

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

Writ Petition No. 5428 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:

Md. Asadul Islam

.....Petitioner

-Versus-

Present:

Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmeem Rahman

The Government of Bangladesh,
represented by the Secretary, Ministry of
Power, Energy and Mineral Resources
and others

..... Respondents

Mr. Khondaker Md. Kurshid Alam, Advocate with
Mr. S.M. Ashraful Huq, Advocate

...For the petitioner

Mr. Ariful Islam, Advocate with

Mr. Golam Kibria, Advocate,

Mr. Md. Abu Nasar, Advocate and

Ms. UmmeApanan, Advocate

... For the respondent No. 2

Heard on 25.02.2026 and 13.05.2026

Judgment on 21.05.2026

Urmeem 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 letter vide*

Memo No. 27.12.3300.569.02.012.23.590 dated 01.02.2023 issued by the Respondent no. 3(Annexure-G) in giving penalty of demotion (Assistant Junior Engineer) and fixing his salary at lowest level of the concerned grade to the petitioner should not be declared illegal and have been passed 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 got appointment in the post of Assistant Junior Engineer in the office of Barisal Palli Bidyut Samity-1 on 17.08.2009. Thereafter he was transferred to Gazipur PBS on promotion. While he was serving in Gazipur PBS-1 as Junior Officer (P & M) he received an office order dated 11.08.2022 issued by the respondent No. 3 suspending him from service and attaching him with Administration Division, Head Office Gazipur PBS-1, with the allegation that, he sent some anonymous letters to the Chairman, Bangladesh Rural Electrification Board (BREB) from his wife’s e-mail account, which were later found in his personal laptop; this amounts to ‘misconduct’ as per the service rules and also damages the reputation of the office. An inquiry committee was said to have been formed in order to inquire into the matter. Thereafter the respondent No. 3 issued a show cause notice dated 17.08.2022 to the petitioner regarding his unauthorized

absence in the office on 11.08.2022, to which he made reply on 23.08.2022. The respondent No. 3 issued another show cause notice on 08.09.2022, to which the petitioner submitted written reply on 21.09.2022 denying all the allegations made therein. By the memo dated 25.09.2022 formal charges were brought against the petitioner. The inquiry committee submitted its report on 27.10.2022. On 20.11.2022 the petitioner was given a final show cause notice, to which he submitted his written reply on 29.11.2022. Thereafter, on 01.02.2023 he received an office order by which he was awarded with a penalty of 'demotion to the post of Assistant Junior Engineer and fixing the salary at the lowest level of the concerned grade.' On receiving this, the petitioner filed an appeal before the higher authority on 18.02.2023 for re-consideration and the authority concerned received it on 19.02.2023 but did not take any initiative to dispose of the appeal as yet.

Being aggrieved thereby and there having no other alternative and equally efficacious remedy available the petitioner filed this Writ Petition and obtained the present Rule.

Learned Advocates Mr. Khondaker Md. Kurshid Alam, with Mr. S.M. Ashraful Huq, appeared on behalf of the petitioner and submitted that, the petitioner sent as many as 3(three) unnamed complaints to respondent No. 2 (Chairman, BREB) informing him about some occurrences of corruptions committed by some employees of Gazipur Palli Bidyut Samity-1. On the basis of those complaints submitted by the petitioner, a departmental inquiry was

held and some of the employees named in those complaints were found guilty of the allegations as had been made by the petitioner.

Learned Advocate next submitted that, since joining the petitioner had been doing his job with honesty, sincerity and to the satisfaction of all. During his service it came to his notice that some irregularities and corruptions are taking place in his office, which caused misuse and waste of money and wealth of the Palli Bidyut Samity. With an intention to prevent wastage of public money, the petitioner made those complaints and sent those to respondent No. 2, i.e. the Chairman of BREB, who is the higher authority of Palli Bidyut Samity. He did not use his name in those complaints as he was afraid of being harassed and humiliated by the persons against whom he had made those allegations.

It has been further submitted by the learned Advocate that, the petitioner had no intention to injure anybody personally by making those complaints, rather he took stand against corruption and wanted to prevent misappropriation of public money. But the respondent authority awarded him major punishment of demotion in rank and set his salary in the lowest level of that post in an illegal and arbitrary manner, which is liable to be declared to have been done without any lawful authority.

