

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

Writ Petitions No. 4153 of 2020.

In the matter of:

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

-And-

In the matter of:

Siraj Nagar Hat Pukur Motshojibi Somobay
Shomity Limited represented by its
Secretary.

..... Petitioner

-Versus-

Government of Bangladesh, represented by
its Secretary, Ministry of Land and others.

..... Respondents

None appears

. . . . For the petitioner

Mr. Ziaur Rashid, Advocate

. . . For the respondent No.2.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard and Judgment on 14.03.2024.

J.B.M. Hassan, J.

The petitioner obtained the Rule Nisi in the following terms:

“ Let a Rule Nisi be issued calling upon the respondents to show cause as to why the order dated 12.07.2010 passed by the Additional Divisional Commissioner (Revenue), Rajshahi in Appeal Case No. 55 of 2020 (Bogura) (Annexure-G to the writ petition) reversing the order dated 11.06.2020 passed by the Deputy Commissioner, Bogura in Appeal No. 6 of 2020 (Annexure-E to the writ petition) should not be declared to have been passed without lawful authority and if of no legal effect

and /or pass such other or further order or orders as to this Court may seem fit and proper.”

The petitioner, namely, Siraj Nagar Hat Pukur Motshojibi Somobay Somity Limited (shortly Somity) participated in the tender process to get lease of the “সিরাজনগর হাট পুকুর জলমহাল” under Police Station-Sherpur, District-Bogura for the Bengali year 1427-1429. Ultimately, the Upazila জলমহাল ব্যবস্থাপনা কমিটি, শেরপুর, বগুড়া accepted the bid of the respondent No. 2, namely, Hasagari Motshojibi Somobay Somity Limited. Against the said approval the present petitioner preferred appeal before the District Jalmahal Management Committee, Bogura and it being allowed in favour of the petitioner appellant, the respondent No.2 again preferred appeal case No. 5 of 2020 Bogura before the Divisional Commissioner, Rajshahi. The Divisional Commissioner after hearing, allowed the appeal in favour of the respondent No.2 which led the petitioner to file this writ petition.

At the time of issuance of the Rule Nisi, this Court passed an interim order of stay upon the impugned order and thereby the petitioner got the lease of the project for the Bengali year 1427-1429.

None appears on behalf of the petitioner, when the matter is taken up for hearing.

Although the relevant lease period has already been expired long back in 1429 BS. But the petitioner kept the Rule pending without taking any step for hearing and rather was taking interim order extending the period of stay. Lastly when the matter appeared in the cause list, it was made ready and fixed for hearing of the Rule

Although, Mr. Khorshed Alam Khan, learned Advocate for the petitioner took adjournment on different occasions but when the matter is taken up for hearing he has not turned up to represent the petitioner.

On the other hand, Mr. Ziaur Rashid, learned Advocate for the respondent No.2 submits that in the meantime, the lease period has already been expired. But the petitioner is trying to take advantage of pendency of the Rule. He further submits that in the meantime, fresh tender has already been published for the year 1431-1433 BS and both the petitioner as well as the respondent No.2 have participated in the tender process, which is yet to be finalized.

In the above circumstances, we find that the petitioner taking interim order of stay enjoyed the full tenure until 1429 BS. Yet after 1429 BS, he did not take any step to make the Rule disposed of, as it became infructuous. Rather he is trying to take advantage of pendency of the Rule. In the circumstances, the Rule has to be disposed of with cost to be imposed upon the petitioner for wasting public time refraining himself from taking steps to dispose of the Rule.

Accordingly, the Rule Nisi is discharged as being infructuous and the petitioner shall pay Tk. 30,000/- (thirty thousand only) as cost.

The petitioner is directed to pay the cost in favour of the Government Exchequer within 15(fifteen) days from date and shall produce the payment slip to the Upazila Jalmahal Bebsthapana Committee failing which petitioner's prayer for lease shall not be considered in future.

Communicate a copy of this judgment and order to the respondents at once.

Razik Al Jalil, *J*

I agree.