

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

**WRIT PETITION NO. 5058 OF 2022**

**IN THE MATTER OF:**

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

AND

**IN THE MATTER OF:**

Anwar Hossain

.....Petitioner

-VERSUS-

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

..... Respondents

Mr. Md. Jalal Uddin, Advocate

..... For the Petitioner

Mr. Md. Ashraful Alam, Advocate

...For the Respondent No. 8

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 18.02.2026, 25.02.2026, 03.03.2026**

**Judgment on 09.03.2026**

**Urmee Rahman, J:**

In the instant matter a Rule Nisi was issued on an application under Article 102 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 of the respondent No. 8 to reinstate the petitioner in his post of Assistant Teacher of Baushia M.A. Azhar High School, Gazaria, Munshigonj pursuant to Memo No. ঢাশিবো/বি/৬/আ এড আ/২৯৯ dated 02.05.2021 issued by the Respondent No. 3 (Annexure-F) should not be declared to have been done without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.*

Necessary facts for disposal of the instant Rule, in short, are that, the petitioner was appointed in the post of Assistant Teacher (Computer) of Baushia M.A. Azhar High School on 14.03.2014 and accordingly he joined the post on 18.03.2014. The petitioner after his joining has performed his functions with the satisfaction of the authority. Suddenly, the Head Master of Baushia M.A Azhar High School on 10.12.2019 served a notice suspending the petitioner from service provisionally vide resolution of the managing committee dated 20.11.2019 and directing the petitioner to submit written statement within 7(seven) working days. The petitioner on 14.12.2019 submitted reply to the notice stating the fact in detail. The members of the Managing Committee made an application to the President of the Managing Committee of the School, requesting to reinstate the petitioner in his service.

The Head Master of the said School on 27.01.2020 issued notice of removal of the petitioner from service on the basis of decision of the School Managing Committee dated 25.01.2020 and sent the matter to Appeal and Arbitration Committee of Secondary and High Secondary Education Board, Dhaka for taking final decision. The Inspector of School, Secondary and Higher Secondary Education Board, Dhaka by order of the Chairman of the Board sent a letter bearing Memo No. ঢাশিবো/বি/৬/আ এন্ড আ/ ২৯৯ dated 02.05.2021 to the President of School Managing Committee stating that, Appeal and Arbitration Committee did not approve the decision of the Managing Committee to remove the petitioner from service, and directed to reinstate the petitioner with all previous dues within 10 days. The petitioner on 03.06.2021 preferred an application to the Head Master of the School requesting to reinstate him in service with all previous benefit as per the decision of the Appeal and Arbitration Committee. However, the Head Master of the School by the reply dated 28.06.2021 refused to do so. Thereafter, the Inspector of School of Dhaka Board vide Memo No. ঢাশিবো/বি/৫৮৬/মুন্সী ৫৮৭ dated 26.10.2021 further directed the Head Master of the School to take appropriate step to reinstate the petitioner in his service as Assistant Teacher (Computer) in the light of the aforesaid decision of Appeal and Arbitration Committee of Secondary and Higher Secondary Education Board, Dhaka. The District Education Officer, Munshigonj also sent a letter to the Head Master of the said School vide Memo No. জেশিঅ/ মুন্সি/ ২০২১/৯০৬৮ dated 09.11.2021 requesting him to take appropriate step to

reinstate the petitioner by implementing the decision dated 16.03.2021 of Appeal and Arbitration Committee of the Board.

Again, the Inspector of School, Secondary and Higher Secondary Education Board, Dhaka sent a letter to the President of Ad hoc Committee of the School vide Memo No. মাসিবো/ বি/৫৮৬/মুসী/ ৫৬ dated 27.01.2022 directing the Managing Committee to reinstate the petitioner within 10(ten) days according to the decision of the Appeal and Arbitration committee of Board else the said Committee will be cancelled and its affiliation will be withdrawn. Disregarding all these directions, the Upazila Nirbahi Officer, Gazaria, Munshigonj vide Memo No. 05.30.5924.000.16.001.22.125 dated 02.03.2022 asked the petitioner to appear in his office on 09.03.2022 in a hearing regarding the allegations against the petitioner. Being aggrieved, the petitioner on 05.04.2022 preferred an application to Chairman, Secondary and High Secondary Education Board, Dhaka for immediate action but without any result till date.

Being aggrieved by and dissatisfied with the inaction of the respondent no. 8 to reinstate him in his service and there having no other alternative and efficacious remedy, the petitioner has filed the instant writ petition and obtained the Rule.

Learned Advocate Mr. Md. Jalal Uddin, appeared on behalf of the petitioner. At the very outset he submitted that, the Appeal and Arbitration Committee of the Secondary and Higher Secondary Education Board is the Highest forum to discuss and consider any recommendation

of School Managing Committee and to give the final decision. The Appeal and Arbitration Committee directed the Managing Committee to take necessary step to reinstate the petitioner in his post with previous dues. The School Managing Committee is lawfully bound to comply with the direction of Appeal and Arbitration Committee and as such the inaction of the respondent no. 8 is liable to be declared unlawful.