Learned Advocate finally submitted that, against the order of punishment the petitioner preferred an appeal to the higher authority but they did not take any step to redress his grievance and as such he had no other option but to invoke the writ jurisdiction.

On the other hand, Learned Advocates Mr. Ariful Islam with Mr. Md. Abu Nasar, entered appearance on behalf of respondent No.2 i.e. the Chairman of Bangladesh Rural Electrification Board (BREB) and contested the Rule by filing an affidavit in opposition.

Learned Advocate for the respondent No. 2 submitted that, the writ petitioner could have informed to his immediate higher authority directly in a proper manner about the alleged corruption even if it had occurred but bypassing that he sent the complaints unnamed from his wife's e-mail account and ultimately admitted the same. After investigation, on the basis of those benami letters, the allegations of corruption were not proved. This undoubtedly shows that, the petitioner has done such heinous act only for harassing certain employees of the Palli Bidyut Samity (PBS), which tantamount to 'misconduct' as per the provision of 'পল্লী বিদ্যুৎ সমিতি কর্মচারী চাকুরী বিধিমালা ১৯৯২ (সংশোধিত ২০১২)'. Therefore, the authority rightly imposed punishment upon him following due process of law.

Learned Advocate by referring to Rule 2(Ka) (6) of the PBS Employees' Service Rules, 1992 submitted that, as per this Rules any application containing irrational, irritating, vexatious, false and frivolous allegations against any employee to any authority tantamount as misconduct and therefore the respondent No. 3 rightly issued the impugned memo imposing punishment upon the petitioner and no illegality having been committed by the respondent authority, the Rule is liable to discharged.

We have heard the learned Advocates for the petitioner as well as for the respondent and meticulously perused the writ petition, supplementary affidavits, the affidavit in opposition and all the documents annexed therewith.

Admittedly on 07.08.2022 the petitioner sent some anonymous letters by e-mail to the Chairman of Bangladesh Rural Electrification Board (BREB), the respondent no. 2 herein, with some allegations of corruption and irregularities committed by some officials of Gazipur Palli Bidyut Samity. From Annexures-K, K(1) and K(2) to the writ petition it transpires that, specific allegations have been made in those 3(three) anonymous letters against some specific employees of Gazipur PBS-1.

It appears from all the replies made by the petitioner to the show cause notices issued to him that, on every occasion he positively admitted sending those anonymous letters and at the same time he repeatedly reiterated the specific allegations of corruption against certain employees, which he made in those anonymous letters.

On this incident as many as two inquiries were held by the Gazipur PBS-1 and the members of the inquiry committee are also the employees of Gazipur PBS-1. The first inquiry report was submitted on 04.09.2022, annexed as Annexure-2 to the supplementary affidavit in opposition dated 11.04.2026 by the respondent No. 2. From this inquiry report it transpires that, the persons against whom the petitioner raised allegation of corruptions

were asked to give their written statements to such allegations. No oral depositions of any witnesses were taken by the committee as per the provision laid down in the Service Rules of PBS. Finally, the inquiry committee opined that, the involvement of the petitioner in sending the anonymous letters have been proved and he had done so with an ill intention to destroy the image and reputation of the institution.

The second inquiry report was submitted on 27.10.2022 (Annexure-E to the writ petition). On perusal of this inquiry report we find that, the petitioner constantly admitted sending those unnamed letters before the inquiry committee also. No other witnesses were examined by the inquiry committee this time; they mainly relied on the report of the earlier committee and the statements given by the petitioner during his personal hearing and his written replies. In this report, against each charge made against the petitioner, it has been stated that, the petitioner has failed to prove those allegations made by him and the anonymous letters are baseless and fabricated and the petitioner might have written those letters out of personal grudge against those employees. The exact wording of the inquiry report is quoted below:

“বেনামী পত্রটি ভিত্তিহীন ও বানোয়াট। বর্ণিত কর্মকর্তা/কর্মচারীগণের প্রতি ব্যক্তিগত আক্রোশ থেকে বেনামী পত্র দিয়ে থাকতে পারেন।”

Accordingly, the inquiry committee opined that the petitioner has committed an act against the discipline of the service amounting to misconduct.

