

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

WRIT PETITION NO. 10307 of 2006

IN THE MATTER OF:

An Application under Article 102(2)(a) of the Constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Ataur Rahman

..... Petitioner

VERSUS

Government of the People's Republic of Bangladesh and others.

..... Respondents

Mr. Sk. Md. Murshed, Advocate
 with Mr. Md. Helal Uddin, Advocate
 ... For the Petitioner

Mr. Mohammed Kawsar, Advocate
 ...for the respondents Nos. 2 and 3

Mr. Md. Anichur Rahman Khan,
 DAG with

Mr. Sultan Mahmood Banna, AAG
 and

Mr. Mir Moniruzzaman, AAG
 ... For the Respondents

**Heard on: 23.10.2025, 26.10.2025,
 03.11.2025 and 06.11.2025**

Judgment on: 09.11.2025

Present :

Mr. Justice Md. Shohrawardi

and

Mr. Justice Dihider Masum Kabir

MD. SHOHRAWARDI, J:

The Rule Nisi was issued calling upon the respondents to show cause as to why the impugned order dated 10.02.2000 (Annexure-C) should not be declared to have been issued without any lawful authority and of no legal effect, and /or pass such other or further order or orders as to this Court may seem fit and proper.

The relevant facts for disposal of the Rule Nisi are that the petitioner is the Manager of the Consolidated Tea & Lands Company, Bangladesh Ltd, and the authorized person to file the writ petition. The said company is the sister concern of the Finlay Tea Company Ltd, situated at Balishira Tea Estate, Kalighat, Sreemangal, Moulvibazar, which obtained a licence on 31.05.1995 (Annexure-H) under Rule 9 of Sylhet Forest Transit Rules, 1961, and is running the said mills following the terms and conditions contained in the said licence. Suddenly, Divisional Forest Officer, Sylhet Forest Division issued a letter on 10.02.2000 to the petitioner, cancelling his licence exercising the power under Rule 8(1) of করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮ without issuing any show cause notice. Thereafter, the petitioner applied on 06.03.2000 to the Divisional Forest Officer, Sylhet, for the withdrawal of the letter of cancellation of the licence dated 10.02.2000, stating that the petitioner is running the saw mill for the sawing of the trees of the company for the use of only the company. Under Rule 21 of The Plantation of Tea Estate Labour Rules, 1977, the petitioner is bound to maintain accommodation for the workers. The petitioner also filed another application on 19.03.2003 to the Divisional Forest Officer, Sylhet, stating that the Karatkal of the petitioner is not situated within 10 km of the government forest. As per the labour agreement executed between the petitioner and the employees of the company, the petitioner is bound to provide the house accommodation for the labours and the petitioner company has a total of 15873 workers.

The petitioner filed a supplementary affidavit on 22.11.2025 stating that the petitioner company filed an application on 06.01.1995 to the respondent No. 3, Divisional Forest Officer, Sylhet for a licence to operate saw mills. After scrutinizing all the documents and following the procedure

provided in the said Rules, the licence was granted on 31.05.1995 in favour of the petitioner. After issuance of the licence, it was extended from time to time till 30.06.1999. Thereafter, on 10.02.2000, the respondent No. 3 issued the impugned order cancelling the licence, stating that the petitioner company would not be permitted to function Karatkal under করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮. On 02.01.2011, the petitioner also filed an application to the respondent No. 3, Divisional Forest Officer, for continuing the operation of the saw mill.

The respondents Nos. 2 and 3 entered appearance in the Rule by filing an affidavit-in-opposition stating that the petitioner's saw mill is situated within 12 km of the reserved forest and within 10 km of the Lawachara reserve forest declared under the Forest Act. The Lawachara National Park was declared as a reserved forest by gazette notification dated 07.07.1996, and the petitioner is barred from running the saw mills under Rule 8 of the করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮. On 23.01.2006 at around 11.30 am, the staff of the respondent No. 3 found that the petitioner was illegally operating his saw mill and accordingly, they closed down the saw mill of the petitioner.

Learned Advocate Mr. Sheikh Md. Murshed appearing on behalf of the petitioner submits that the petitioner obtained the licence of the saw mills under Rule 9 of the Sylhet Forest Transit Rule, 1951 which was repealed by বনজন্ম-পরিবহন(নিয়ন্ত্রণ বিধিমালা, ২০১১ and at the time of issuance of the impugned letter dated 10.02.2000, Rules of 1951 was inforce and the impugned order was issued without issuing any show cause notice upon the petitioner and violating the provision made in Rule 51 of the said Rules. He prayed for making the Rule absolute.

