

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

**WRIT PETITION NO. 9600 OF 2023**

**IN THE MATTER OF:**

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

-AND -

**IN THE MATTER OF:**

Abdul Hakim

... Petitioner

-VS-

The Government of People's Republic of  
Bangladesh and others

... Respondents

Mr. M. Sayed Ahmed, Senior Advocate with  
Mr. Kazi Akhtar Hosain, Advocates

... For the Petitioner

Mr. Abul Bashar Tutul, Advocate

... For the respondent No. 3

**Present:**

**Mr. Justice Zafar Ahmed**

**And**

**Mr. Justice Md. Bashir Ullah**

**Heard on: 08.10.2023**

**Judgment on: 12.10.2023.**

**Md. Bashir Ullah, J.**

On an application under Article 102 of the Constitution of the  
People's Republic of Bangladesh, the Rule was issued on 01.08.2023  
calling upon the respondents to show cause as to why the inaction of  
the respondents in not increasing the Gas Load of 1,20,000 CFt/Hour  
in addition to the existing Gas Load of 1,00,000 CFt/Hour in general  
industrial run (after increase, total gas load will be 2,20,000  
CFt/Hour) and to increase the Gas Load of 46,000 CFt/Hour in

addition to the existing Gas Load of 37,360 CFt/Hour in captive/generator run (after increase total gas load will be 83,360 CFt/Hour) of the petitioner's company namely, Excellent Tiles Industries Ltd, having Customer Code No. 3-79-000121-00-96-8 and in not connecting the company's 8" dia gas distribution line with the 8" dia line emerged from the newly installed 16" dia distribution line across the Seed Store Bazar, Bhaluka, Mymensingh, should not be declared to be without lawful authority and is of no legal effect and as to why the respondent Nos. 3-7 should not be directed to increase the Gas Load of 1,20,000 CFt/Hour in addition to the existing Gas Load of 1,00,000 CFt/Hour in general industrial run (after the increase, total gas load will be 2,20,000 CFt/Hour) and to increase the Gas Load of 46,000 CFt/Hour in addition to the existing Gas Load of 37,360 CFt/Hour in captive/generator run (after the increase total gas load will be 83,360 CFt/Hour) of the petitioner's company namely, Excellent Tiles Industries Ltd. (the company), having Customer Code No. 3-79-000121-00-96-8 and to connect the company's 8" dia gas distribution line by hooking up with the 8" dia line emerged from the newly installed 16" dia distribution line across the Seed Store Bazar, Bhaluka, Mymensingh and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts, relevant for disposal of the Rule, in brief, are that Excellent Tiles Industries Ltd. is a private company limited by shares registered with the Joint Stock Companies & Firms incorporated under the Companies Act, 1994. It was established in 2015 to produce

high quality tiles. Gas is needed as fuel in manufacturing companies to maintain its continuous production and cost management. Accordingly, the company was sanctioned gas for general industrial run purpose and for generator run purpose. The company is now using 1,00,000 CFt/Hour gas in general industrial run and 37,360 CFt/Hour gas in captive/generator run. The company is paying gas bills regularly. The petitioner company is rapidly growing its business creating substantial employment opportunities and demand for its products is increasing both locally and internationally. The gas load sanctioned to the petitioner company is insufficient to meet the growing demand and volume of production. The petitioner applied to respondent No. 3 on 29.03.2023 and 11.06.2023 for increasing the gas load of 1,20,000 CFt/Hour in general industrial run and 46,000 CFt/Hour in captive/generator run connecting the petitioners 8" dia distribution line by hooking up with the 8" dia line emerged from the newly installed 16" dia distribution line from Seed Store Bazar to meet up the growing necessity.

