

In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)
Present

Mr. Justice Abu Taher Md. Saifur Rahman
And
Mr. Justice A.K.M. Rabiul Hassan

Writ Petition No. 9798 of 2021

with

Writ Petition No. 783 of 2020

IN THE MATTER OF:

An application under Article 102 of the Constitution of
the People's Republic of Bangladesh

-AND-

IN THE MATTER OF:

Md. Abul Kalam Azad

.....Petitioner (in person)

-Versus-

Public Private Partnership Authority and others

.....Respondents

Mr. Md. Abul Kalam Azad

...For the petitioner (in person)
(W.P No. 9798 of 2021)

Mr. N. M. Ahasanul Haque, Advocate

.....For the respondent No. 5
(W.P No.9798 of 2021)

With

Md. Abul Kalam Azad

.....Petitioner (in person)

-Versus-

The Government of Bangladesh and others

.....Respondents

Mr. Md. Abul Kalam Azad

.....For the petitioner (in person)
(W.P No.783 of 2020)

Mr. N. M. Ahasanul Haque, Advocate

.....For the respondent No.6
(W.P No.783 of 2020)

Heard on: 01.06.2023 and 15.06.2023

Judgment on: 30th of August, 2023

Abu Taher Md. Saifur Rahman, J:

The aforesaid two matters have been referred by the Hon'ble Chief
Justice to this Court for disposal.

These Rules concern of facts akin to each other and involve common questions of law and facts and as such taken up together for hearing and are being disposed of by this single judgment.

In Writ Petition No. 9798 of 2021, the Rule was issued calling upon the respondents to show cause as to why the office order under Memo No. 03.851.000.857.02.007.17-461 dated 08.05.2019 (received on 19.05.2019) issued by the respondent No. 1 under signature of Director PMF (প্রতিকল্প), Public-Private Partnership Authority, Prime Minister's Office, NGO Affairs Bureau Bhaban (1st Floor), E-13B, Agargaon, Sher-E-Bangla Nagar, Dhaka (Annexure-'C-6'), arising out of the office order under Memo No. খুপ্রবি/১৮৬৩ dated 15.01.2018 issued by respondent No. 6, cancelling/terminating the petitioner from the post of Chief Executive Officer (CEO) of the IIC-Innovation & Innovator Cell, KUET, Khulna, Bangladesh (**Annexure-'B-2'**) should not be declared illegal without lawful authority and is of no legal effect and why the respondent No. 5, Chairman of the IIC-Innovation & Innovator Cell, KUET shall not be directed to release the monthly salaries and other expenditure related to full time activities of the petitioner as Chief Executive Officer (CEO) of the IIC-Innovation & Innovator Cell, KUET from 15.03.2018 to 31.05.2019 and why the respondents shall not be directed to extend the duration of the petitioner employment at the IIC-Innovation & Innovator Cell, KUET as Chief Executive Officer (CEO) for the 2nd term or the equal time when he did not perform his duties efficiently at the IIC-Innovation & Innovator Cell, KUET and/or pass such other of further order or orders as to this Court may seem fit and proper.

In Writ Petition No.783 of 2020, the Rule was issued calling upon the respondents to show cause as to why inaction of the respondent No. 6, the Vice-Chancellor of Khulna University of Engineering & Technology (KUET) and Chairman of IIC, KUET to implement the decision No.4 of minutes meeting of the PPP Authority, Prime Ministers' Office dated 23.10.2017 to support the necessary human resources, (HR), infrastructures (Physical, IT and Intellectual Property) for the office of the IIC-Innovation & Innovator Cell at Dhaka, approved by the CCEA, Cabinet Division, Government of Bangladesh, dated 09.08.2017 under section 14 of the PPP Act, 2015 of Bangladesh should not be declared illegal and without lawful authority and is of no legal effect and why the respondent No. 6 should not be directed to implement the decision No. 4 of the minutes meeting of the PPP Authority, Prime Minister's Office dated 23.10.2017 by appointing necessary Human Resources, establishing necessary infrastructures (Physical, IT and Intellectual Property) and framing the rules and regulations for the office of IIC-Innovation & Innovator Cell at Dhaka and/or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court was pleased to give a direction upon the respondent No. 6, Vice Chancellor of Khulna University of Engineering & Technology (KUET) and Chairman of IIC, KUET to dispose of the petitioner's application dated 15.12.2019 (**Annexure-'A-1'**) in accordance with the law within 30 (thirty) days of receipt of a copy of this order.

