

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 6398 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 Hashem Chowdhury

... Petitioner

-Versus-

The Government of Bangladesh, represented
by its Secretary, the Ministry of Energy and
Mineral Resources and others.

... Respondents

Mr. Sabyasachi Mondal, Advocate

...For the Petitioner

Mr. A.S.M. Mokter Kabir Khan, D.A.G. with
Mr. Mohammad Mohsin Kabir, D.A.G with
Mr. Mostafizur Rahman (Tutul), A.A.G

Mr. Md. Fuad Hasan, A.A.G

Mr. Md. Moniruzzaman, A.A.G and

Ms. Sonia Tamanna, A.A.G

...For the Respondent No.1

Mr. Hasibul Huq, Advocate

...For the Respondent No.2

Heard on: 04.08.2025 and 06.08.2025

Judgment delivered on: 07.08.2025.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

Md. Bashir Ullah, J.

On an application under Article 102 of the Constitution of the
People's Republic of Bangladesh, a Rule *Nisi* was issued calling upon

the respondents to show cause as to why a direction should not be given upon the respondents to receive the joining letter of the petitioner dated 01.03.2020 (Annexure-‘C’) pursuant to the appointment letter vide Memo No. 27.12.0000.110.51.003.20.188 dated 22.01.2020 issued by the respondent No. 3 (Annexure-‘B’) 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, the respondent No. 2 was directed to dispose of the application dated 06.09.2020 filed by the petitioner (Annexure-‘D’) within reasonable time from the date of receipt of the order in accordance with law.

The relevant facts leading to issuance of the Rule are that the Bangladesh Rural Electrification Board (hereinafter, BREB) published an advertisement for appointment in the post of Assistant General Manager (Operation and Maintenance/Power and Management/Engineering and Construction) on 16.04.2019. The petitioner applied for that post and obtained an admit card and appeared in Multiple Choice Question (MCQ), written examination held on 21.09.2019 and viva-voce held on 22.09.2019 and he passed the examinations. Accordingly, an appointment letter was issued in his name on 22.01.2020 and following the instruction of the appointment letter, the petitioner joined in the service on 29.01.2020 but he was asked to resign from the post of *Wiring Inspector* under Meherpur Palli Biddut Samity before submitting the joining letter. Afterwards, the petitioner submitted his resignation letter for releasing him from the post of *Wiring Inspector* to the office of the respondent No. 6 at *Palli*

Biddut Samity on 27.01.2020. Thereafter, the resignation letter filed by the petitioner was approved on 26.02.2020 under Memo No. 27.12.5787.541.03.401.20.900. He then submitted another joining letter on 06.09.2020 accompanied by the release order and appointment letter requesting the authority to accept the same for the post of Assistant General Manager (O and M/P and M/ E and C) and the same was received by the office of the respondents but it was not accepted. The petitioner passed in the written and viva-voce examinations and as such he is entitled to be appointed for the post of Assistant General Manager (O and M/P and M/E and C). The authority remained silent in accepting the joining letter filed by the petitioner rather once again they published advertisement for appointment of Assistant General Manager on 11.02.2020. The petitioner then issued a notice demanding justice on 10.09.2020 through his lawyer but of no avail.

Then finding no other equally efficacious remedy, the petitioner approached this Court by filing the instant writ petition under Article 102 of the Constitution of the People's Republic of Bangladesh wherein the instant Rule was issued.

Respondent No.2 contested the rule by filing affidavit-in-opposition stated *inter alia* that the petitioner applied for the post of Assistant General Manager suppressing vital facts that he was in service in the *Palli Biddut Samity*. He got admitted in B.Sc. Engineering (EEE) course at a private university namely, European University of Bangladesh without taking any written permission from the authority. After the said admission, the petitioner regularly attended

classes in the academic course both on working days and weekends without the leave of the authority. He applied for the said post of Assistant General Manager without informing Faridpur *Palli Biddut Samity*, thus he violated clause nos. 8 and 11 of the advertisement. The BREB administration issued appointment letter in favour of the petitioner on 22.01.2020 without having any knowledge about the said information and the petitioner has suppressed the facts. At one stage, the respondent No. 6, the General Manager of Meherpur *Palli Biddut Samity* informed BREB that the petitioner was formerly in the service of Meherpur *Palli Biddut Samity* as *Wiring Inspector*. Thereafter, BREB constituted an enquiry committee to inquire into the allegations. The enquiry committee conducted a thorough enquiry in which allegations against the petitioner have been found proved. In light of the aforesaid, BREB has not accepted his joining who rather violated the clauses of set out in the appointment advertisement and the Service Code and thereby committed misconduct. Hence, the petitioner is not entitled to have any job in the BREB and the Rule is liable to be discharged.

