

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

**Writ Petition No. 1093 of 2023.**

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:**

Chalkshalaipur Alim Madrasha represented  
by its Secretary of the Governing Body.  
..... Petitioner

-Versus-

Government of Bangladesh represented by  
the Secretary, Madrasha and Technical  
Education Division, Ministry of Education  
and others.

. . respondents.

Mr. Sharif Ahmed, Advocate

. . . For the petitioner.

Mr. S. M. Iqbal Bahar Bhuiyan, Advocate

. . . For the respondent No.4.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard on 10.03.2024, 20.03.2024 and  
Judgment on 21.03.2024.

**J. B. M. Hassan, J.**

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 memo No. বামাশিরা/সংস্থাপন/আপিল এন্ড আরবিট্রেশন/৫১৭ dated  
20.08.2022 issued by the respondent No.2 under the signature of the  
respondent No. 3 disapproving dismissal of the respondent No.4 from  
the post of Assistant Teacher (Agriculture), Chalkshalipur Alim  
Madrasha, Police Station-Sadullapur, District- Gaibandha (Annexure-  
K to the writ petition) should not be declared to be without lawful  
authority and is of no legal effect And why the respondent No.2

should not be directed to approve dismissal order of the respondent No.4 and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Relevant facts leading to issuance of the Rule Nisi are that the respondent No.4 was a Assistant Teacher (Agriculture), Chalkshalipur Alim Madrasha, Police Station-Sadullapur, District- Gaibandha (the Madrasha). On the basis of certain allegations a departmental proceedings was initiated against respondent No.4 by issuing show cause notice and eventually constituting a three member enquiry committee, the Governing Body by their resolution dated 17.10.2020 dismissed him from service. There after the proposal was sent to the Bangladesh Madrasahs Education Board and the Board by the decision dated 20.09.2022 disapproved the proposal of the Governing Body. Challenging the said decision, the Madrasha filed this writ petition and obtained the Rule Nisi.

Mr. Sharif Ahmed, learned Advocate for the petitioner submits that on observance of required formalities and procedure the respondent No.4 was dismissed. Despite raising defect in the enquiry committee, the Board did not approve the decision of the Governing Body.

On the other hand, by filing an affidavit in opposition Mr. S. M. Iqbal Bahar Bhuiyan, learned Advocate for the respondent No. 4 contends that the law required three member committee for conducting enquiry out of whom one member must be a Government Officer. But in the present enquiry committee, there was no Government Officer and so considering this aspect the Board did not approve the decision of the Governing Body. He further contends that the allegation against the respondent No.4 was vague and

aiming to harass and it was raised during Covid-19 pandemic when the respondent No.4 sought two days leave on medical ground.

We have gone through the writ petition and other materials on record.

Regulation 14(2) of the Affiliated Non-Government Madrasha Teachers' Terms and Conditions of Service Regulations, 1979 runs as follows:

“14. Procedure for drawing up proceedings.-

(2) On receipt of the explanation from the teacher and his desire to be heard in person, the authority competent to impose penalty shall constitute a three member enquiry committee with a Chairman:

**Provided that** at least one of the members of the committee shall be from teaching profession.”

Subsequently by the circular dated 25.10.2012, the Board required one member of the enquiry committee to be a 1<sup>st</sup> class officer (Annexure-I to the writ petition). Although one of the members of the enquiry committee Mr. Md. Moshiur Rahman has been shown as Headmaster of the Sadullahpur K. M. Pilot Government Girls High School. But from the materials as submitted by the respondent No.4, it appears that the School was nationalized but Mr. Md. Moshiur Rahman was never absorbed as Headmaster of the said Nationalized School and so he is not a Government Officer. In view of above, it is apparent that the Board's decision was given in accordance with law and as such, the Rule Nisi finds no merit.

Hence, the Rule Nisi is discharged without any order as to costs.

Communicate a copy of this judgment and order to the respondents at once.

**Razik Al Jalil, J**

I agree.