For disposal of the aforesaid two Rules, the relevant facts may briefly be stated as follows:

That the Center for Policy Research, Bangladesh, and Khulna University of Engineering and Technology (KUET) jointly established the Innovation & Innovator Cell (The IIC, KUET) a development project on 13.03.2016 wherein the petitioner has been appointed as Chief Executive Officer (CEO) on contractual basis for a period of 2 (two) years under certain terms and conditions dated 25.05.2017. It is further stated that while the petitioner has been working as CEO of IIC, KUET, all of a sudden respondent No.5, the Vice Chancellor of KUET terminated the petitioner's aforesaid contractual appointment vide its letter dated 15.01.2018 and informed the petitioner accordingly (**Annexure-'B-2'**). Thereafter, the petitioner preferred an appeal before respondent No.1, Public Private Partnership Authority (PPPA), which was disposed of by the impugned letter dated 08.05.2019 (**Annexure-'C-6'**). Being aggrieved the petitioner has preferred the instant Writ Petition No.9798 of 2021 before this Court. and obtained the Rule.

Regarding the aforesaid development project, (IIC-KUET) subsequently, Public Private Partnership Authority (PPPA), respondent No.4 conducted a meeting with the members of the IIC-KUET and took decisions number 1 to 4 to support the necessary human resource, infrastructures (physical, IT and Intellectual Property) for the office of the IIC at Dhaka dated 23.10.2017 and issued a letter to the Vice Chancellor of KUET, for implementing the aforesaid decisions, which has not been implemented as yet. Being aggrieved, the petitioner has preferred the instant Writ Petition No.783 of 2020 before this Court.

At the time of issuance of the Rule, this Court was pleased to give a direction upon respondent No. 6 to dispose of the petitioner's application dated 15.12.2019 (**Annexure-'A-1'**) within **30 (thirty)** days of receipt of a copy of this order.

In support of the Rule in Writ Petition No. 9798 of 2021, the petitioner, Md. Abul Kalam Azad appeared in person and submitted that the petitioner has been appointed as CEO of the Innovation & Innovator Cell, KUET on a contractual basis dated 25.05.2017 but without serving any show cause notice, the respondent No. 5, Vice Chancellor of KUET terminated the petitioner from his post, which is illegal and not sustainable in law.

In support of the Rule in Writ Petition No. 783 of 2021, the petitioner, Md. Abul Kalam Azad appeared in person and submitted that the Vice Chancellor of KUET, respondent No. 6 is the proper authority to implement decision No. 4 of the PPP Authority for the office of the IIC at Dhaka but no positive action has been taken as yet, which they are obliged to do so. He further contended that regarding the aforesaid matter, the petitioner filed an application dated 15.12.2019 to respondent No.6, Vice Chancellor of KUET but no action has been taken as yet, and as such a direction is required upon respondent No. 6 to dispose of the petitioner's application.

As against this, Mr. N. M. Ahsanul Haque, the learned Advocate appearing on behalf of the respondent Vice Chancellor of KUET in both writ petitions and submits at the very outset that the subject matter of the writ Petition No. 9798 of 2021 has already been settled by the Hon'ble High

Court Division in Writ Petition No. 3612 of 2018 and Writ Petition No. 6218 of 2019 as evident from **Annexure-‘C-4’ and ‘C-7’** to the writ petition and as such the instant Rule is liable to be discharged.

