

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
WRIT PETITION NO. 15225 OF 2022

IN THE MATTER OF

An application under Article 102(2) of the  
Constitution of the People's Republic of  
Bangladesh

-AND-

IN THE MATTER OF:

Atiqullah

... Petitioner

-Versus-

Bangladesh, represented by the Secretary,  
Ministry of Law, Justice and Parliamentary  
Affairs and others

... Respondents

Mr. Abdul Alim, Advocate

.....For the petitioner

Mr. Mohammad Redwanul Karim, Advocate

..... For the respondent No. 8

Ms. Hamida Chowdhury with

Mr. Muhammed Kawser, Advocates

.....For the respondent No. 9

Heard & Judgment on 03.07.2024

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan,J:

By filing an application under Article 102(2) of the Constitution,  
the petitioner obtained the Rule Nisi in the following terms:

“Let a Rule Nisi be issued calling upon the respondents  
to show cause as to why the resolution No. 438 dated  
03.11.2022 passed by respondents for appointment of  
permanent Nikah Registrar of No. 02 Boroitoli Union,

Chakaria, District-Cox's Bazar (Annexure-H) and Panel bearing Memo No. 454 dated 13.11.2022 prepared by respondents for appointing permanent Nikah Registrar of No. 2 Boroitoli Union, Chakaria, District-Cox's Bazar (Annexure-L) should not be declared to be illegal and have been passed without lawful authority and/or pass such other or further order or orders as to this Court may seem fit and proper."

Due to occurring vacancy in the No. 2, Boroitoli Union under Chakaria Police Station, District-Cox's Bazar (schedule area), an advertisement was published on 18.07.2017 for appointment of Nikah Registrar in the said Union. Although, the petitioner attempted to submit application on 21.07.2017 but the respondent declined to receive the application on the plea of pendency of a Civil Petition for Leave to Appeal No. 2761 of 2017. However, 6(six) candidates including respondents No. 9 and 10 submitted their respective applications and ultimately a Panel was prepared including 3(three) candidates by the concerned Advisory Committee vide their meeting held on 03.11.2022 and it was sent to the concerned Ministry by memo dated 13.11.2022. In this context, the petitioner filed this writ petition challenging the said memo dated 03.11.2022 as well as the Panel forwarded under memo dated 13.11.2022.

Respondent No. 9 appearing in the Rule Nisi has filed an affidavit-in-opposition and supplementary affidavit contending, inter-alia, that the petitioner did not file any application at the relevant time. Moreover, the petitioner was not the resident of the concerned area. As such, he has no locus standi to file this writ petition. The

respondents on observance of required formalities prepared the Panel in accordance with law.

Respondents No. 4 and 8 i.e concern Upazala Porishad Chairman, Chakaria and Union Porishad Chairman, Boroitoli separately filed affidavits-in-opposition stating the facts which are more or less identical with the statements of respondent No. 9.

Mr. Abdul Alim, learned Advocate for the writ petitioner submits that the petitioner's application was returned deliberately on plea of pendency of CPLA before the Appellate Division and thereby he was kept beyond selection process with a malafide intention. He further submits that the process of preparing the Panel and sending the same to the concern Ministry was not done in accordance with the Rules 6(4) and 6(5) of the “মুসলিম বিবাহ ও তালাক (নিবন্ধন) বিধিমালা, ২০০৯” shortly, **the Rules, 2009** and as such, it cannot be sustained in the eye of law.

Drawing our attention to the Annexure-M to the writ petition, Mr. Alim again submits that the Panel was forwarded embodying the D.O. letter of the Member of Parliament of the local area and as such, the process of preparing the Panel for appointing the Nikah Registrar violates the established principles of law enunciated by the Apex Court. In support of his submission, learned advocate refers to the cases of *Golam Kibria Jabbar Vs. Md. Badruzzaman Khan and ors* reported in 25 BLT 2017 (AD) 114 and unreported cases of (1) *Raqibul Hasan and another Vs. Bangladesh and others passed in Writ Petition No. 408 of 2015*; (2) *Mohammad Hossain Vs. Bangladesh and others passed in Writ Petition No. 12404 of 2021*. He further

submits that the impugned Panel was prepared in violation of natural justice without giving the petitioner an opportunity to participate in the selection process.

In reply, Ms. Hamida Chowdhury, learned Advocate with Mr. Muhammed Kawser, learned advocate for the respondent No. 9 contends that the petitioner has challenged the three members Panel of Nikah Registrar but he did not make party to all the candidates under the Panel and so the writ petition suffers from the defect of parties. She further contends that the petitioner is neither a resident of the concerned area nor an applicant in the subject selection process. As such, he has no locus standi to question the Panel which being prepared on observance of required formalities.

We have gone through the writ petition, affidavits-in-opposition separately filed by the respective parties, supplementary affidavits and other materials on record.

It appears that the respondent District Registrar, Cox'sBazar published a recruitment notice on 18.07.2017 for appointment of Nikah Registrar in the vacant area under Boroitali Union, Chakaria police station. Admittedly, the petitioner did not participate in the said recruitment process. Although, the petitioner claims that respondents declined to accept his application but at the relevant time he never raised the issue before any forum. Moreover, it is a disputed question of fact. **Secondly**, the petitioner obtained the Rule Nisi challenging the Panel by which three candidates have been recommended for appointment of a Nikah Registrar. But the petitioner impleaded only respondent No. 9 as a candidate leaving two other candidates.

Therefore, without adjudicating representations of two other candidates, their Panel cannot be interfered. On these two counts, the Rule Nisi is liable to be discharged.

Regard being had to the above, the Rule Nisi is discharged without any order as to costs.

Razik-Al-Jalil, J:

I agree.

Belal/B.O