No. 25, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner applied for allotment of a residential plot on 31.10.2002 to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of the petitioner on 30.04.2006. Thereafter, on 05.09.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents further delivered possession of the plot to the petitioner on 16.03.2008. Subsequently, the respondents received the consideration money from the petitioner and executed and registered

Lease Deed No. 3579 dated 22.05.2006 (Annexure-D) for a period of 99 years.

All of a sudden, on 03.12.2008, respondent No. 3 issued a show-cause notice upon the petitioner alleging that the aforesaid plot had been allotted to him illegally and asking him to show cause as to why the allotment and registration of the lease deed in respect of the said plot should not be cancelled. The petitioner, by his reply, stated that the aforesaid plot had been allotted and registered lawfully upon fulfilment of all the criteria prescribed under the allotment policy. However, without considering the petitioner's reply, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 2588 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪২৬ dated 19.02.2009 (Annexure-D), issued by respondent No. 3, cancelling the allotment and the registered Lease Deed No. 2932 dated 17.05.2007 in respect of the leasehold residential Plot No. 2, Block No. B, Road No. 23, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner applied for allotment of a residential plot to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of the petitioner on 30.04.2006. Thereafter, on

08.08.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents further delivered possession of the plot to the petitioner on 12.09.2006. Subsequently, the respondents received the consideration money from the petitioner and executed and registered Lease Deed No. 2932 dated 17.05.2007 (Annexure-C) for a period of 99 years.

All of a sudden, without issuing any show-cause notice, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 2276 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪২৪ dated 19.02.2009 (Annexure-G), issued by respondent No. 3, cancelling the allotment and the registration of the leasehold residential Plot No. 31, Block No. B, Road No. 18, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner's husband, Suzyet Ali, applied for allotment of a residential plot on 27.10.2002 to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of her husband on 30.04.2006. Thereafter, on 08.08.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents received the consideration money from her husband and executed and registered Lease Deed No. 2100

dated 05.04.2006 (Annexure-D-1) for a period of 99 years. The respondents further delivered possession of the plot to the husband of the petitioner on 03.10.2006.

Thereafter, on 30.08.2008, the petitioner's husband died, leaving behind the petitioner, his wife, and their two minor sons as his only legal heirs and successors. Since then, the petitioner and her two minor sons have been possessing and enjoying the said plot.

All of a sudden, on 03.12.2008, respondent No. 3 issued a show-cause notice upon the petitioner alleging that the aforesaid plot had been allotted to her husband illegally and asking her to show cause as to why the allotment and registration of the lease deed in respect of the said plot should not be cancelled. The petitioner, by her reply dated 21.12.2008, stated that the aforesaid plot had been allotted and registered lawfully upon fulfilment of all the criteria prescribed under the allotment policy. However, without considering the petitioner's reply, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 2277 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪২৩ dated 19.02.2009 (Annexure-G), issued by respondent No. 3, cancelling the allotment and the registration of the leasehold residential Plot No. 82, Block No. B, Road No. 14, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner applied for allotment of a residential plot on 02.11.2002 to the respondent National Housing Authority under the

Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of the petitioner on 30.04.2006. Thereafter, on 08.08.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents further delivered possession of the plot to the petitioner on 04.09.2006. Subsequently, the respondents received the consideration money from the petitioner and executed and registered Lease Deed No. 4618 dated 04.10.2006 (Annexure-D-1) for a period of 99 years.

All of a sudden, on 03.12.2008, respondent No. 3 issued a show-cause notice upon the petitioner alleging that the aforesaid plot had been allotted to him illegally and asking him to show cause as to why the allotment and registration of the lease deed in respect of the said plot should not be cancelled. The petitioner, by his reply dated 21.12.2008, stated that the aforesaid plot had been allotted and registered lawfully upon fulfilment of all the criteria prescribed under the allotment policy. However, without considering the petitioner's reply, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 2589 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ২৬৩৩ dated 06.04.2009 (Annexure-E), issued by respondent No. 3, cancelling the allotment and the registered Lease Deed No. 2930 dated 17.05.2007 in respect of the leasehold residential Plot No. 11, Block No. B, Road No. 20, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should

not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner applied for allotment of a residential plot on 14.10.2002 to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 3.5 kathas was allotted in favour of the petitioner on 30.04.2006. Thereafter, on 08.08.2006, respondent No. 4 issued the final allotment letter for leasing out the aforesaid plot for a period of 99 years. The respondents further delivered possession of the plot to the petitioner on 04.09.2006. Subsequently, the respondents received the consideration money from the petitioner and executed and registered Lease Deed No. 2930 dated 17.05.2007 (Annexure-D) for a period of 99 years.

