

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

Writ Petition No. 14924 of 2022

IN THE MATTER OF:

An application under Article 102(1)(a)(i) and (ii) of the Constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Mst. Aklima Khatun, daughter of Akramul Haque, and Majeda Khanam, Assistant Teacher, Index No. 562457, Nilfamari Natun Bi-Lateral High School, District-Nilfamari

....Petitioner

Versus

Government of the People's Republic of Bangladesh, represented by the Secretary, Ministry of Education, Bangladesh Secretariat, Ramna, Dhaka 1000, and others

....Respondents

Mr. Mohammad Mosfequs Salehin, Advocate with Mr. Md. Mahbubur Rahman Kishore, Advocate

....For the Petitioner

Mr. Md. Abid Chowdhury, DAG

Mr. M Mohiuddin Yousuf, DAG

Mr. Monjur Elahi Porag, AAG

Mr. Ariful Alam, AAG

Mr. Nazmul Hasan Chowdhury, AAG and

Mr. Md. Shahidul Islam, AAG

.... For the respondents

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 19.05.2026.

Md. Iqbal Kabir, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, at the instance of the petitioner, this Rule Nisi was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the online Memo dated 17.12.2020 issued by the respondent No. 2 (Annexure- 'E-1') rejecting the application of the petitioner for granting Upper/Higher Scale on the ground of obtaining B.Ed. certificate of Darul Ihsan University should not be

declared to have been issued without lawful authority and is of no legal effect and as to why the respondents should not be directed to grant Upper/Higher Scale of MPO as per Clause 11(5) of Janabol Kathamo 2018 with effect from 06.10.2020 and/or such other or further order or orders passed as to this Court may seem fit and proper.”

At the time of issuance of the Rule, this Court also passed an interim order in the following terms;

“Pending disposal of the Rule, the respondent No. 2, the Director General, Directorate of Secondary and Higher Education, Shikkha Bhaban, Dhaka, is directed to dispose of the application of the petitioner dated 04.02.2021 (Annexure-'H') within 3(three) months on receipt of this order.”

On perusal of the record, it appears that the petitioner was appointed as an Assistant Teacher on 01.11.2001 and was enlisted under the MPO Scheme in the year 2002. Subsequently, the respondents granted her B.Ed. Scale in the year 2010 upon accepting her B.Ed. Certificate.

The petitioner claims that she became entitled to the upper/higher grade under Clause 11(5) of the Janobal Kathamo 2018, which provides that a teacher shall be entitled to the next higher scale upon completion of 10 (ten) years of service in the same scale. Since the petitioner obtained the B.Ed. Scale (Scale No. 10) in the year 2010, she claims that she automatically became eligible for the upper grade after completion of the prescribed period. According to the petitioner, there is no requirement under Clause 11(5) to obtain any further B.Ed. qualification or certificate for obtaining the upper grade. Hence, the authority acted illegally in refusing to grant the same. It has contended that the petitioner had already been enjoying the B.Ed. Scale based on a certificate obtained in the year 2008, at a time when there was no embargo or dispute regarding the certificates issued by Darul Ihsan University. Therefore, according to the petitioner, she has acquired a vested right in respect of her MPO benefits and the consequential upper grade under Clause 11(5) of the Janobal Kathamo 2018.

However, it appears that Annexure-E(1) is the impugned order whereby the authority refused to grant the petitioner the upper scale. Challenging the said memo, the petitioner filed the present writ petition. It further appears that, after issuance of the refusal order, the Headmaster of the concerned school submitted a representation, being Annexure-H, before the authority concerned, requesting withdrawal of the impugned order and grant of the petitioner's upper scale under MPO. The petitioner, in this writ petition, not only challenged the refusal order contained in Annexure-E(1) but also sought a direction upon the respondents to dispose of the representation Annexure-H. It appears that at the time of issuance of the Rule Nisi, this Court directed the respondent to dispose of Annexure-H within 3 (three) months from the date of receipt of the order.

In this backdrop, if Annexure-E(1) and Annexure-H are read together, it appears that upon disposal of Annexure-H, the petitioner would obtain the relief sought in the writ petition and, as such, nothing substantial would remain for adjudication. Indeed, by virtue of the direction issued at the time of issuance of the Rule Nisi, the petitioner substantially obtained the relief sought by way of mandamus.

However, the learned Advocate for the petitioner submits that to date, the respondents have not disposed of the representation contained in Annexure-H. If such an assertion is true, then despite the direction of this Court, the respondent authority has remained silent and inactive without complying with the Court's order, which cannot be appreciated.

No report has been placed before this Court regarding compliance with the order passed earlier. Since this Court specifically directed respondent No. 2 to dispose of the representation, the respondent is duty-bound to comply with the said direction, irrespective of whether the ultimate decision is favourable or unfavourable to the petitioner.

Accordingly, respondent No. 2 is directed to serve a copy of the decision taken on Annexure-H upon the petitioner within 30 (thirty) days from the date of receipt of a copy of this judgment and order, without fail.

However, with the above direction, the Rule is disposed of.

There will be no order as to cost.

Communicate the order.

S M Saiful Islam, J:

I agree.