It is stated that the Ministry of Power, Energy and Mineral Resources issued an Office Order under Memo No. 28.00.0000.028.06.001.19-102 dated 15.05.2019 empowering the Boards of directors of the respective gas companies to dispose of the applications for gas connection and increase of gas load but the respondents did not take any step for increasing gas load till date. The petitioner company has been waiting for months together and making representations one after another praying for increased gas load but

the respondent Titas Gas seems to sit idle on the issue. In this backdrop, the petitioner filed this instant writ petition and obtained the Rule Nisi.

The respondent No. 3, Titas Gas Transmission and Distribution Company Limited entered an appearance in the instant writ petition by filing affidavit-in-reply.

Mr. M. Sayed Ahmed, the learned Senior Advocate appearing for the petitioner submits that the petitioner-company has been producing high quality tiles for construction buildings. The demand of its products has been increasing locally and internationally. Hence, the petitioner expanded the capacity of the production by investing huge amount of money. He applied to the respondent to increase the load of gas several times. However, the respondent No. 3 is sitting idle on the issue. There is no bar to increase the load of gas of the petitioner. Rather, the Government is giving priority to provide gas in industriay, power and fertilizer sector, vide the office order dated 21.05.2019 (Annexure-F).

The learned Advocate contends that there are hundreds of cases where the High Court Division directed to provide new or increased gas connection and the Appellate Division of Supreme Court of Bangladesh did not interfere in the Civil Petition for Leave to Appeal and also in Review Petition. In support of his contention, he referred to the decision dated 15.09.2021 passed in *A.R. Wet Processing Limited Vs. Government of Bangladesh*, W.P. No. 2301 of 2021; *Apparel Wet Processing Limited Vs. Government of Bangladesh and others*, W.P. No. 5976 of 2021 (unreported);

He further submits that for smooth production and uninterrupted gas supply the gas line of the petitioner should be connected from newly installed 16" dia × 140 PSIG distribution line by hooking up with the 8" dia line, across the Seed Store Bazar, Bhaluka, Mymensingh.

Per contra, Mr. Abul Bashar Tutul, the learned Advocate appearing for the respondent No. 3, opposes the Rule. He submits that there is a scarcity of gas supply in the national grid, as such, the Ministry of Power, Energy and Mineral Resources issued an office order dated 15.05.2019 (Annexure-F) wherein the authority discouraged providing new gas connection and increasing gas load for captive run.

He further submits that another customer of the respondent No. 3, namely Envoy Textile Limited filed Writ Petition No. 10595 of 2022 before this Court wherein this Division directed the respondent not to provide gas connection to other customer without ensuring quantity of gas and pressure as agreed with the said customer vide judgment and order dated 06.09.2022. If the respondent No. 3 connect the petitioners line from 16" dia distribution line across the Seed Store Bazar, Bhaluka, Mymensingh, by hooking up with 8" dia line will create legal complexity.

We have heard the learned Advocates of both sides and considered their submissions carefully and also perused the writ petition, annexures and affidavit-in-reply meticulously.

Learned Advocate for the respondent No.3 emphasized on Annexure- F to the writ petition which is reproduced below:-

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার  
বিদ্যুৎ, জ্বালানী ও খনিজ সম্পদ মন্ত্রণালয়  
জ্বালানী ও খনিজ সম্পদ বিভাগ  
অপারেশন -৪ শাখা।

স্মারক নং-২৮.০০.০০০০.০২৮.০৬.০০১.১৯-১০২

তারিখঃ ১৫ মে ২০১৯

### অফিস আদেশ

বিভিন্ন শ্রেণির আবেদনকারীর অনুকূলে নতুন গ্যাস সংযোগ প্রদান ও লোড বৃদ্ধির জন্য গত ০৩.০১.২০১১ তারিখে জ্বাখসবি/উঃ-২/গ্যাস-৯/২০০৯-১২ সংখ্যক স্মারকমূলে মাননীয় প্রধানমন্ত্রীর বিদ্যুৎ, জ্বালানী ও খনিজ সম্পদ বিষয়ক উপদেষ্টার নেতৃত্বে গঠিত কমিটি এতদ্বারা বাতিল করা হলো।