All of a sudden, without issuing any show-cause notice, the respondent authority issued the impugned letter dated 06.04.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

In Writ Petition No. 3878 of 2009, *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order contained in Memo No. জাগৃক (ভূসব্য)/৮/৫৭(পার্ট)/ ১৪৩০ dated 19.02.2009 (Annexure-G), issued by respondent No. 3, cancelling the allotment of the leasehold residential Plot No. 31, Block No. A, Road No. 31, situated in Tangail Housing Estate under Tangail District, Dhaka Division, should not be declared to have been made without lawful authority and to be of no legal effect, and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner, on 29.10.2002, applied for allotment of a residential plot to the respondent National Housing Authority under the Ministry of Housing and Public Works for obtaining a residential plot on a 99-year lease, upon fulfilling all the criteria prescribed under the allotment policy. Pursuant to the said application, a residential plot measuring 5 kathas was allotted in favour of the petitioner on 08.08.2006. The respondents further delivered possession of the plot to the petitioner on 04.09.2006. Subsequently, the respondents received the consideration money from the petitioner and executed and registered a Lease Deed dated 17.10.2006 (Annexure-F) for a period of 99 years.

All of a sudden, without issuing any show-cause notice, the respondent authority issued the impugned letter dated 19.02.2009, informing the petitioner that the allotment and registration of the aforesaid lease deed had been cancelled.

The seven writ petitions, namely Writ Petition Nos. 2276 of 2009, 2277 of 2009, 2587 of 2009, 2588 of 2009, 2589 of 2009, 3878 of 2009 and 4364 of 2009, involve common questions of law and facts and, as such, have been heard together and are being disposed of by this common judgment.

The common facts giving rise to these writ petitions are that the respective petitioners, or in one case the predecessor of the petitioner, applied for allotment of residential plots in Tangail Housing Estate under the National Housing Authority, Ministry of Housing and Public Works. Pursuant to their respective applications, the competent authority allotted the scheduled plots in their favour in 2006 in accordance with the applicable allotment policy. Subsequently, final allotment letters were issued, the stipulated consideration money was paid and accepted by the respondent authority, possession of the

respective plots was delivered, and registered lease deeds for a period of 99 years were executed in favour of the respective petitioners. Thereafter, the respective petitioners entered into possession and enjoyment of their allotted plots.

It appears from the records that, by separate notices, the respondent authority alleged that the respective plots had been allotted illegally or upon special consideration and called upon the petitioners to show cause as to why their allotments and registered lease deeds should not be cancelled. The petitioners submitted their respective replies asserting that the allotments had been made lawfully upon fulfilment of all prescribed requirements and that they had not violated any terms or conditions of the respective lease deeds. In some cases, however, the respondent authority cancelled the allotments and registered lease deeds without issuing any show-cause notice.

Ultimately, by separate impugned orders issued in February and April 2009, respondent No. 3 cancelled the respective allotments and registered lease deeds. Being aggrieved, the petitioners invoked the writ jurisdiction of this Court under Article 102 of the Constitution of the People's Republic of Bangladesh, contending that the impugned orders were passed illegally, arbitrarily and without lawful authority.

Accordingly, Rules Nisi were issued in the respective writ petitions, and the operation of the impugned orders was stayed at the time of issuance of the Rules. The orders of stay are stated to be still in force.

The respondent National Housing Authority entered appearance in all the writ petitions and filed affidavits-in-opposition contending, inter alia, that the disputed plots had been allotted upon special consideration and that irregularities were detected in the allotment process. It was further contended that the authority rightly cancelled

the respective allotment letters and registered lease deeds and that the impugned orders do not warrant interference by this Court.

The learned Advocates appearing for the respective petitioners submit that the petitioners, or in one case the predecessor of the petitioner, applied for allotment of residential plots in Tangail Housing Estate under the National Housing Authority, Ministry of Housing and Public Works. Pursuant to their respective applications, the competent authority allotted the scheduled plots in their favour in 2006 in accordance with the applicable allotment policy. Subsequently, final allotment letters were issued, the stipulated consideration money was paid and accepted by the respondent authority, possession of the respective plots was delivered, and registered lease deeds for a period of 99 years were executed in favour of the respective petitioners.

