

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

**WRIT PETITION NO. 14873 of 2023**

**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:**

Khandaker Mostafizul Islam Jibon.

..... Petitioner

versus

Government of Bangladesh and others

.....Respondents.

And

Mr. A.K.M. Jahangir Alam, Advocate

..... for the Petitioner.

Mr. Shaheen Ahmed, Advocate

..... For the Respondent No. 10 and 11

*Heard on: 02.06.2024.*

**Judgment on 10.06.2024.**

**Present:**

Mr. Justice Mustafa Zaman Islam

and

Mr. Justice S.M. Masud Hossain Dolon

**S.M. Masud Hossain Dolon, J:**

In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, Rule Nisi has been issued calling upon the respondents to show cause as to why the impugned order No.47.61.9300.000.35.421.99.1671 dated 19.10.2023 issued by the respondent No.6 formed an election of the respondent Nos. 7-9 for holding the Dhonbari Central Co-Operative Multipurpose Society Limited, Dhonbari, Tangail Management Committee Election-2023

(Annexure-G) and election schedule declared under the signatures of the respondent Nos. 7-9 dated 30.10.2023 for holding the Dhonbari Central Co-Operative Multipurpose Society Limited, Dhonbari, Tangail Management Committee Election-2023 which will be held on 02.12.2023 (Annexure-H) should not be declared illegal and the same being made without lawful authority and is of no legal effect and /or pass such other or further order or orders as to this court may seem fit and proper.

Facts relevant for disposal of the Rule are that the petitioner is the President of the Management Committee of Dhonbari Central Co-operative Multipurpose Society Ltd, Tangail (thereafter in short Society) being Registration No. 250 dated 10.10.2023 and the society is duly registered under the Co-Operative Societies Act, 2001 (amendment-2002 and 2013) and the Co-Operative Societies Rules-2004 (Amendment-2020). There are in total 1200 members of the society who are regulated by its own Constitution and Sub-Act. The Society is managed and operated by an Elected Management Committee which is elected from the members of the society for a period of 03 years and after expiration of the said tenure an Election of the Management Committee is generally held. The Management Committee of the Society was forming the election committee dated 17.09.2023 and a resolution was passed in this regard on 25.09.2023. Thereafter as per decision of the Management Committee dated 25.09.2023 a draft voter

list dated 27.09.2023 was published by the petitioner. On 15.10.2023 a final voter list dated 16.10.2023 was also published by the petitioner as per decision of the Management Committee. Thereafter an election committee consists of 03 members has been formed and constituted and a schedule was declared for election of the managing committee to be held on 02.12.2023 at 12.00 to 03.00 hours. Thereafter Md. Tarekul Islam Bakul the President candidate was withdrawn his candidature due to illegal activities and irregularities of the respondents. In the above facts and circumstances the petitioner being the President of the Management Committee of the Society submitted a written application to the Upazila Co-operative Officer, Dhonbari, Tangail and requested him to take necessary steps for staying of all operation of the election process of the Management Committee Election-2023. The petitioner also submitted a written application to the Officer-in-Charge, Dhanbari Police Station, Tangail and requested him to provide necessary police protection against the illegal activities and irregularities regarding the Management Committee Election-2023.

Thereafter, having found no other equally efficacious remedy the petitioner filed the instant writ petition and obtained the Rule and direction.

Mr. A.K.M. Jahangir Alam, the learned Advocate appearing for the petitioner submits that the Co-Operatives Society Act, 2001 (amended-2002, 2004 and 2013) is the governing law by which the

affairs of the society are guided, controlled and supervised the functions of the Election Committee and the period or the tenure of the Election Committee. The Election Committee must hold the election of the society in preferable and suitable time after publishing the afresh and final voter list in accordance with law. But without considered the written representations filed by the petitioner including other members of the Society, the respondents concerned did not pay any heed regarding the claim of the petitioner till date nor take any necessary and legal steps for holding the Management Committee Election-2023 and date is fixed for election on 02.12.2023 at 12.00 to 03.00 hours and thus the respondents concerned acted upon most illegally, arbitrary, malafide intention and for collateral purpose which absolutely beyond the principle of natural justice consequently violation of the fundamental rights of the petitioner as guaranteed under the Constitution of the People's Republic of Bangladesh and therefore the impugned election committee dated 19.10.2023 and the election schedule dated 30.10.2023 are required to be declared as illegal, malafide, arbitrary, unjust, improper, without jurisdiction.

Mr. Shaheen Ahmed, the learned Advocate on behalf of the respondent No. 10 submits that the petitioner having personal interest and malafide intention has acted to stop the election of the Society. He further submits that there are very serious allegations of embezzlement of the fund of the Society against the petitioner which is apparent from

documentary evidence and records of the Society. It is evident from the records that the petitioner being the President of the Society has misappropriated huge amount of money belonging to the members of the Society by means of severe irregularities and breach of the Rules of the Society. He further submits that as per order of this Division inquiry report was submitted where no irregularity was occurred in respect of the election process of the Society rather the writ petitioner, who was holding the office of the President of the Society for the last three consecutive period of times and allegations of corruption were reported against him. Learned Advocate lastly submits that having malafide intention the petitioner has filed the instant writ petition and as such the instant writ petition is liable to be discharged.

We have perused the writ petition and all other relevant papers submitted by the parties in connection with the contents of this writ petition along with supplementary affidavit, affidavit in opposition appended thereto. It appears that this case arose out of Management Committee election of Dhonbari Central Co-operative Multipurpose Society Limited, Tangail. Following the withdrawal of candidature by one of the presidential candidates who is also current president of the Society filed the application that the other president candidate, Md. Tarekul Islam Bakul, was abducted at gunpoint and threatened to sign a white paper in order to be elected as a single candidate for the post of president. Accepts the fair and peaceful election environment has been

completely destroyed due to the terrorist activities organized by the president candidate Md. Tarekul Islam Bakul and the illegal activities of the election committee who sold to large sums of money. In such a situation, there is no other option to suspend the election process. Considering this situation, the current president of the Society filed the instant writ petition. This Division, after hearing the parties directed to the Joint Registrar, Divisional Co-operative Officer to investigate and take action within three working days. Later, the Co-operative Officer formed a committee and completed the investigation and after considering all the issues submitted a report where inquire committee found no terrorist activity had taken place or no incident of signing any white paper took place. Thereafter society elections were held properly.

In the above facts and circumstances of the case, as there is no reason to proceed with the present case as the election of the society has been duly completed.

In view of the discussion made above we find substances submission of the learned Advocate for the respondent.

Thus, we find no merit in this Rule.

In the result, the Rule is discharged without any order as to cost. Communicate the order.

Communicate the order at once.

Mustafa Zaman Islam, J:

I agree