He further contended that admittedly the petitioner has already been terminated from the aforesaid development project, IIC-KUET, and, as such, the petitioner has no locus standi to challenge the inaction of respondent No.6 in Writ Petition No. 783 of 2020. Moreover, the aforesaid project has already been closed by the concerned authority as evident from **Annexure-‘Z’** to the affidavit-in-opposition filed by respondent No. 6 and as such the Rule in Writ Petition No. 783 of 2020 has also become in fructuous.

Heard the learned Advocates of both sides and perused the materials on record in both writ petitions thoroughly.

On perusal of **Annexure-‘C-7’** to the writ petition No. 9798 of 2021, it transpires that regarding the self-same matter, the petitioner earlier filed a Writ Petition No. 6218 of 2019, which has been summarily rejected vide its judgment and order dated 28.07.2019. Thereafter, the petitioner preferred a Review Petition No.09 of 2021 before the High Court Division comprising Mr. Justice J. B. M. Hassan and Mr. Rajik Al-Jalil, which was also summarily rejected vide its judgment and order dated 16.08.2021 as evident from the **Anenxure-‘C-9’** to the writ petition. So the subject matter of the Writ Petition No. 9798 of 2021 has already been settled in earlier Writ Petition No. 6218 of 2019 filed by the petitioner.

We have further noticed that regarding the same issue, the petitioner earlier filed a Writ Petition No. 3612 of 2018, which was also discharged vide its judgment and order dated 04.11.2018 as evident from **Annexure –**

'C-4' to the Writ Petition and thereafter, the petitioner filed a Review Petition No. 06 of 2020 before the High Court Division, which was also summarily rejected vide its judgment and order dated 08.11.2020 as evident from **Annexure-'C-5'** to the writ petition. Being aggrieved the petitioner preferred a Civil Petition for Leave to Appeal No. 2455 of 2019 before the Hon'ble Appellate Division, which was also dismissed vide its judgment and order dated 19.01.2020. We have also further noticed that regarding the similar issue, the petitioner also filed another Writ Petition No. 11326 of 2019 before this Court which was also discharged vide judgment and order dated 24.02.2021 as evident from **Annexure-'X'** to the writ petition. Being aggrieved, the petitioner filed a Civil Petition for Leave to Appeal No. 1105 of 2021 before the Hon'ble Appellate Division, which was also dismissed vide its order dated 25.05.2021 as evident from **Annexure-'X-1'** to the affidavit in opposition filed by respondent No. 5.

Under the given facts and circumstances of the aforesaid Rule in the Writ Petition No.9798 of 2021, it transpires that regarding the same matter, the petitioner filed several writ petitions one after another before this Court which is unbelievable and unaccepted and for that reason, an exemplary cost should be imposed upon the writ petitioner for filing this sort of writ petition before this court.

We have further noticed that admittedly the petitioner has already been terminated from his service and, as such, the petitioner has no locus standi to challenge the inaction of respondent No. 6, Vice Chancellor of KUET to implement the decision of the PPP Authority in Writ Petition No. 783 of 2020. We have also observed that the aforesaid development project

has already been closed and accordingly, the Rule issued in the Writ Petition No.783 of 2020 has become infructuous.

Under the given facts and circumstances of the Rules of both writ petitions, we do not find any substances at all.

As a result, the Rule in Writ Petition No.9798 of 2021 and Writ Petition No.783 of 2020 are both discharged with a cost of **Tk.10,000/-** (Taka Ten Thousand).

The petitioner is directed to pay the aforesaid cost through the treasury challan under the Government revenue within **30 (thirty)** days from the date, failing which the Registrar General of the Supreme Court of Bangladesh will take the initiative to recover the aforesaid cost under the Public Demand Recovery Act.

The petitioner is also hereby precluded to file any further writ petition before this Court so far any issue of the IIC-Innovation & Innovator Cell, KUET.

Communicate this judgment and order at once.

A. K. M. Rabiul Hassan, J

I agree.