

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

**WRIT PETITION NO. 9456 OF 2025**

**IN THE MATTER OF:**

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

AND

**IN THE MATTER OF:**

Sampa Bepari and others

.....Petitioners

-VERSUS-

Government of the People's Republic of Bangladesh,  
represented by the Secretary, Technical and  
Madrasah Education Division, Ministry of Education  
Bangladesh and others

..... Respondents

Mr. Md. Moazzem Hossien, Advocate

..... For the Petitioners

Mr. Muhammad Rafiul Islam, Advocate

.....For the Respondent No. 4

Mr. Mohammad Waliul Islam Oli, D.A.G with  
Mr. Md. Ershadul Bari Khandakar, D.A.G with  
Ms. Nilufar Yesmin, A.A.G with  
Mr. Md. Moshir Rahman (Rahat), A.A.G with  
Mr. Md. Motasin Billah Parvez, A.A.G with  
Mr. Md. Faridul Islam, A.A.G

.....For the Respondents

**Present:**

**Mr. Justice Sashanka Shekhar Sarkar**

**And**

**Justice Urmee Rahman**

**Heard on 03.03.2026**

**Judgment on 10.03.2026**

**Urmee Rahman, J:**

In the instant matter a Rule Nisi was issued on an application under Article 102 read with Article 44 (1) of the Constitution of the People's Republic of Bangladesh in the following terms:

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the inaction and failure of the respondents to make the petitioners join in the post of Junior Instructor (Tech/Civil) as per appointment Circular Vide Memo No. 57.00.0000.051.11.008.24-38 dated 23.01.2025 which is in clear violation of law, discriminatory and mala fide should not be declared to be made without lawful authority and is of no legal effect and also as to why direction upon the respondents should not be given to take prompt necessary action to facilitate the petitioners to join in the post of Junior Instructor (Tech/Civil) as per appointment Circular Vide Memo No. 57.00.0000.051.11.008.24-38 dated 23.01.2025 in their respective institutions with effect from 29.01.2025 and/or such other or further order or orders passed as to this Court may seem fit and proper”.*

Necessary facts for disposal of the instant Rule, as narrated in the writ petition, in short, are that, the Bangladesh Public Service Commission (BPSC) published a recruitment circular under memo no. 80.00.0000.301.73.001 (part-03).2021-155, dated 26.10.2021 for different posts including Instructor, Junior Instructor (Tech) etc. and the petitioners (as many as three) having satisfied all the conditions duly applied for the post of Junior Instructor (Tech/Civil) and their applications were accepted and accordingly admit cards were issued in their names. They participated in the MCQ/written and viva voce examination and successfully passed those. The respondent No. 1 issued appointment circular vide memo No.

57.00.0000.051.11.008.24-38, dated 23.01.2025 giving appointment to 246 (two hundred forty six) candidates in the post of Junior Instructor (Tech/Civil) in 10<sup>th</sup> grade in different institutions around the country and the candidates, including the petitioners, were asked to join their respective institutions on 29.01.2025. Accordingly, the petitioners submitted their joining letters to the respondent No. 1 on 29.01.2025 through proper authority but the respondents did not allow them to join for unknown reason, which is in clear violation of law, discriminatory and mala fide. Subsequently the petitioners also cleared their medical test conducted by the National Gastroenterology Institute & Hospital, Dhaka although they were not allowed to join by their respective institutions.

The petitioners filed several applications before the respondents to allow them join in their respective posts as per circular dated 23.01.2025 but they did not pay any heed against that. Being aggrieved by the impugned rejection and there having no other alternative and efficacious remedy, the petitioners have filed the instant writ petition and obtained the Rule.

Learned Advocate Md. Moazzem Hossien appeared on behalf of the petitioners and submitted that the petitioners fulfilled the required qualification and passed the recruitment tests and was given appointment in the said posts in their respective institutions, but the authority did not allow them to join, which is gross violation of the principle of equal protection and undermining and depriving the qualified candidates and hence, the respondents should be directed to take prompt necessary action

to facilitate the petitioners to join in the posts of Junior Instructor (Tech/Civil) as per circular dated 23.01.2025 in their respective institutions with effect from 29.01.2025.

Learned Advocate further submitted that the petitioners are not involved in any activities subversive to the state or of discipline. All the candidates who passed as per final result have joined their respective posts and institutions but the petitioners have been deprived of their rights without any reason, which is clear violation of their constitutional right and against the principle of natural justice.

On the other hand, learned Advocate Muhammad Rafiul Islam, appeared on behalf of respondent no. 4 and contested the Rule by filing an affidavit in opposition and submitted that, the Ex-PSC driver Abed Ali was arrested on 8 July 2024 by the Criminal Investigation Department (CID) over allegations of leaking questions of at least 30 recruitment examinations, including the Bangladesh Civil Service (BCS) test. Names of the petitioners were published in various national dailies for being associated with said Abed Ali. It has been reported that, the petitioners transferred money to the bank account of Abed Ali at the time of their recruitment process. After the news were published in various national dailies, the students of the concerned institutions staged protest march. As a result, the petitioners did not join their respective institutions.