At this point it is essential to consider the relevant provision regarding inquiry procedure as per the ‘পল্লী বিদ্যুৎ সমিতি কর্মচারী চাকুরী বিধিমালা, ১৯৯২ (সংশোধিত ২০১২). Rule 42(2) of provides that:

“(২) ... অতঃপর উক্ত তদন্তকারী কর্মকর্তা/তদন্ত কমিটি অভিযোগ প্রমাণের জন্য সাক্ষীদের নিকট হইতে লিখিতভাবে জবানবন্দী গ্রহণ করিবেন এবং অতঃপর অভিযুক্ত কর্মকর্তা/কর্মচারীকে উক্ত সাক্ষীকে জেরা করার জন্য আহ্বান করিবেন। যদি অভিযুক্ত কর্মকর্তা/কর্মচারী সাক্ষীকে জেরা করিতে চান সেইক্ষেত্রে জেরার মাধ্যমে সাক্ষী যাহা প্রকাশ করিবে তাহা তদন্তকারী কর্মকর্তা লিপিবদ্ধ করিবেন। জেরা শেষ হইলে তদন্তকারী কর্মকর্তা প্রত্যেক সাক্ষীর জবানবন্দী ও জেরা যে কাগজে লিপিবদ্ধ হইবে উহাতে সাক্ষী এবং সংশ্লিষ্ট অভিযুক্ত কর্মকর্তা/কর্মচারীর স্বাক্ষর গ্রহণ করিবেন এবং তদন্তকারী কর্মকর্তা/তদন্ত কমিটির সদস্যগণ নিজেরাও স্বাক্ষর প্রদান করিবেন।....”

It is thus very clear that in this provision a requirement of taking oral evidence of witnesses and giving the delinquent employee an opportunity to cross-examine them has been given emphasis but in the instant case this procedure was not followed at all by any of the inquiry committees and the petitioner never got any chance to cross-examine any witnesses, thereby rendering the inquiry proceeding questionable in the eye of law.

Bangladesh Rural Electrification Board (BREB) is the supervisory authority of the Palli Bidyut Samity and admittedly the petitioner made those anonymous complaints addressing the Chairman of the BREB raising some allegations of corruption against some employees of Gazipur PBS-1. Here the Gazipur PBS-1 being the interested party should have refrained from holding any inquiry on this incident, yet two inquiries were held by them. Both

the inquiries were conducted without following the due process and unequivocally found the petitioner guilty of misconduct and ultimately the PBS authority imposed punishment upon him on 01.02.2023. The inquiry report as well as the punishment imposed upon the petitioner in this manner thus appears to be motivated as well as vitiated.

By the impugned letter of punishment dated 01.02.2023 the petitioner was given major punishment (গুরুদণ্ড) under clause 39(1)(kha)(1) of the Palli Bidyut Samity Employee's Service Rules 1992 (amended 2012), in the manner:- “নিম্নপদে (সহকারী জুনিয়র ইঞ্জিনিয়ার) এবং উক্ত পদের বেতনক্রমের সর্বনিম্ন ধাপে অবনত” দণ্ড আরোপ করা হল।’

Upon examining the relevant provision in this regard, we find that, these are two different type of punishments and awarding two types of punishment for the allegation made against the petitioner is not permissible under the service rules. The relevant provision is:

“(খ) গুরুদণ্ড-

(১) নিম্ন পদে বা নিম্নতর বেতনক্রমে বা বেতনক্রমের নিম্নস্তরে অথবা নিম্ন টাইমস্কেলে বেতন অবনতকরণ বা ০৩(তিন) বৎসরের অধিক যে কোন মেয়াদের জন্য বেতন বর্ধন/প্রবৃদ্ধি স্থগিত রাখা।”

The authority ought to have imposed any one of these punishments but the petitioner was awarded with two punishments at the same time in violation of law.

From the conducts of the Gazipur PBS-1 authority we are of the view that, they were interested in punishing the petitioner out of

vengeance since the allegation of corruptions were made against them before the Chairman of the Board.

