

**IN THE SUPREME COURT OF BANGLADESH**  
**APPELLATE DIVISION**

PRESENT:

**Mr. Justice Hasan Foez Siddique**  
**-Chief Justice**

**Mr. Justice Md. Nuruzzaman**

**Mr. Justice Borhanuddin**

**Mr. Justice M. Enayetur Rahim**

**CIVIL PETITION FOR LEAVE TO APPEAL NO.1849 of 2022.**

(From the judgment and order dated 29.05.2022 passed by the High Court Division in Civil Order No.2477 of 2022).

With

**CIVIL PETITION FOR LEAVE TO APPEAL NO.1909 of 2022.**

(From the judgment and order dated 17.11.2021 passed by the High Court Division in Civil Revision No.1146 of 2021).

Professor Jahangir Chowdhury. : .....Petitioner.  
(In C.P. No.1849 of 2022)

Rotary International. : .....Petitioner.  
(In C.P. No.1909 of 2022)

-Versus-

Rtn. Ruhela Khan Chowdhury, PHF and others. : .....Respondents.  
(In both the petitions)

For the Petitioner. : Mr. Probir Neogi, Senior Advocate  
(In C.P. No.1849 of 2022) & Mr. Murad Reza, Senior Advocate  
instructed by Mr. Md. Taufique  
Hossain, Advocate-on-Record.

For the Petitioner. : Mr. Khaled Hamid Chowdhury, Advocate  
(In C.P. No.1909 of 2022) instructed by Ms. Shahanara Begum,  
Advocate-on-Record.

For Respondent No.1. : Mr. A. M. Amin Uddin, Senior Advocate  
(In C.P. No.1849 of 2022) & Mr. Sk. Mohd. Morshed, Senior  
Advocate & Mr. Md. Shakhawat H. Khan,  
Advocate instructed by Mr. Md. Zahirul  
Islam, Advocate-on-Record.

For Respondent No.2. : Mr. Khaled Hamid Chowdhury,  
(In C.P. No.1849 of 2022) Advocate instructed by Mr. Helal  
Amin, Advocate-on-Record.

For Respondent Nos.3-8. : Not represented.  
(In C.P. No.1849 of 2022)

For Respondent No.1. : Mr. A. M. Amin Uddin, Senior Advocate  
(In C.P. No.1909 of 2022) & Mr. Sk. Mohd. Morshed, Senior  
Advocate & Mr. Md. Shakhawat H. Khan,  
Advocate instructed by Ms. Madhumalati  
Chowdhury Barua, Advocate-on-Record.

For Respondent No.2. : Mr. Probir Neogi, Senior Advocate  
(In C.P. No.1909 of 2022) instructed by Mr. Md. Taufique Hossain, Advocate-on-Record.

For Respondent Nos.3-8. : Not represented.  
(In C.P. No.1909 of 2022)

Date of Hearing. : **The 14<sup>th</sup> August, 2022.**

Date of Judgment. : **The 14<sup>th</sup> August, 2022.**

## **J U D G M E N T**

**Borhanuddin, J:** One of the aforementioned Civil Petition for Leave to Appeal being No.1849 of 2022 has been preferred by the plaintiff-petitioner against the judgment and order dated 29.05.2022 passed by a Single Bench of the High Court Division in Civil Order No.2477 of 2022 rejecting the civil review application summarily which arose out of the judgment and order dated 17.11.2021 passed by the selfsame Single Bench of the High Court Division in Civil Revision No.1146 of 2021 making the Rule absolute by setting aside the Order No.11 dated 28.02.2021 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Chattogram, in Title Suit No.275 of 2020 rejecting the application under section 7 read with section 10 of the Arbitration Act, 2001 alongwith Article 24 of the by-laws of Rotary International.

Another Civil Petition for Leave to Appeal being No.1909 of 2022 has been preferred by the defendant no.1-petitioner Rotary International challenging the judgment and order dated 17.11.2021 passed by a Single Bench of the High Court Division in Civil Revision No.1146 of 2021 making the Rule absolute.

