

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

**(SPECIAL ORIGINAL JURISDICTION)**

**Present:**

Ms. Justice Naima Haider

And

Ms. Justice Kazi Zinat Hoque

**Writ Petition No.13148 of 2021**

**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. Razaul Karim, Principal, Daulatpur Girls  
College, (EIN-117607) and others

..... Petitioners

**-Versus-**

Government of the People's Republic of  
Bangladesh, represented by its Secretary,  
Secondary and Higher Education Division,  
Ministry of Education, Bangladesh  
Secretariat Ramna, Dhaka and others

.....Respondents

Mr. Mohammad Siddique Ullah Miah, with

Mr. Md. Mahbubur Rashid, Advocates

... For the Petitioners

Mr. Amit Das Gupta, D.A.G.

.....For the Respondents

**Date of Hearing: 03.03.2024 and 14.03.2024**

**Date of Judgment: 19.03.2024.**

**Kazi Zinat Hoque, J :**

In this application under Article 102 of the Constitution a Rule Nisi has been issued calling upon the respondents to show cause as to why the impugned provision stated in the footnote of Parishishta Kha of the MPO Guidelines of 2021 which mandates a minimum of two departments for MPO enlistment in Bachelor Degree (Pass Course) Colleges thereby creating a barrier for the petitioners to submit online applications for MPO should not be declared ultra vires the Constitution and as to why the respondents should not be directed to provide an opportunity for the petitioners to submit their online applications for MPO enlistment and thereby consider their MPO claims.

The petitioners, appointed as Lecturers and staff at various Non-Government educational institutions applied online for enrollment under Monthly Pay Order (MPO) to the Director General of the Directorate of Secondary and Higher Secondary Education. However, their applications have not been disposed of by the respondents. MPO Guidelines of 2010 were replaced by MPO Guidelines of 2018 enabling the petitioners to apply for MPO. However, the MPO Guidelines of 2021 introduced a restriction, mandating a minimum of two departments in Bachelor Degree (Pass Course) Colleges for MPO enlistment.

The petitioners attempted to submit online applications but faced difficulties. Despite numerous attempts to contact the

respondents and seek assistance in submitting their applications, the petitioners were unsuccessful. Subsequently, they submitted a representation dated 08.12.2021, requesting the repeal of the restrictive provisions of MPO Guidelines, 2021.

While their colleagues at the higher secondary level enjoy MPO benefits, the respondents took no action to lift the restrictions hindering the petitioners from submitting their applications. Having received no response the petitioners, through their lawyer, issued a notice demanding justice on 09.12.2021. Consequently, this writ petition was filed.

Mr. Mohammad Siddique Ullah Miah, with Mr. Md. Mahbubur Rashid, learned Advocates appearing for the petitioners, argued that the petitioners were appointed long before the Monthly Pay Order (MPO) Guidelines, 2021 were framed. They were eligible to apply for MPO under MPO Guidelines of 2010 (as amended in 2013) as well as MPO Guidelines of 2018. However, Parishishta Kha of the MPO Guidelines of 2021 created an embargo and as a result, the petitioners were unable to submit online applications for MPO. Therefore the respondents should be directed to lift the embargo so far as the petitioners are concerned.

Mr. Amit Das Gupta, learned Deputy Attorney General with Md. Taufiq Sajawar Partho, learned Assistant Attorney General appeared for the respondents.

Relevant provision of Parishishta Kha of Monthly Pay Order Guidelines of 2010 (as amended in 2013) is reproduced below:

বেতন-ভাতাদির সরকারি অংশ প্রাপ্তির জন্য কাম্য শিক্ষার্থী সংখ্যা:

শিক্ষা প্রতিষ্ঠানের ধরন	অঞ্চল	সহশিক্ষা ও শুধু বালক প্রতিষ্ঠানের জন্য	শুধু বালিকাদের জন্য
কলেজ			
স্নাতক (পাস) ১১শ-১৫শ	শহর	২৫০ জন (২০০+৫০**)	২০০ জন (১৫০+৫০**)
	মফঃস্বল	২০০ জন (১৫০+৫০**)	১৫০ জন (১২০+৩০**)

\*\* স্নাতক পর্যায়ে ন্যূনতম শিক্ষার্থী ।

The aforesaid provision remained same in MPO Guidelines of 2018. Relevant provision of Parishishta Kha of the Monthly Pay Order Guidelines, 2018 is quoted below:-

বেতন-ভাতাদির সরকারি অংশ প্রাপ্তির জন্য কাম্য শিক্ষার্থী :

শিক্ষা প্রতিষ্ঠানের ধরন	অঞ্চল	সহশিক্ষা ও শুধু বালক প্রতিষ্ঠানের জন্য	শুধু বালিকাদের জন্য
কলেজ			
স্নাতক (পাস) ১১শ-১৫শ	শহর	২৫০ জন (২০০+৫০**)	২০০ জন (১৫০+৫০**)
	মফঃস্বল	২০০ জন (১৫০+৫০**)	১৫০ জন (১২০+৩০**)

\*\* স্নাতক পর্যায়ে ন্যূনতম শিক্ষার্থী ।

Relevant provision of Parishishta Kha (পরিশিষ্ট 'খ') of the Monthly Pay Order Guidelines of 2021 is reproduced below:-

শিক্ষা প্রতিষ্ঠানের ধরন	এলাকা	সহশিক্ষা/পুরুষ কলেজের ক্ষেত্রে ন্যূনতম শিক্ষার্থী	মহিলা কলেজের ক্ষেত্রে ন্যূনতম শিক্ষার্থী

স্নাতক (পাস) কলেজ (১১শ-১৫শ)	(৩x৩০)+১৬০=২৫০ জন (স্নাতকে শুধু বিজ্ঞান বিভাগ থাকলে ৩ বর্ষ মিলে ৯০ জন+একাদশ-দ্বাদশ শ্রেণির উচ্চ মাধ্যমিকের শিক্ষার্থী ১৬০ জন) ***	(৩x২৫)+১৩০=২০৫ জন (স্নাতকে শুধু বিজ্ঞান বিভাগ থাকলে ৩ বর্ষ মিলে ৭৫ জন+একাদশ-দ্বাদশ শ্রেণির উচ্চ মাধ্যমিকের শিক্ষার্থী ১৩০ জন) ***
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\*\*\* স্নাতক (পাস) কলেজে এম.পি.ও ভুক্তির জন্য ন্যূনতম ২ টি বিভাগ থাকতে হবে ।

It is settled principle of law that the vested right of any person created under earlier law or provision cannot be curtailed by a subsequent law or amended provision [Bakhrabad Gas System Vs Al Masud-Ar-Noor reported in XI ADC(2014) 423]. Since due to the provisions of Parishishta Kha (পরিশিষ্ট 'খ') of MPO Guidelines of 2021 the petitioners were not able to apply for MPO through online portal, the said provision shall not be applicable so far as the petitioners are concerned.

We are of the view that justice would be best served if the respondents are directed to lift the embargo created by Parishishta Kha of the MPO Guidelines of 2021 so far the petitioners are concerned, allowing them to submit their online applications for MPO.

In the result the Rule is disposed of with the above observation and direction.

There is no order as to cost.

Transmit copy of this judgment to the concerned respondents.

(Kazi Zinat Hoque, J)

I agree

(Naima Haider, J)