Learned Advocate Mr. Mohammed Kawsar appearing on behalf of the respondent Nos. 2, 3, and 6 submits that under Rule 81 of the করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮, the petitioner is not entitled to run the Karatkal set up within 10 km of the reserve forest declared by the government and the petitioner saw mill is situated within 10km from the Lawachara reserve forest. Therefore, under Rule 81 of the said Rules, the respondent No. 3 legally cancelled the licence of the petitioner. He prayed for the discharging the Rule.

We have considered the submission of the learned Advocate Mr. Sheikh Md. Morshed, who appeared along with learned Advocate Mr. Md. Helal Uddin on behalf of the petitioner and the learned Advocate Mr. Mohammed Kawsar, who appeared on behalf of the respondent Nos. 2, 3, and 6, perused the writ petition, affidavit-in-opposition filed by the respondent Nos. 2 and 3, and the records.

At the very outset, it is noted that at the time of issuance of the Rule on 24.01.2007, this court stayed the impugned order dated 10.02.2000(Annexure-C) including any further steps as taken there under so far relates to the petitioner saw mill and the said order was subsequently extended and lastly by order dated 21.10.2008 this court extended the said order of stay till disposal of the Rule.

On perusal of the licence (Annexure-H) dated 31.05.1995 issued under the signature of the Divisional Forest Officer, Sylhet, it appears that the said licence was issued under Rule 9 of the Sylhet Forest Transit Rules, 1951, which is a special law enacted for the particular Sylhet area. After issuance of the licence, it was extended from time to time till cancellation of the licence by order dated 10.02.2000 (Annexure-C). In the impugned letter (Annexure-C), it has been stated that the Karatkal of the petitioner is situated within 10 km from the

Lawachara reserve forest declared by the government. In the licence dated 31.05.1995 (Annexure-H), several conditions have been imposed. No statement is made in the letter of cancellation dated 10.02.2000(Annexure-C) that the petitioner violated any terms and conditions of the licence dated 31.05.1995 (Annexure-H).

In the writ petition, it has been alleged that before the cancellation of the licence on 10.02.2000, no show cause notice was issued by the respondent No. 3 for cancellation of the licence. No allegation has been made by the respondent No. 3 that the petitioner violated any terms and conditions of the licence issued in favour of the petitioner. Issuance of show cause notice is a fundamental principle of natural justice. Before cancelling the licence by order dated 10.02.2000 by the respondent No. 3, no show cause notice was issued.

Admittedly, the saw mill of the petitioner is situated within Sylhet. At the time of cancellation of the licence of the petitioner on 10.02.2000, the Sylhet Forest Transit Rules, 1951 was inforce. Nothing has been stated in the করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮, that the said rule was applicable all over Bangladesh. Therefore, we are of the view that the করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮ was not applicable so far as it relates to the petitioner, and the respondent No. 3 was not legally empowered to cancel the licence of the saw mill of the petitioner under করাত-কল (লাইসেন্স) বিধিমালা, ১৯৯৮.

The enquiry report dated 27.03.2011 (Annexure-I to the writ petition), reveals that the forest department by letter dated 27.03.2011 addressing the Chief Forest Conservator stated that the saw mill of the petitioner is situated within 10km of International Boarder but asserted that for construction and repairing the house of the labours of the petitioner's tea garden,

a saw mill is required within the boundary of the tea company of the petitioner.

As regards the submission of the learned Advocate Mr. Sk. Md. Morshed regarding direction to the respondents to issue a licence, we hold the view that the Rule Nisi is issued only to examine the legality of the order of cancellation of the licence dated 10.02.2000. No mandamus has been issued. Therefore, there is no scope to issue any direction to the respondent Nos. 2 and 3 to issue the licence. However, the petitioner is at liberty to apply afresh for issuance of licence to the respondent, if so advised.

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

In the result, the Rule is made absolute.

The impugned order dated 10.02.2000 issued under the signature of the Divisional Forest Officer, Sylhet(Annexure-C), respondent No. 3, is hereby declared to have been issued without lawful authority and of no legal effect.

However, there will be no order as to costs.

Dihider Masum Kabir, J.

I agree.