

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

Present:

Ms. Justice Naima Haider
And
Ms. Justice Kazi Zinat Hoque

Writ Petition No. 7841 of 2019

In the matter of :

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

-And-

In the matter of :

Depali Biswas and others

..... Petitioners

-VERSUS-

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

..... Respondents

Mr. Md. Mahbubur Rahman Kishore with
Mr. Mohammad Mosfeque Salehin, Advocates

..... For the Petitioners

Mr. Amit Das Gupta, Deputy Attorney General

.... For the respondents

Date of Hearing : 09.10.2023 and 12.10.2023.

Date of Judgment: 18.10.2023.

Kazi Zinat Hoque, J :

In this application under Article 102(2)(a)(i) of the
Constitution a Rule Nisi has been issued calling upon the
respondents to show cause as to why they should not be

directed to nationalize Malikandha Community Primary School, Banaripara, Barishal and also absorb the service of petitioners as teachers of the government primary school according to the circular No. 38.007.015.000.01.00. 2011-44 dated 17.01.2019 published by the respondent No.1 and/or pass such other or further order or orders as to this court may seem fit and proper.

The Malikandha Community Primary School in Barishal was established in 1996 through local charity and donations. Although the school received permission for education from the authority of Primary Education on various dates, it has not been listed in the Non-Government Primary School category. Despite this, the school has been functioning continuously, and the Managing Committee has made decisions in accordance with rules.

The petitioners, appointed as Assistant Teachers and a Peon, have been actively engaged in their roles since their respective appointments. The school faced reconstruction after being demolished by a natural disaster and the teachers continued their services diligently. Despite multiple representations for nationalization submitted to the authorities, no action has been taken.

In 2013, the Government of Bangladesh decided to nationalize non-government primary schools and teachers. The Ministry of Primary and Mass Education published a notification on 17.01.2013 regarding this decision, and the Terms and Conditions of Service of Teachers of Nationalized Primary Schools Rules were framed on 23.09.2013. The petitioners have filed this writ petition seeking the nationalization of Malikandha Community Primary School and their absorption.

Mr. Md. Mahbubur Rahman Kishore, learned Advocate for the petitioners, submitted that though the government has nationalized most of the non-government primary schools the respondents have not yet nationalized the petitioners' school. Therefore the respondents should be directed to nationalize the aforesaid school and absorb the petitioners.

Mr. Amit Das Gupta, learned Deputy Attorney General representing the respondents, submitted that it is a policy decision of the government. Therefore the Rule is liable to be discharged.

On careful perusal of the writ petition it is evident that Malikandha Community Primary School was established in 1996. The petitioner Nos 1-5 have been appointed as Assistant Teachers in the said school. They have been providing

education to the children of the locality. The government has taken decision to nationalize all non-government primary schools throughout the country and absorb the teachers of the said school. The petitioners have made several representations before the concerned authority for nationalization of Malikandha Community Primary School. On 03.08.2022 the petitioners submitted online application. However, the respondents have not taken any step.

In a similar writ petition (Writ Petition No. 5508 of 2020), the High Court Division directed the respondents to consider the petitioners' claim for the nationalization of their school in accordance with law within a period of 60 days unless they are found otherwise disqualified.

In the facts and circumstances stated above, we are of the view that justice will be met if the Rule is disposed of with similar direction.

In the result, the Rule is disposed of. The respondents are directed to consider the petitioners' claim for the nationalization of Malikandha Community Primary School in accordance with law within a period of 90 (ninety) days from

the date of receipt of a copy of this judgment unless they are found otherwise disqualified.

There will be no order as to cost.

Transmit a copy of this judgment to the concerned respondents.

(Kazi Zinat Hoque, J):

I agree

(Naima Haider, J):