He next submitted that the respondent issued letters to the respective institutions of the petitioners for the information regarding their joining. Thereafter the said institutions formed inquiry committee

separately to inquire into matter and the committees submitted their report stating that the petitioners did not join their posts for the same reason stated hereinabove. Hence the Rule having no merit is liable to be discharged for ends of justice.

Heard the learned advocates for the respective parties and perused the writ petition, supplementary affidavits thereto, the affidavit in opposition and all the documents annexed therewith.

It appears from the record that the petitioners passed the preliminary test and the viva voce examination to be appointed in the post of Junior Instructor (Tech), Civil following due process and by the memo dated 23.01.2025 the Ministry of Education, Technical and Madrasah Education Division, gave appointment to 246 applicants including the petitioners, whose names appear in that list in serial nos. 13, 63 and 94 respectively (annexure-C).

Petitioners submitted their joining letters on 29.01.2025 (Annexure-D) but due to the reason unknown to them they have not been allowed by the respondents to join their respective posts.

It appears from Annexure-F that, although the petitioners were not allowed to join but later on they attended the health test conducted by the National Gastroenterology Institute and Hospital and the report was submitted by the authority on 10.03.2025; petitioners' health conditions found to be 'Normal' as per the report.

Yet the respondents did not allow the petitioners to join their services and the report, as annexed as Annexure-E, shows that as many as 23 applicants out of 246, have not joined their posts, which includes the petitioners. Though it is the allegation of the petitioners that, they were not allowed to join.

It appears from Annexure-2 to the affidavit in opposition that, pursuant to the issuance of Rule in this writ petition on 02.06.2025, the Principal of Patuakhali Polytechnic Institute being instructed by the Directorate of Technical Education, formed a 3-member committee to inquire into this matter by the memo dated 07.12.2025 regarding petitioner no. 1. The Committee submitted report on 10.12.2025 (Annexure-3) merely stating that several news have been published in the national newspapers wherein the name of the petitioner no. 1 has been said to be involved in bank transaction with the syndicate of ex-driver of PSC namely, Abed Ali, who found to be engaged in question paper leakage of PSC examinations. It is also stated in the inquiry report that different student associations including Anti-discrimination Students' Movement (বৈষম্য বিরোধী ছাত্র আন্দোলন) have made protests against the petitioner no. 1 in the campus.

It appears from Annexure-5 that, by the memo dated 08.02.2026 the Principal of Bhola Polytechnic Institute informed the Director General of Directorate of Technical Education that, the petitioner no. 2 did not join the institution perhaps due to the reason that in the campus the students made protest against him after his name was published in the newspaper

for his involvement with Abed Ali, the head of the question paper leakage gang of PSC examinations. It is obvious from this memo that, the Principal was not certain about the reason for the petitioner no. 2 for not joining his post because he stated in that memo that, “এসকল কারণে সম্ভবত তিনি যোগদান করেন নাই। বিষয়টি পরবর্তী প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য প্রেরণ করা হলো।”

By the memo dated 20.11.2025, Annexure-6, it appears that the Principal of Barishal Polytechnic Institute formed a 3-member committee in order to inquire into the matter regarding the petitioner no. 3. The committee submitted their report on 05.01.2026 (Annexure-7) stating that as many as 5 Junior Instructors did not join the institution and the name of the petitioner no. 3 appears among them. No reason behind it has been stated in that so called inquiry report. By the memo dated 08.01.2026 (Annexure-8) the principal informed the same to the Director General of Directorate of Technical Education.

Upon meticulous perusal of these documents, we are of the opinion that, this is a blatant example of arbitrariness and colourable exercise of power of the respondents. The petitioners having passed the preliminary test as well as the viva voce examination and being recommended to be appointed by the concerned authority, have not been allowed to join their respective posts. The reports submitted by the inquiry Committees of the respective institutions are found to be vague, unspecific and unsubstantiated. Those are based on some unfounded allegations; no independent inquiry were held to determine the fact. As such those inquiry reports do not deserve to be considered.

The respondents have acted in a manner affecting the petitioners' fundamental right to be treated in accordance with law and therefore committed illegality in not taking any action to facilitate the petitioners to join their respective posts in their respective institutions. Such inaction is arbitrary, without lawful authority and contrary to the settled principle of administrative fairness.

Since no allegations have been proved against the petitioners making them disqualified, the respondent no. 1 is under a legal obligation to allow the petitioners to join their respective posts.

The impugned inaction of the respondents by not allowing the petitioners to join their respective posts pursuant to their valid appointments, is declared to have been made without lawful authority and is of no legal effect.

In view of the facts and circumstances mentioned hereinabove we find merit in the writ petition.

In the result the Rule is made absolute.

The respondents are hereby directed to do the needful in order to allow the petitioners to join their posts in their respective institutions with effect from 29.01.2025 i.e. the date on which they were supposed to join, within 30 days from receipt of this order, for the purpose of seniority and other service benefits but without any back wages.

However, there will be no order as to costs.

Let a copy of this judgment and order be communicated to the concerned authorities concerned at once.

**Justice Sashanka Shekhar Sarkar, J:**

I agree.

Farida Bench Officer