Furthermore, taking into consideration of the real intention of the petitioner and the definition of the term ‘misconduct’ i.e. “অসদাচরণ” provided in the service rules we are of the view that, the act done by the petitioner does not come under the ambit of the definition.

While the departmental proceeding was being conducted by the Gazipur PBS-1, at the same time on the self-same issue an inquiry was being held by the Bangladesh Rural Electrification Board since the anonymous letters were sent to BREB. The inquiry report was submitted on 10.11.2022 (annexure-III to the affidavit in opposition) and the finding of the inquiry committee is reproduced below:

“১। গাজীপুর পবিস-১ এর জুনিয়র ইঞ্জিনিয়ার (সিএন্ডএম) জনাব মোঃ আসাদুল ইসলাম তার বেনামী অভিযোগে যে ২টি অনিয়মের কথা উল্লেখ করেছিলেন, উক্ত অভিযোগ ২টি প্রমানিত। তবে গাজীপুর পবিস-১ এর জুনিয়র ইঞ্জিনিয়ার (পিএন্ডএম) জনাব মোঃ আসাদুল ইসলাম অনিয়মের বিষয়ে তার কর্তৃপক্ষকে না জানিয়ে সরাসরি বাপবিবো চেয়ারম্যান মহোদয় বরাবর বেনামী অভিযোগ করায় তিনি অফিস শৃংখলা পরিপন্থি কাজ করেছেন।”

On the basis of the allegation made by the petitioner an inquiry was held by BREB regarding two employees, namely, Mahmudul Hasan Munna and Sajal Kanti. The inquiry report was submitted on 14.12.2022 (annexure-IV to the affidavit in opposition) and the inquiry committee found as many as 12

(twelve) employees responsible for the irregularities, which were alleged by the petitioner in his anonymous letters.

From Annexure-M to the supplementary affidavit dated 19.04.2026 filed by the petitioner it appears that, on 25.05.2023 BREB issued memo under the signature of Director (Admin) in which a specific direction has been given to Gazipur PBS-1 stating that:

“(ক) গাজীপুর পবিস-১ এর জুনিয়র ইঞ্জিনিয়ার (পিএন্ডএম) জনাব মো. আসাদুল ইসলাম কর্তৃক উক্ত পবিস এর লাইন নির্মাণ ও অ্যাজবিল্ট স্টেকিং শিট প্রস্তুত সংক্রান্ত কাজে সংঘটিত দুর্নীতি ও অনিয়মের বিষয়ে যথাযথ কর্তৃপক্ষকে না জানিয়ে সরাসরি বাপবিবো'র চেয়ারম্যান মহোদয় বরাবর বেনামী অভিযোগ উত্থাপনের সত্যতা পাওয়া যায়। আলোচ্য অভিযোগ উত্থাপনের কারণে সমিতি কর্তৃক তাকে সাময়িকভাবে বরখাস্ত করে সদর দপ্তরের প্রশাসন বিভাগে সংযুক্ত করা হয়। তবে, জনাব মো. আসাদুল ইসলাম কর্তৃক উত্থাপিত একটি অভিযোগ অর্থাৎ গত ০১/০৮/২০২২ খ্রি. মেসার্স রবি ইঞ্জিনিয়ারিং কর্তৃক কার্যাদেশ নং: C-19-12-126 (M); তারিখ: ১২/১২/২০১৯ খ্রি. এর প্রেক্ষিতে পোল নাম্বার: P/P-38/8A এর স্পটে ঝুঁকিপূর্ণ লাইন নিরাপদ করার জন্য স্টেকিং অনুযায়ী ০১টি পুশপোল যথাস্থানে স্থাপন না করে অন্য একটি স্থানে স্থাপন করে কাজের বিল গ্রহণ করার সত্যতা পাওয়া গেছে। এক্ষেত্রে, জুনিয়র ইঞ্জিনিয়ার (পিএন্ডএম) জনাব মো. আসাদুল ইসলাম কর্তৃক উত্থাপিত একটি অভিযোগের সত্যতা পাওয়া যাওয়ায় তার সাময়িক বরখাস্ত আদেশ প্রত্যাহার করে তাকে কাজে পুনর্বহাল করার জন্য গাজীপুর পবিস-১ এর সমিতি ব্যবস্থাপনাকে নির্দেশনা প্রদান করা; এবং (emphasis added)