The learned Advocates further submit that, upon execution and registration of the respective lease deeds, the petitioners acquired valuable and enforceable leasehold interests in the scheduled properties, which could not subsequently be extinguished merely by passing administrative orders cancelling the original allotments. They contend that the respective lease deeds contain specific provisions authorizing the Government to cancel the allotment and determine the lease only in the event of violation of the terms and conditions stipulated therein. Admittedly, however, the respondents have neither alleged nor established any violation of the terms and conditions of the respective lease deeds by the petitioners.

They next submit that the respondents, while cancelling the respective allotments and registered lease deeds, proceeded solely on the allegation that the original allotments had been made irregularly or upon special consideration. Such an allegation, by itself, does not constitute a lawful ground for cancellation of the registered lease deeds

unless the alleged irregularity falls within the scope of the contractual conditions or an independent statutory authority authorizing such cancellation is established.

In support of their submissions, the learned Advocates place reliance upon the decision of the Appellate Division in *Government of Bangladesh, represented by the Secretary, Ministry of Works and others Vs. M/s. Eastern Industries (B.D.) Ltd.*, reported in 14 BLD (AD) 254, and submit that upon execution and registration of a 99-year lease deed and delivery of possession, the leasehold interest of the lessee accrues, and the Government cannot disregard the legal consequences flowing from such registered instrument merely by cancelling the original allotment order.

They also refer to the decision of the Appellate Division in *Azizul Haque Sarker Vs. Md. Wazed Ali and others*, reported in 20 ADC 568 submit that cancellation of a registered Government settlement cannot be sustained merely on an allegation of irregularity unless fraud, misrepresentation or violation of the relevant terms and conditions is established in accordance with law.

The learned Advocates lastly submit that, in some of the writ petitions, the impugned cancellation orders were passed without issuing any show-cause notice or affording the respective petitioners an opportunity of being heard, thereby violating the fundamental principles of natural justice. They, therefore, contend that the impugned orders, having been passed without lawful authority and in disregard of the petitioners' subsisting leasehold rights, are of no legal effect and pray that all the Rules be made absolute.

The learned Advocates appearing for the National Housing Authority, along with the learned Deputy Attorney General appearing for the Government, oppose the Rules and submit that the allotments

of the disputed plots in favour of the respective petitioners were not made in accordance with the applicable allotment policy and that, upon subsequent scrutiny, various irregularities were detected in the allotment process. They contend that some of the plots had been allotted upon special consideration and, as such, the respondent authority was justified in cancelling the respective allotments and the consequential registered lease deeds in order to protect Government property and ensure proper administration of public land.

The learned Deputy Attorney General further submits that mere execution and registration of the respective lease deeds cannot confer any indefeasible right upon the petitioners to retain the disputed plots if the original allotments themselves were found to have been made illegally or in violation of the applicable allotment policy. He further contends that the respective lease deeds contain provisions reserving the right of the Government to cancel the allotments and determine the leases in the event of violation of the terms and conditions thereof and that the respondent authority was legally competent to exercise such power in the facts and circumstances of the cases.

The learned Advocates lastly submit that the impugned orders were passed in the interest of protecting Government property and ensuring its lawful administration and that the petitioners cannot claim any vested right on the basis of allotments allegedly made in violation of the applicable policy. They, therefore, submit that the impugned orders do not suffer from any illegality or infirmity warranting interference by this Court and accordingly pray that all the Rules be discharged.

We have heard the learned Advocates appearing for the respective petitioners and the learned Deputy Attorney General appearing for the respondents. We have also perused the writ

petitions, affidavits-in-opposition, the impugned orders, the respective allotment letters, registered lease deeds and other materials available on record.

The principal question that calls for determination in these Rules is whether, after making allotments in favour of the respective petitioners, receiving the stipulated consideration money, issuing final allotment letters, delivering possession and executing and registering lease deeds for a period of 99 years through the competent authority, the respondents could lawfully cancel the respective allotments and registered lease deeds merely on the ground that the original allotments were subsequently found to have been irregular or made upon special consideration.

On examination of the materials on record, we find that the respective petitioners, or their predecessor in one case, applied for allotment of residential plots in Tangail Housing Estate and that the competent authority subsequently allotted the respective plots in their favour in 2006. It is also evident that the final allotment letters were issued, the stipulated consideration money was received by the respondent authority, possession of the respective plots was delivered and registered lease deeds for a period of 99 years were executed in favour of the respective petitioners.

It is not the case of the respondents that the registered lease deeds were executed by an authority lacking competence or that the instruments were not duly executed and registered. Rather, the principal justification advanced by the respondents for cancellation is that irregularities were subsequently detected in the original allotment process and that the disputed plots had been allotted upon special consideration.

