

Bench:

Mr. Justice Bhishmadev Chakraborty

And

Mr. Justice Murad-A-Mowla Sohel

Writ Petition No.883 of 2003

Abdul Gaffar and another ..... petitioners

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others

..... respondents

with

Writ Petition No.884 of 2003

Abul Khasem being dead his heirs:

1(a) Zariatul Mostafa and others .....petitioners

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others

..... respondents

with

Writ Petition No.885 of 2003

Md. Sharif .....petitioner

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others

..... respondents

with

Writ Petition No.886 of 2003

Wahidul Alam being dead his heirs:

1(a) Hazera Begum and others .....petitioners

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others

..... respondents

with

Writ Petition No.887 of 2003

Ali Hossen .....petitioner

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others  
..... respondents

and

Writ Petition No.888 of 2003

Ramjan Ali .....petitioner

-Vs-

Bangladesh, represented by the Secretary, Ministry of  
Land, Bangladesh Secretariat, Dhaka-1000 and others  
..... respondents

Mr. Dr. Naim Ahmed, Senior Advocate with Mr.  
Sheikh Md. Golam Kibria, Advocate

..... for the petitioners  
(in all the writ petitions)

Mr. Mohammad Imam Hossain (Tarek), Deputy  
Attorney General with Mr. Mahbuba Taslim Akhi  
and Mr. Mustafizur Rahman Mukul, Assistant  
Attorney Generals ..... for Respondents 1-8  
(in all the writ petitions)

Mr. M. Belayet Hossain, Senior Advocate with Mr.  
M. Mahmudul Hasan, Advocate

.....for added respondent 9  
(in all the writ petitions except Writ Petition 886 of 2003)

Judgment on 22.01.2026

Bhishmadev Chakraborty, J:

Since in all the Rules the respondents are almost same and common  
question of facts and law are involved therein and as such these have been  
heard together and being disposed of by this judgment.

The Rule in Writ Petition 883 of 2003 was issued at the instance of two  
petitioners in the following terms:

“Let a Rule Nisi issue calling upon respondents Nos. 1 and 4 to show cause as to why respondent Nos. 1 and 4 should not be directed to execute a lease agreement and to complete all other formalities on the basis of the approval of respondent No. 1 vide Memo No. Bhu: Ma: /Sha-8 /Khazab /Chingri /60 /2001-616 dated 10.10.2001 given in respect of the said land covered by plot Nos. 19, 20 and 21 area 5.78 acres of Mouza Bharuakhali, Cox’s Bazar Sadar, Cox’s Bazar contained in Annexure-E in favour of the petitioners and as to why the impugned Memo No. Bhu: Sha-8 /Chingri /Niti /27 /2001 /651(14) dated 24.10.2001 issued by respondent No. 3 on behalf of respondent No. 1 contained in Annexure-D staying the final approval of the petitioners and the impugned Memo No. J. Pra. Sha/ Cox/ 12-5 /2002-2427 /S.A dated 03.11.2002 issued by Respondent No.4 so far as it relates to BS plot Nos.19, 20 and 21 area 5.78 acres of Mouza Bharuakhali, Cox’s Bazar Sadar, Cox’s Bazar purportedly issued for cancellation of approval of the petitioner’s land and malafide report submitted by the Task Force constituted under Office Memo No.12-5 /2002-73(35) /S.A dated 09.01.2002 of Respondent No.4 as contained in Annexure-G should not be declared to have been made without any lawful authority and of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper”.

The different petitioners filed Writ Petitions 884, 885, 886, 887 and 888 of 2003 on selfsame issues and the Rules were issued upon the respondents on those issues on similar terms separately.

At the time of issuing the Rules, the parties were directed to maintain *status quo* in respect of the possession of the land as claimed by the respective petitioners for a limited period which still subsists.

The material facts stated in the writ petitions, in brief, are that the petitioners by profession are shrimp farmers. They filed separate applications to the Zilla Chingri Mahal Committee for lands of Mouza Bharuakhali of Police Station Cox's Bazar Sadar within the District of Cox's Bazar for getting lease for shrimp farming. The committee headed by respondent 4 approved it and sent the proposal to the concerned ministry. The ministry approved the proposal and sent the same to respondent 4 for taking necessary steps. The proposal was finally approved by the Ministry on 24.10.2001. But while the petitioners were awaiting for getting lease deed from respondent 4 its proceeding was stayed. The concerned ministry directed respondent 4 to form a Task Force in respect of earlier proposal for lease of *khas* lands giving some guidelines to hold inquiry and submit a report. On the basis of the said guidelines a Task Force was formed and they submitted a report against the petitioners. Then respondent 4 forwarded a letter dated 03.11.2002 to respondent 1 and on the basis of the report of the Task Force, the earlier approval was cancelled. At this stage, the petitioners after serving notices for demanding justice approached this Court with the aforesaid writ petitions and obtained these Rules with *interim* orders.