He next submitted that, upon proper discussion of the decision of Managing Committee of Baushia M.A. Azhar High School, Gozaria the Appeal and Arbitration committee rejected the said decision against the petitioner and as such the petitioner is legally entitled to be reinstated in his post with previous dues.

He finally submitted that, the impugned attempt and inaction of the respondents in not implementing the Board's direction has curtailed the fundamental right of the petitioner guaranteed by the constitution of the People's Republic of Bangladesh and thus he prayed that the Rule may be made absolute.

On the other hand, learned Advocate Mr. Md. Asharful Alam, entered appearance on behalf the respondent No. 8 and strongly opposed the Rule by filing an affidavit in opposition.

Learned Advocate for the Respondent No. 8 submitted that, before forwarding the letter dated 02.05.2021, the Appeal and Arbitration Committee served a notice on 10.03.2021 to the respondent no. 8 (President of the Managing Committee) and respondent No. 9 (Head

Master) to appear before it with the victim on 16.03.2021 for hearing but the respondent No. 9, the Head Master of the School, in collusion with petitioner, suppressed the fact of the notice to the victim and respondent No. 8 alone appeared before the Appeal and Arbitration Committee. After receiving the letter dated 02.05.2021 on 12.06.2021, the President of the School Committee convened a meeting and decided to serve a notice to the respondent No.9 to show cause as to the suppression of the letter dated 10.03.2021.

He next submitted that, on 26.10.2021 the petitioner went to the school in order to join. When the students of the said school came to know that, they exploded with anger, brought out a huge demonstration making slogan against the petitioner. Local people also joined that demonstration and reporter of local and national newspapers rushed to the spot to cover the news. Sensing the danger, the petitioner surreptitiously left the campus. Under the circumstances the said managing committee convened a meeting on 06.11.2021 and adopted a resolution to inform the Chairman, Dhaka Education Board and the Deputy Commissioner, Munshiganj about the matter vide letters dated 09.11.2021 and 14.11.2021 respectively. After receiving the letter dated 17.11.2021, the Deputy Commissioner directed the Assistant Commissioner (Land) for taking necessary measures on it. After receiving the letter, the Assistant Commissioner (Land) by a letter dated 21.12.2021 instructed the respondent no.8, to be present, along with the allegiant, the petitioner, the Chairman and Members of the Managing Committee and the witnesses in

the inquiry to be held on 26.12.2021. Accordingly, the inquiry was held in the presence of all but the petitioner abstained from joining the hearing. Everyone present in that inquiry submitted their written statement in the matter, on the basis of which the Assistant Commissioner (Land) prepared a report and sent it to the Deputy Commissioner of Munshiganj. Besides, on the instruction from the respondent no. 2 i.e. the Chairman of Secondary and Higher Secondary Education Board, the respondent no.3 i.e. the Inspector of School instructed the Upazila Nirbahi Officer, Gazaria, Munshiganj to hold an enquiry into the matter. But, unfortunately, on the same day the respondent no.3 also instructed the respondent no.9 to reinstate the petitioner. The respondent no.6 by a letter dated 06.03.2022 instructed the petitioner, respondent nos. 8 and 9 to be present at the enquiry to be held on 09.03.2022. In the same enquiry all the persons so instructed were present, and submitted written statement but the petitioner abstained from joining the enquiry likewise. Accordingly, the respondent No. 6 (UNO) held an inquiry on 09.03.2022 where the victim, students, teachers, guardians, concerned Union Parishad Chairman, and Members of the Managing Committee were present and strongly expressed their view that if the petitioner were reinstated, the whole School and the locality would be in turmoil and causing the management of the School to come to a deadlock. All the people present in the hearing demanded the final dismissal of the petitioner. Consequently, the respondent no. 6 (UNO) prepared a report suggesting the dismissal of the petitioner and forwarded it to the respondent no. 4 (Deputy Director, Secondary and Higher Secondary Education Board)

who then forwarded it to the Respondent No.5 (District Education Officer).

Learned Advocate for the respondent No. 8 finally submits that, the petitioner was directed by the respondent No. 6 (UNO) to appear before him in the inquiry and make representation to defend himself but the petitioner intentionally did not avail that opportunity.

He finally submits that, no illegality has been committed by the authority by not reinstating the petitioner to his post because the matter is still lying with the Education Board, which will dispose of the matter on the basis of the latest inquiry reports and as such the Rule has no merit and the same is liable to be discharged.

We have heard the learned Advocates for the respective parties and perused the writ petition, supplementary affidavit, affidavit in opposition and all the documents annexed as annexures therewith.