২। পরবর্তী আদেশ না হওয়া পর্যন্ত গ্যাস সংযোগের আবেদন নিম্নরূপ নির্দেশনা প্রতিপালন সাপেক্ষে স্ব স্ব বিতরণ কোম্পানীর পরিচালনা পর্ষদ কর্তৃক নিষ্পত্তি হবেঃ

ক) নতুন গ্যাস সংযোগের ক্ষেত্রে শিল্প, বিদ্যুৎ ও সার কারখানাকে অগ্রাধিকার প্রদান করতে হবে।

খ) নিরবচ্ছিন্ন বিদ্যুৎ সরবরাহের সক্ষমতা বৃদ্ধি পাওয়ায় এবং ক্যাপটিভ পাওয়ারে উৎপাদন ক্ষমতা কম থাকায় ক্যাপটিভ শ্রেণীতে নতুন গ্যাস সংযোগ প্রদান নিরুৎসাহিত করতে হবে।

গ) ভবিষ্যতে সিএনজি ব্যবহার ক্রমান্বয়ে হ্রাসের সম্ভাবনা এবং সহজ বিকল্প হিসেবে অটোগ্যাস থাকার কারণে সিএনজি ফিলিং স্টেশনে নতুন গ্যাস সংযোগ প্রদান পূর্বের সিদ্ধান্ত অনুযায়ী স্থগিত রাখতে হবে।

ঘ) বেসরকারী পর্যায়ে এলপিগ্যাসের সহজলভ্যতা এবং ব্যবহার দ্রুত বৃদ্ধির কারণে গৃহস্থালী ও বাণিজ্যিক শ্রেণীতে নতুন গ্যাস সংযোগ প্রদান পূর্বের ন্যায় স্থগিত রাখতে হবে। তবে হাসপাতাল, শিক্ষা প্রতিষ্ঠান এবং কারাগার এ নির্দেশনার আওতা বহির্ভূত থাকবে।

ঙ) সকল বিতরণ কোম্পানীর পরিচালনা পর্ষদ কোম্পানীর গ্যাস প্রাপ্তির সাথে সামঞ্জস্য রেখে লোড বৃদ্ধি এবং নতুন সংযোগের আবেদন নিষ্পত্তি করবে, এবং

চ) অর্থনৈতিক অঞ্চলসমূহে গ্যাস সংযোগের উদ্দেশ্যে পাইপ লাইন স্থাপনসহ অন্যান্য কার্যক্রম অগ্রাধিকার পাবে।

৩। এই আদেশ অবিলম্বে কার্যকর হবে।

স্বাঃ/-  
(আকরামুজ্জামান)  
উপসচিব

On perusal of the above-mentioned office order, it appears that the Ministry of Power, Energy and Mineral Resources has discouraged any new connection to the captive class. However, it does not create any embargo in providing new connection or increasing the

gas load in captive power runs or class. For this reason, the petitioner cannot be denied having increased gas load in captive power runs for its industry.

The record shows that the petitioner invested a huge amount of money and has an increasing ability to create further employment, hence, for the greater interest of industrialization and employment for the development of our country, the case of the petitioner should be considered. Besides the petitioner will produce and generate electricity for its own consumption which will contribute to reduce the electricity crisis.

It appears from the Judgment and Order dated 15.03.2018, passed in W.P. No. 2881 of 2018, (***Everyway Yarn Dyeing Limited Vs. Government of Bangladesh and others***) that this Court directed the concerned authority to provide gas connection with the increased gas load. Against the Judgment and Order, the Managing Director, Titas Gas Transmission and Distribution Company Limited preferred Civil Petition for Leave to Appeal No. 1919 of 2018. Upon hearing, the Appellate Division dismissed the same on 20.06.2018. Being aggrieved, the Titas Gas Transmission and Distribution Company Limited filed Civil Review Petition No. 399 of 2018. Upon hearing the parties, the Appellate Division dismissed the Review Petition.