Since bone of contention of both the civil petitions is the judgment and order dated 17.11.2021 passed by the High Court Division in Civil Revision No.1146 of 2021 as such both the civil petitions have been taken together for hearing and disposed of by this common judgment.

Background of both the civil petitions are that the petitioner of Civil Petition No.1849 of 2022 as plaintiff instituted Title Suit No.275 of 2020 in the 1<sup>st</sup> Court of Joint District Judge, Chattogram, for declaration that the plaintiff is entitled to be declared as District Governor-Nominee-2022-2023 for Rotary International District-3282 and also for declaration that the election of the defendant no.7 as District Governor-Nominee-2022-2023 for Rotary International District-3282 is illegal, arbitrary, connived, *malafide*, violative of the Rotary

Code of polices and rules thereunder regarding election and also for mandatory injunction against the defendant nos.1-6 to declare the plaintiff as District Governor-Nominee-2022-2023 for Rotary International District-3282, contending interalia, that the plaintiff is a Rotarian and has active participation in the programmes of Rotary International, Bangladesh; The plaintiff is a member of Rotary Club of Chattogram East and considering experience of the plaintiff, the Rotary Club of Chattogram East has nominated him for election as the District Governor for the year 2022-2023 for Rotary International District-3282; Defendant no.7 also nominated by a club for the said post; Schedule date for election was 04.01.2022 at the Kushiara International Convention Hall, Sylhet, and the balloting process was to be dealt in accordance with the polices of Rotary Club; Though there is a provision to declare rules for election in writing at least 15 (fifteen) days before the balloting but the defendant nos.3-5 in connivance with the defendant no.6 did not declare in writing any rules for election; On 04.01.2022, the balloting was started, the balloting committee

declared 129 votes infavour of the plaintiff and 124 votes infavour of the defendant no.7; Thereafter, the balloting committee scrutinized the result and cancelled five votes of the plaintiff reducing the number of plaintiff's votes to 124; Upon tie, the District Governor cast his vote infavour of the defendant no.7 and declared her as a District Governor for the year 2022-2023.

Being aggrieved by the said declaration, the plaintiff filed written objection to the Chairman of balloting committee and then appeal to the appropriate committee as per by-laws of the Rotary International but Rotary International dismissed his appeal vide order dated 27.06.2020; Hence, the suit.

The defendant no.7 entered her appearance in the suit and filed an application under order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint on the ground that the suit is barred by law since the plaintiff did not invoke the mandate of arbitration as provided under Article 24 of the by-laws of Rotary International and there is no cause of action to file the suit.

The plaintiff did not file any written objection against the application for rejection of the plaint and during pendency of that application the defendant no.7 on 15.02.2021 filed another application under section 7 read with section 10 of the Arbitration Act, 2001 alongwith Article 24 of the by-laws of Rotary International praying to refer the dispute for mandatory arbitration as per Article 24 of the said by-laws staying proceeding of the suit.

Upon hearing the parties, the trial Court rejected the application for arbitration vide Order No.11 dated 28.02.2021.

Having aggrieved by the order, the defendant no.7 as petitioner filed revisional application under section 115(1) of the Code of Civil Procedure before the High Court Division and obtained a Rule which was registered as Civil Revision No.1146 of 2021.

A Single Bench of the High Court Division made the Rule absolute ex-parte by judgment and order dated 17.11.2021 directing the Court below to refer the dispute

of the parties for arbitration by directing the Rotary International to hold arbitration as per Article 24 of the Rotary by-laws and stayed all further proceedings of the suit.

Feeling aggrieved by the aforesaid ex-parte judgment and order, the plaintiff-opposite party as petitioner filed Civil Review application before the selfsame Bench of the High Court Division and the said Single Bench of the High Court Division upon hearing the application summarily rejected the same vide judgment and order dated 29.05.2022.