It appears from Annexure-F to the writ petition that the Appeal and Arbitration Committee of Secondary and Higher Secondary Education Board, Dhaka in its meeting dated 16.03.2021 did not approve the proposal for final dismissal of the petitioner, which was made by the School Managing Committee and decided to reinstate the petitioner to his service and the School Managing Committee was directed to inform the Board within 15 days upon reinstating and making payments, which were due to the petitioner.

Accordingly, on 03.06.2021 the petitioner made an application before the Head Master of the School to allow him to join to his post as per the decision of the Appeal and Arbitration Committee (Annexure-G) but by the memo dated 28.06.2021 the Head Master of the School informed the petitioner that the students of Class 8, 9 and 10 submitted an application before him as well as the President of the School Managing Committee praying for not to allow the petitioner to join his service. In this circumstance, the Managing Committee in its meeting dated 12.06.2021 unanimously decided not to reinstate the petitioner in the school (Annexure-H). On an application made by the petitioner, the Inspector of School by the memo dated 26.10.2021 directed the Head Master of the School to do the needful regarding reinstatement of the petitioner. The District Education Officer also by the memo dated 09.11.2021 directed the Head Master to take necessary steps in this regard otherwise the higher authority shall be informed to take legal action against the school authority.

It appears from Annexure-18 to the Affidavit in opposition that on 27.01.2022 the respondent no. 3 i.e. the Inspector of School of Secondary and Higher Secondary Education Board, Dhaka being directed by the Chairman of the Secondary and Higher Secondary Education Board, issued memo No. ঢাশিবো/বি/ ৫৮৬/মুন্সী/৫৫, referring to the letter dated 09.11.2021 submitted by the Head Master of the School, directing the Upazilla Nirbahi Officer to conduct an inquiry and submit a report urgently because the Head Master has informed that if the petitioner is

allowed to join the School, that would create outraged response among the students and people of the locality.

To our surprise, it appears from Annexure-K to the writ petition that, on the same date by the very next memo No. ঢাশিবো/বি/৫৮৬/মুসী/৫৬ the respondent no. 3 at the same time directed the President of the Ad Hoc Committee of the School to reinstate the petitioner to his post within 10 days of receiving the letter failing which legal action shall be taken under Rule 38 (2) of the Rules of 2009 on formation of Managing Committee by cancelling the Managing Committee and withdrawing the School recognition.

On the basis of the preceding memo No. ঢাশিবো/বি/ ৫৮৬/মুসী/৫৫ the UNO issued memo dated 02.03.2022 asking the petitioner as well as the concerned parties to be present at the hearing (Annexure-L) and on 03.04.2022 the UNO i.e. the respondent no. 6 submitted an inquiry report (Annexure-18) with the comment that, adverse remarks have been made against the petitioner by the students of the school, people's representative and the members of the school managing committee; that the petitioner though claims himself innocent but failed to produce evidence in support thereof, that the report of the Assistant Commissioner (Land) made in this regard also reflects the same, that all the concerned parties demanded dismissal of the petitioner from service and also demanded his punishment.

We find that, the two memos mentioned hereinabove being No. ঢাশিবো/বি/৫৮৬/মুসী/৫৫ and the next memo No. ঢাশিবো/বি/৫৮৬/মুসী/৫৬ dated

27.01.2022 issued under the signature of the respondent no. 3 i.e. the Inspector of School are palpably contradictory to each other and a glaring example of non-application of mind and inefficiency. It amounts to administrative arbitrariness. After the earlier decision of the Appeal and Arbitration Committee to reinstate the petitioner, a repercussion arose among the students of the school and the people of the locality and in consequence thereof the matter was reopened by the Secondary and Higher Secondary Education Board, Dhaka and an inquiry report has been submitted by the UNO in this regard. The matter is still pending for final disposal. The Appeal and Arbitration Committee is yet to dispose of the matter on the basis of the latest reports. Until the matter is disposed of, the petitioner cannot claim to be reinstated. Resultantly, we are of the opinion that, no illegality has been committed by the Respondent no. 8 by not reinstating the petitioner in his post. Petitioner suppressed this material fact in the writ petition.

Therefore, we are of the view that justice would be better served if we dispose of the Rule with the following direction:

The respondent no. 2 i.e. the Chairman of the Secondary and Higher Secondary Education Board, Dhaka are hereby directed to take necessary steps to finally dispose of the petitioner's case taking into consideration the latest report submitted by the UNO, Gojaria, Munshigonj vide memo No. ০৫.৩০.৫৯২৪.০০২.০০০.০১.১৬-১৯৬ (সং) dated 03.04.2022.

With the aforesaid direction the Rule is disposed of.

However, without any order as to costs.

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

**Justice Sashanka Shekhar Sarkar, J:**

I agree.

*Helal/ABO*