Upon perusal of the order dated 06.09.2022, passed in WP No. 10595 of 2022, it is divulged that this Court did not make any bar for providing the gas connection. This Court directed the respondents to ensure the required unit and pressure of gas to the factory of the petitioner as stipulated and after ensuring the supply of gas to the petitioners company, it may give gas connection to other companies,

factories or persons. This Court, while passing the order dated 06.09.2022 got support from the decision dated 06.08.2018 passed by the Appellate Division in Civil Petition for Leave to Appeal No. 3073 of 2018 wherein it was held that the Titas Gas authority might give gas connection to any other industry or other persons without reducing the unit of gas sanctioned to M/S A.T and T Spinning Mills Limited.

We also observe from the judgment passed in *TM Textile and Garments Limited Vs. Bangladesh*, reported in 70 DLR(2018) 409, that Titas Gas Company could not provide approved gas to the writ petitioner through a 50 PSI 8-inch gas line. So, T.M. Textile installed a 140 PSI 12-inch pipeline by expending themselves Taka 20 crore to obtain the required approval. He learned that the Titas Gas Authority was planning to provide gas connection to nine other industries through the dedicated line of T.M. Textile. The T.M. Textile requested the Titas Gas Authority not to provide such gas connection but the Titas paid no heed. Finding no alternative efficacious remedy, T.M. Textile moved this Court. Upon hearing the parties and considering the vital aspects that though T.M. Textile spent a significant amount for the construction of the dedicated 140 PSI 12-inch line, the ownership belongs to the Titas Gas Company as per the agreement signed by them, this Court held:

“ We feel that justice would be best served if the Rule is disposed of with the direction upon all concerned to ensure that the petitioner is ensured the ‘approved gas supply and approved pressure’ at all material times. No gas connection will be provided to the other nine factories unless the



‘approved gas supply and the approved gas pressure’ is ensured. The respondents are further directed to ensure strict compliance with the conditions set out in the aforesaid paragraph in connection with providing gas connection to the nine factories.”

We find no reason to deviate from the decisions arrived at by this Court and our Apex Court.

Industrialization is significant for the development of a state. It creates employment, reduces poverty, increases Gross Domestic Production (GDP) and strengthens the country’s economy. There are expected to be no hurdles, obstacles, or impediments in establishing an industry or manufacturing concern. Utilities like gas, electricity energy, water, fuel etc. should be more available for the smooth running of an industry. Hence, the concerned authorities should deal with the application for utility services for any industrial sector quickly and with utmost priority. We do not expect that the gas and electricity authorities will take time to dispose of the application for gas or electricity connections or to increase the load of gas or electricity.

In view of the above-mentioned circumstances, we direct the respondent No. 3, the Managing Director, Titas Gas Transmission and Distribution Company Limited to increase 1,20,000 CFt/Hour in the general industrial run (after the increase, the total gas load will be 2,20,000 CFt/Hour) and to increase the Gas Load of 46,000 CFt/Hour in captive/generator run (after increase, total gas load will be 83,360 CFt/Hour) gas load to the petitioner’s industry for captive power run

with existing load at the earliest preferably within 01(one) month subject to payment of all dues, security deposit, if any, on receipt of this judgment and order without any fail.

The respondent No. 3 is also directed to connect the gas line of the petitioner by hooking up with the 8" dia line that emerged from the newly installed 16" dia distribution line across the Seed Store Bazar, Bhaluka, Mymensingh, within 03(three) months from the date of receipt of a copy of this judgment and order ensuring the gas sanctioned to the consumer who installed the 16" dia line by spending money.

The Rule is disposed of with the above directions.

Communicate the order at once.

**Zafar Ahmed, J.**

I agree.

Md. Ariful Islam Khan  
Bench Officer