Against the judgment and order dated 29.05.2022, plaintiff-petitioner preferred Civil Petition for Leave to Appeal No.1849 of 2022.

The Rotary International being petitioner filed Civil Petition for Leave to Appeal No.1909 of 2022 challenging the judgment and order dated 17.11.2021 passed by the High Court Division in Civil Revision No.1146 of 2021 making the Rule absolute.

Mr. Probir Neogi, learned Senior Advocate appearing for the petitioner in Civil Petition for Leave to Appeal No.1849 of 2022 submits that the High Court Division committed an error of law in passing the impugned judgment and order without considering that Article 24 of the by-laws of Rotary International is not a forum to settle the dispute regarding election amongst the members of Rotary International and the contesting parties of the suit are members of Rotary International and the dispute arise out of election which cannot be resolved by holding arbitration as such the impugned judgment and order is liable to be set-aside.

Mr. A. M. Amin Uddin, learned Senior Advocate appearing for the respondent no.1 in both the Civil Petitions in support of the impugned judgment and order by referring the judgments of our jurisdiction as well as neighbouring jurisdiction submits that the dispute is to be resolved by holding arbitration under Article 24 of the Rotary by-laws.

Mr. Khaled Hamid Chowdhury, learned Advocate appearing for the petitioner in Civil Petition for Leave



to Appeal No.1909 of 2022 submits that Article 24 of the Rotary by-laws is not applicable in the present case. He also submits that the application dated 15.02.2021 filed by the respondent no.1 (defendant no.7 in the suit) is based on misconception of law and therefore misconceived and as such the impugned judgment and order is liable to be set-aside.

Heard the learned Advocates appearing in both the leave petitions for the petitioners and respondents.

We have meticulously gone through the impugned judgment and orders as well as provisions of law and by-laws of the Rotary International. Admittedly, both the parties in dispute are the members of the Rotary International, an Intentional Organization, guided by its own by-laws which are binding on both the parties.

It appears that the dispute relates to election to the office of District Governor in an international club known as 'Rotary International'. A suit was filed laying challenge to the decision of rejecting appeal by the Rotary International (defendant no.1 of the suit) in the

dispute arising out of the election and seeking declaration as contained in the prayer portion of the plaint alongwith mandatory injunction against the defendant nos.1-6.

In the civil suit, prayer for arbitration was denied by the trial Court but allowed by the High Court Division in revisional jurisdiction. Consequently, two different petitioner preferred aforementioned civil petitions for leave to appeal separately.

In the matter of dispute relating to clubs, ordinarily civil Court do not interfere and the disputes should be left to be adjudicated upon by the internal mechanism provided by the by-laws/constitution of the clubs.

Considering all aspects, we are of the view that in this regard a request can be made to the General Secretary of the Rotary International or someone appointed by the General Secretary for this purpose, to appoint a mediator who is the member of the Rotary International and who has appropriate mediation skills

and experience in the arbitration of election dispute. In the event of a request for arbitration, each party shall appoint an arbitrator and the arbitrators shall appoint an umpire. Only a member of a Rotary Club may be appointed as umpire or arbitrator.

In the premises above, we are inclined to modify the impugned judgment and order dated 17.11.2021 passed by the High Court Division.

Accordingly, the General Secretary of the Rotary International is directed to appoint one arbitrator and the plaintiff is also to appoint an arbitrator who will be the member of the Rotary Club and both the arbitrators thereafter will appoint an umpire. It is therefore ordered that the decision by the arbitrators shall be binding on the parties and in case of any disagreement, the decision of the umpire shall be final and binding on all the parties.

The arbitrator is directed to settle the dispute within 3(three) months from date.

Since the matter has been referred to the arbitration nothing survives in the suit. Accordingly, the suit is disposed of. All pending applications are also stand disposed of.

The order of injunction passed by the learned Judge-in-Chamber is hereby recalled and vacated.

With the above observation and directions both the civil petitions are disposed of.

C.J.

J.

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J.