(খ) গাজীপুর পবিস-১ কর্তৃক জুনিয়র ইঞ্জিনিয়ার (ইএন্ডসি) জনাব উজ্জ্বল চন্দ্র সরকারকে মিনি কার্যাদেশের বিপরীতে ঠিকাদার নিয়োগ/নবায়ন, ঠিকাদারের নির্মাণ কাজ তত্ত্বাবধান, বিল যাচাই এবং উপদেষ্টা প্রতিষ্ঠানের কাজ তত্ত্বাবধান করাসহ মালামাল ইস্যু, রিটার্ন ও ক্লোজ আউট করার দায়িত্ব প্রদান করা হয়। কিন্তু তিনি কার্যাদেশ নং: C-18-03-50M এর ক্লোজ আউট যথাসময়ে না হওয়ার বিষয়টি যথাযথ কর্তৃপক্ষের নিকট

উপস্থাপন না করায় কার্যাদেশের বৈধ সময়সীমা শেষ হওয়ার দীর্ঘ সময় পরেও ক্লোজ আউট করা সম্ভব হয়নি। উক্ত কার্যাদেশের ক্লোজ আউট না হওয়ার ক্ষেত্রে জুনিয়র ইঞ্জিনিয়ার (ইএন্ডসি) জনাব উজ্জ্বল চন্দ্র সরকারের তথ্য গোপন করা, মনিটরিং এর অভাব এবং দায়িত্ব পালনে অবহেলার বিষয়টি তদন্ত কমিটির নিকট প্রতীয়মান হওয়ায় জুনিয়র ইঞ্জিনিয়ার (ইএন্ডসি) জনাব উজ্জ্বল চন্দ্র সরকারের বিরুদ্ধে বিধি মোতাবেক পরবর্তী প্রয়োজনীয় কার্যব্যবস্থা গ্রহণের জন্য গাজীপুর পবিস-১ এর সমিতি ব্যবস্থাপনাকে নির্দেশনা প্রদান করা;

এমতাবস্থায়, উপর্যুক্ত অনুচ্ছেদ (ক) ও (খ) এর বিষয়ে পরবর্তী প্রয়োজনীয় কার্যব্যবস্থা গ্রহণপূর্বক গৃহীত ব্যবস্থা অত্র পরিদপ্তরকে অবহিতকরণের জন্য নির্দেশনা প্রদান করা হলো।”

This memo was issued by the Director (Admin) of BREB, having been approved by the Chairman of BREB, who is the respondent No. 2 before us. By this memo action was asked to be initiated against an employee namely, Ujjal Chandra Sarker, against whom the petitioner raised allegations in his unnamed complaints. Accordingly, proceeding was initiated by the PBS, inquiry was held and said Ujjal Chandra was found guilty of the allegations. From Annexure-O-1 to the supplementary affidavit dated 19.04.2026 it appears that, this Ujjal Chandra Sarker was released from the charges on giving censure only, whereas the petitioner was imposed with major punishment.

Gazipur PBS-1 without waiting for the outcome of the inquiry proceeding held by the BREB, issued the impugned memo by imposing a major punishment upon the petitioner in violation of the rules. After receiving the abovementioned memo dated 25.05.2023 from BREB with a direction to reinstate the petitioner

in service, the PBS by a reply dated 13.06.2023 (Annexure V to the affidavit in opposition) requested the BREB to reconsider their decision since the punishment upon the petitioner has already been implemented.