Mr. Sabyasachi Mondal, the learned Advocate appearing for the petitioner contends that the petitioner had the requisite qualification for the post of Assistant General Manager in BREB and passed all the examinations and the authority issued appointment letter in his favour which gave rise his entitlement to get his joining accepted by the respondent.

He next submits that the petitioner obtained prior permission from his commanding officer namely one, Abdur Rashid before admitting in the B.Sc. Engineering (EEE) course and he also informed the respective authority of BREB through filling out the application form about his employment status.

With these submissions, the learned counsel finally prays for making the Rule absolute.

Per contra, Mr. Hasibul Huq, the learned Advocate appearing for the respondent No.2 contends that the petitioner committed misconduct and suppressed facts on several occasions as he took admission in the B.Sc. Engineering (EEE) course without having any written permission of the authority though permission of authority must be taken in order to study while been in their employment.

He next submits that the petitioner failed to submit the approval from the concerned authority at the time of viva-voce and thus violated clause 8 of the appointment notice published on 16.04.2019. With these submissions, the learned Advocate prays for discharging the rule.

We have considered the submissions advanced by the learned counsels for both the parties and perused the writ petition, the supplementary affidavits, affidavit-in-opposition and supplementary affidavit-in-opposition filed thereto carefully.

The Application Form (Annexure-‘G’ to the supplementary affidavit) clearly indicates that the petitioner declared his employment by marking ‘yes’ beside ‘Departmental Status’. Upon receipt of the Application Form the authority issued admit card, took Multiple Choice

Question (MCQ), written and viva-voce examinations and the petitioner passed the examinations for the post of Assistant General Manager and eventually appointment letter was issued on 22.01.2020 (Annexure-‘B’ to the supplementary affidavit). It is fact that there was clause being clause no. 8 in the appointment notice or advertisement dated 16.04.2019 mentioning that “সরকারি/আধা-সরকারি/স্বায়ত্বশাসিত সংস্থায় কর্মরত প্রার্থীগনকে যথাযথ কর্তৃপক্ষের অনুমতিক্রমে আবেদন করতে হবে এবং এ সংক্রান্ত নির্ধারিত ঘর পূরণ করতে হবে সংশ্লিষ্ট কর্তৃপক্ষের অনুমতিপত্র মৌখিক পরীক্ষার সময় জমা দিতে হবে।” In this regard, we find that the petitioner correctly filled out the form vide Annexure-‘G’ to the supplementary affidavit that he had been in the service. At the time of viva-voce the concerned authority did not ask him to submit the prior approval from the authority. Rather they allowed the petitioner in the viva-voce examination and subsequently issued appointment letter. Though, the Advocate for the respondent contends that the burden and responsibility rest upon the writ petitioner to submit the prior approval from the concerned authority, however, we are of the view that the responsibility to collect the prior approval also rest on the shoulder of the examination authority. So, we find no substance in the contention of the learned Advocate for the respondent No. 2.

Moreover, we find that in clause no. 8 of the advertisement dated 11.02.2020 (Annexure-‘E’) it is stated that “সরকারি/আধা-সরকারি/স্বায়ত্বশাসিত সংস্থা/পল্লীবিদ্যুৎ সমিতিতে কর্মরত প্রার্থীগনকে যথাযথ কর্তৃপক্ষের অনুমতিক্রমে আবেদন করতে হবে এবং এই সংক্রান্ত নির্ধারিত ঘর পূরণ করতে হবে সংশ্লিষ্ট কর্তৃপক্ষের অনুমতিপত্র মৌখিক

পরীক্ষার সময় জমা দিতে হবে।” So, it is evident that the words ‘পল্লীবিদ্যুৎ সমিতিতে কর্মরত প্রার্থীগনকে’ were not there in clause no. 8 of the advertisement so have been annexed in Annexure-‘A’ to the writ petition having no requirement to obtain approval from the *Palli Biddut Samity* by the petitioner. Rather if a candidate applies for the post of Assistant General Manager he is required to obtain permission only if he/she serves in “সরকারি/আধা-সরকারি/স্বায়ত্বশাসিত সংস্থা” There was no provision requiring any person serving in the *Palli Biddut Samity* to obtain such permission.