In this regard, we have carefully examined the relevant provisions of the respective registered lease deeds. We find that the lease deeds contain specific conditions reserving the right of the Government to cancel the allotment and determine the lease in the event of violation of the terms and conditions thereof. However, we do not find any stipulation therein authorizing the Government to cancel the allotment or determine the registered lease merely on the ground that the original allotment was subsequently found to have been irregular or illegal.

It is an established principle that where a contractual power is reserved in a registered instrument subject to specified conditions, such power must be exercised strictly within the limits of the authority conferred by that instrument. The authority cannot enlarge the scope of a contractual condition by introducing an additional ground which has not been incorporated therein. An alleged irregularity in the original administrative process of allotment, by itself, cannot be treated as a violation of the terms and conditions of the subsequently executed registered lease deed.

Sections 2 and 3 of the Government Grants Act, 1895 (Act No. XV of 1895) are of particular significance in determining the legal effect of Government grants of land, especially where such grants contain specific terms, conditions, restrictions or limitations. In this regard, it would be profitable to reproduce the relevant statutory provisions, which are quoted verbatim below:

> "**Section 2.** Transfer of Property Act, 1882, not to apply to Government grants: Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the Government to, or in favour of, any person whomsoever; but

every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

Section 3. Government grant to take effect according to their tenor: All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Parliament to the contrary notwithstanding."

A plain reading of Section 2 of the Government Grants Act, 1895, makes it clear that the provisions of the Transfer of Property Act, 1882, are expressly excluded in respect of any grant or transfer of land, or any interest therein, made by or on behalf of the Government. Such a grant is, therefore, required to be construed and given effect to as if the Transfer of Property Act, 1882, had never been enacted. The provision also operates retrospectively, as it extends to grants made both before and after the commencement of the Act. Consequently, a person claiming any right or interest under a Government grant cannot, merely by invoking the provisions of the Transfer of Property Act, 1882, enlarge or alter the rights conferred upon him by the terms of the grant.

On the other hand, Section 3 of the said Act supplements Section 2 by expressly recognizing the validity and enforceability of all provisions, restrictions, conditions and limitations contained in a Government grant or transfer. The section requires that such provisions, restrictions, conditions and limitations shall take effect according to their tenor, notwithstanding anything contained in any contrary rule of law or statute. Thus, where a Government grant imposes restrictions upon the transfer, sale, lease or alienation of the granted property without prior permission of the Government, such restrictions are required to be given effect to in accordance with the terms of the grant. Similarly, where the grant reserves in favour of the

Government any right of resumption, cancellation or recovery of possession upon breach of a specified condition, the exercise of such right must be examined with reference to the terms of the grant and the applicable law. It, therefore, follows that a grantee cannot claim an unrestricted or absolute right over Government-granted land merely by virtue of having received the grant. Rather, the nature and extent of the rights and interests acquired by the grantee are circumscribed by the terms, conditions, restrictions and limitations incorporated in the grant itself.

A combined reading of Sections 2 and 3 of the Government Grants Act, 1895, makes it abundantly clear that the rights and interests acquired by a grantee under a Government grant are to be determined primarily with reference to the terms and conditions embodied therein, and not by importing the provisions of the Transfer of Property Act, 1882. Therefore, in determining the legality of any subsequent action taken by the Government in respect of such property, the terms of the original grant, the nature and extent of the rights conferred upon the grantee, and the conditions and restrictions attached thereto must be duly examined. The legality of any action taken by the Government in exercise of its rights under such grant must likewise be tested against the terms thereof and the applicable law.

We have further considered the provisions of sections 105, 107 and 111 of the Transfer of Property Act, 1882, insofar as they explain the general legal character of a lease and the recognized modes of determination thereof, subject to the overriding provisions of the Government Grants Act, 1895. Upon execution and registration of the respective lease deeds by the competent authority and delivery of possession, the petitioners acquired subsisting leasehold interests in the scheduled properties for the stipulated period of 99 years. Such

interests cannot be treated as having automatically ceased merely because the Government subsequently formed an opinion that the original allotments were irregular.

In this connection, we have drawn our attention to the decision of the Appellate Division in *Government of Bangladesh, represented by the Secretary, Ministry of Works and others Vs. M/s. Eastern Industries (B.D.) Ltd.*, reported in 14 BLD (AD) 254. In the said decision, the Appellate Division recognized that upon execution and registration of a lease deed for 99 years and delivery of possession, the leasehold right of the lessee accrues and the Government cannot merely cancel the original allotment order while disregarding the legal consequences flowing from the registered lease deed.