After issuance of the Rules, the Secretary of Bharuakhali Chingri Prakalpa Khamar Sambaya Samity (the Samity) was added as respondent 9 in the Rules except Writ Petition 886 of 2003. Respondent 9 filed affidavit-in-opposition in some of the writ petitions. He claimed that the Samity has been enjoying total land of 32 acres from 1961 through its members and they enjoyed it till 1996. Subsequently, a proposal was sent to the Divisional Commissioner for getting lease in the name of the Samity and the Divisional Commissioner on 11.11.1996 sent it to the concerned Ministry for approval. The decision of the concerned authority, *i.e.*, approval for giving lease of the land to the petitioners were not as per the provisions of law and Rules. Respondent 9 through supplementary affidavit in some writ petitions submitted some documents to show payment of rent in its name in respect of the suit land.

The Government did not file any affidavit-in-opposition to oppose the Rules.

Mr. Dr. Naim Ahmed, learned Senior Advocate for the petitioners refers to a judgment passed by a Bench of this Division in Writ Petition 2090 of 2004 on similar issues and submits that it has been held in the aforesaid writ petition that the Rules for management of shrimp mahals do not permit the respondents to form a Task Force in dealing with the matter. Therefore, the formation of the Task Force and the report submitted by it is without lawful authority and is of no legal effect. The aforesaid judgment was not challenged in the Appellate Division by the respondents and still in force. Therefore, these Rules may be disposed of giving a chance to the petitioners to file applications to the concerned authority for getting lease of the lands as per the earlier proposal.

Mr. Mohammad Imam Hossain, learned Deputy Attorney General taking us to the prayers made in the writ petitions upon which the Rules were issued submits that the petitioners' claim is based on legitimate expectation but it does not create any right to them. It is found that the government had taken decision to give lease of the lands to the petitioners but the documents are interministerial correspondences. The petitioners cannot claim any right on the basis of such documents. He further submits that the Task Force has been formed legally as per the Rules of the Shrimp Management Rules. In the premises above, the Rules would be discharged.

Mr. M. Belayet Hossain, learned Senior Advocate for added respondent 9 in all the Rules except Writ Petition 886 of 2003 submits that respondent 9 Samity through its members is in possession of the suit land. It paid rent to the concerned and has been possessing the same by shrimp farming for long years. But since tenure of the lease for the petitioners as proposed earlier has already been expired, the concerned authority ultimately should have to go for leasing out the land afresh. In case of giving lease of the suit property in future it will be open for all. In the premises above, the Rules may be discharged having been infructuous.

We have considered the submissions of all the parties, gone through the writ petition, annexures appended with the writ petitions, the affidavit-in-oppositions filed by respondent 9, the Rules relating to shrimp farming and the judgment passed in Writ Petition 2090 of 2004.

It is found that two petitioners obtained Rule in Writ Petition 883 of 2003 where approval for lease were given for 5.78 acres of land in respect of

BS plots 19, 20 and 21. Sole petitioner obtained Rule in Writ Petition 884 of 2003 who was subsequently substituted by his 16 heirs where approval for lease was given for 10 acres of land of BS plot 1366. Sole petitioner obtained Rule in Writ Petition 885 of 2003 where approval for lease was given 5 acres of land of BS plot 1366. Sole petitioner obtained Rule in Writ Petition 886 of 2003 who was subsequently substituted by his heirs where approval for lease was given for 10 acres of land of BS plots 1201, 1203, 1204, 1206 and 1207. Sole petitioner obtained Rule in Writ Petition 887 of 2003 where approval for lease was given for 9 acres of land of BS plot 2 and in Writ Petition 888 of 2003 sole petitioner obtained Rule where approval for lease was for 4 acres of land of BS plot 1366. In all the Rules except Rule issued Writ Petition 886 of 2003, respondent 9 as representative of the Samity appeared and claimed that Samity is entitled to get lease of the suit land. It is found in the Rule issuing orders that letters staying the final approval dated 24.10.2001, 03.11.2002 and report of the Task Force dated 09.01.2002 have been annexed and challenged.

We have gone through the judgment delivered by a Bench of this Division in Writ Petition 2090 of 2004 delivered on 27.02.2014 and the Rules relating to Shrimp Mahal Management dated 16.12.1998. We do not find anything in the existing rules and law that the Government can form a Task Force to handle the matter. Therefore, the report of the Task Force as has been annexed with all writ petitions are found without lawful authority and contrary to the Rules and laws of management of national shrimp mahal. Therefore, the formation of the Task Force and their report is found malafide and without

lawful authority as has been found by this Division in the aforesaid writ petition.

We do not want to pass any comment as to the possession of the parties in the suit land because it is found disputed question of facts raised by the petitioners and respondent 9 and cannot be resolved in writ jurisdiction. But it is admitted that the concerned authority approved for giving lease to the petitioners for 10 years in the year 2001. In the meantime 24 years have passed. In view of the above position of fact, we find that these Rules have virtually become infructuous by the passage of time.

In view of the above findings and observation the Rules are discharged being infructuous. There will be no order as to costs.

However, the petitioners will be at liberty to file applications to the concerned authority for getting lease of the suit land, if so advised and, if they do so the concerned authority will dispose of those in accordance with law.

Communicate this judgment and order to the concerned.

Murad-A-Mowla Sohel, J.

I agree.