On going through the enquiry report vide Annexure-‘V’ to the affidavit-in-opposition, it appears that one former officer namely Abdur Rashid gave verbal permission to the writ petitioner to pursue B.Sc. Engineering (EEE) course. The relevant portion is reproduced below:

ঘটনার পর্যালোচনা: জনাব আবুল হাসেম চৌধুরী ওয়ারিং পরিদর্শক হিসাবে ফরিদপুর পবিস এ যোগদান করেন ২৫/১১/২০১৪ খ্রি: এবং বিএসসি ইঞ্জিনিয়ারিং (ইইই) তে ভর্তি হন ০২/০১/২০১৫খ্রি:। উল্লেখ্য, আলোচ্য কোর্সে ভর্তি হওয়ার জন্য কর্তৃপক্ষের কোন লিখিত অনুমতি গ্রহণ করেননি। এ বিষয়ে স্বাক্ষাৎকারে তিনি বিষয়টি স্বীকার করেছেন। লিখিত অনুমতি গ্রহণ ব্যতিরেকে ৪ বছর মেয়াদি কোর্সে অংশগ্রহণ করার বিষয়ে এবং স্টেশন লিভ করে ক্লাসে অংশগ্রহণের বিষয়ে তিনি তার কমান্ডিং অফিসারদের মৌখিক অনুমতি গ্রহণ করেছেন বলে উল্লেখ করেছেন।

এ বিষয়ে, তিনি তার স্বাক্ষাৎকারে যাদের নাম উল্লেখ করেছেন, তাদের সাথে যোগাযোগ করলে, তারা অনেকে বিষয়টি জানতেন না বলে উল্লেখ করে (ডিজিএম আবুল কালাম আজাদ, মো: সামিউল কবির (ডিজিএম) এর স্বাক্ষাৎকার এর কপি সংযুক্ত) অপরদিকে, সাবেক পিউসি, জনাব আবদুর রশিদ জানান, তিনি মৌখিকভাবে অনুমতি প্রদান করেছিলেন স্বাক্ষাৎকার এর কপি

সংযুক্ত)। In view of the enquiry report it transpires that the petitioner obtained verbal permission from the concerned officer.

It also appears that the petitioner went to join physically in the service of Assistant General Manager on 29.01.2020 but he was advised to resign from his service of *Wiring Inspector*. Accordingly, he applied for resignation and the same was approved on 26.02.2020 by the respondent No. 6. Afterward, the petitioner once again filed application for joining the post of Assistant General Manager on 01.03.2020 along with appointment letter and release order from the earlier service. Upon receipt of the joining application (Annexure-‘C’ to the writ petition) the concerned authority remained silent. After 09(nine) months of receiving the joining letter, the director (administration), BREB issued a letter dated 07.12.2020 informing the writ petitioner that his joining letter was not accepted by the authority which is nothing but a colourable exercise of power.

In view of the above discussion, we find merit in this Rule.

Accordingly, the respondents are directed to accept the joining letter of the petitioner dated 01.03.2020 (Annexure-‘C’) based on the appointment letter dated 22.01.2020 (Annexure-‘B’ to the supplementary affidavit) within two months from the date of receipt of this judgment. The petitioner’s service shall be deemed to commence from 01.03.2020 and are entitled to all arrear, service benefits and other entitlements to be reckoned from that date.

Resultantly, the rule is made absolute with the above-mentioned directions, however, without any order as to costs.

Communicate the judgment and order to the respondents forthwith.

Md. Mozibur Rahman Miah, J.

I agree.

Md. Sabuj Akan
Assistant Bench Officer