We have also considered the decision of the Appellate Division in *Azizul Haque Sarker Vs. Md. Wazed Ali and others*, reported in 20 ADC 568, wherein the Appellate Division considered the legality of cancellation of registered Government settlement deeds on allegations of irregularity and misrepresentation and emphasized the necessity of establishing fraud or violation of the terms and conditions of the settlement before such cancellation could be sustained.

Applying the principles laid down in the aforesaid decisions to the facts and circumstances of the present seven writ petitions, we find that the competent authority of the Government duly issued the respective allotment letters, received the stipulated consideration money, delivered possession and executed and registered the respective lease deeds in favour of the petitioners. Consequently, the petitioners acquired legally recognizable leasehold interests in the scheduled properties for the unexpired period of their respective leases.

We find that although the respondents have alleged that the original allotments were irregular and that the plots were allotted upon special consideration, they have not been able to demonstrate that the petitioners violated any specific terms or conditions of the registered lease deeds. Nor have they established any fraud or misrepresentation attributable to the respective petitioners, or demonstrated any independent statutory authority empowering them to extinguish the registered leasehold interests in the manner adopted.

There is another aspect of the matter. It appears from the records that, in some of these cases, the respondents issued show-cause notices calling upon the respective petitioners to explain why their allotments and registered lease deeds should not be cancelled, and the petitioners submitted their respective replies denying the allegations. In some other cases, however, the impugned cancellation orders were passed without issuing any show-cause notice or affording the petitioners an opportunity of being heard.

It is a well-settled principle that when an administrative authority proposes to take a decision adversely affecting an existing legal right or interest, such decision must ordinarily be preceded by an opportunity of being heard, unless excluded by law. Mere issuance of a show-cause notice, however, does not by itself validate an otherwise unauthorized action. The authority must also demonstrate that the decision was taken in accordance with the governing law and the terms and conditions of the relevant instrument.

In the present cases, even where show-cause notices were issued and replies were received, the respondents were still required to establish a lawful basis for cancellation of the registered lease deeds. Since the alleged irregularity in the original allotment process has not been shown to constitute a breach of the conditions of the registered

lease deeds, the impugned cancellation orders cannot be sustained merely on the basis of such allegations.

In our considered view, once the Government, through its competent authority, has executed and registered the respective lease deeds and delivered possession of the scheduled properties after receiving the stipulated consideration money, it cannot subsequently disregard the legal consequences of those registered instruments by unilaterally enlarging the scope of the contractual power of cancellation. To permit such action would amount to introducing a ground of cancellation which was not incorporated in the respective lease deeds and would defeat the legal effect of the registered instruments.

We, therefore, find that the respondents, having failed to establish any violation of the terms and conditions of the respective registered lease deeds or any independent lawful ground authorizing their cancellation, acted beyond the scope of the authority conferred upon them by the said instruments. The impugned cancellation orders, founded solely upon alleged irregularities in the original allotment process, are consequently without lawful authority and of no legal effect.

In view of the facts and circumstances of these cases, the materials available on record and the principles of law enunciated by the Appellate Division in the aforesaid decisions, we find substance in the submissions advanced on behalf of the respective petitioners. Accordingly, we are inclined to make all the Rules absolute.

In the result, all the Rules issued in Writ Petition Nos. 2276 of 2009, 2277 of 2009, 2587 of 2009, 2588 of 2009, 2589 of 2009, 3878 of 2009 and 4364 of 2009 are made absolute.

The respective impugned orders passed by respondent No. 3 cancelling the allotments of the scheduled plots and the registered lease deeds executed in favour of the respective petitioners are hereby declared to have been passed without lawful authority and are of no legal effect.

The respondents are directed to give effect to the respective registered lease deeds executed in favour of the petitioners and to recognize and maintain their respective leasehold rights thereunder for the unexpired period of the leases, subject to the terms and conditions incorporated therein.

The respondents are further directed not to interfere with the lawful possession and enjoyment of the respective scheduled plots by the petitioners on the basis of the impugned cancellation orders.

The orders of stay granted earlier in the respective writ petitions are hereby vacated in view of the disposal of the Rules.

There will be no order as to costs.

Communicate this judgment and order to the respondents concerned at once.

(Justice Md. Badruzzaman)

I agree

(Justice Sk. Tahsin Ali)