Regarding the conduct of the PBS an inquiry was held by the BREB and the report was submitted on 07.08.2023 (Annexure VI). The specific finding of the committee is quoted below:

“ঘ) পবিস তদন্ত ও অনুসন্ধান পরিদপ্তর গাজীপুর পবিস-১ এর প্রাক্তন জুনিয়র ইঞ্জিনিয়ার (পিএন্ডএম) জনাব মোঃ আসাদুল ইসলাম এর বেনামী চিঠি কোন অংশকে কোন দপ্তর/পরিদপ্তর এর গ্রহণ ব্যতিরেকেই তদন্ত কার্যক্রম শুরু করেছে। বাপবিবোর্ডের কর্মচারী প্রশাসন পরিদপ্তরের স্মারক নং-২৭.১২,০০০০,০২৫.৩১.৩৮৩(৬)১৭.৮৬৯; তারিখ: ২৬/১১/২০১৭ খ্রি. এ জারীকৃত অফিস আদেশের পবিস তদন্ত ও অনুসন্ধান পরিদপ্তরের কার্যপরিধি এর খ অনুচ্ছেদে পল্লী বিদ্যুৎ সমিতিসমূহে সংঘটিত যে কোন অনিয়ম, দুর্নীতির অভিযোগ গৃহীত হওয়ার পর তা যাচাই বাছাই করে অনুসন্ধান ও প্রাথমিক তদন্তের ব্যবস্থা করবে। উক্ত অফিস আদেশ অনুযায়ী বেনামী চিঠি গৃহীত হওয়ার পর কার্যব্যবস্থা গ্রহণের কথা উল্লেখ থাকলেও বেনামী চিঠি কোন দপ্তর/পরিদপ্তর এর গ্রহণ ব্যতিরেকেই তদন্ত কার্যক্রম শুরু হওয়া উক্ত অফিস আদেশের সাথে সঙ্গতিপূর্ণ নয়। দাপ্তরিকভাবে রেকর্ডভুক্ত না করে কোন অভিযোগ আমলে নিয়ে তদন্তকার্য পরিচালনা করা হলে কোন বিশেষ মহল কর্তৃক তদন্ত কার্য প্রভাবিত হওয়ার সুযোগ থাকে।”

Annexure VII to the supplementary affidavit in opposition filed by the Respondent no. 2 dated 11.04.2026 it appears that by the memo dated 21.12.2023 BREB finally disposed of the matter stating that since the punishment upon the petitioner has already been implemented, this issue is therefore disposed of and Gazipur PBS-1 administration was given warning for their act of insubordination by taking action on any subject matter which was

under inquiry by the BREB. First of all, this letter memo dated 21.12.2023 was issued by the BREB during pendency of this writ petition and secondly, this letter was issued despite the specific finding by the latest inquiry committee that, the very initiation of the inquiry proceeding by the PBS against the petitioner was done not in accordance with law. Moreover, the inquiry reports by the BREB also describes the allegations made by the petitioner to be true; however, sending anonymous letters to the highest authority without informing his immediate higher authority was found to be anti-disciplinary by the BREB. In the given situation, we find the memo dated 21.12.2023 (Annexure-VII) issued by the BREB as misconceived one. BREB, being the supervisory authority of PBS cannot maintain contradictory and double standard.

In this regard, it is significant mentioning the **Disclosure of Public Interest Information (Protection) Act, 2011 (Act no. 7 of 2011)**, which has been enacted to make provisions for the legal protection of the disclosers, who disclose public interest information and any other matters ancillary thereto to the authority. This is popularly known as an act of 'whistle blowing'. Considering the provisions of this Act, the act done by the petitioner is immune from taking any adverse action against him.

Besides, the impugned punishment was imposed by the Gazipur PBS-1 based on an inquiry proceeding, the very initiation of which has been found by the BREB to be not in accordance with law. We also have found hereinabove that the inquiry proceeding

was vitiated. Therefore, we hold that, the impugned order imposing punishment upon the petitioner, on the basis of that inquiry, has been made without any lawful authority.

In view of the facts and circumstances discussed hereinabove, we are of the view that, the punishment imposed upon the petitioner by the impugned order cannot sustain in the eye of law.

Accordingly, the Rule is made absolute. The impugned order dated 01.02.2023 (Annexure-G) is hereby set aside.

The respondent No. 3 is directed to reinstate the petitioner in the post of Junior Engineer giving effect from 01.02.2023 and provide him all the arrear financial entitlements accordingly which he is entitled to get since 01.02.2023 as a Junior Engineer, within 30 (thirty) days of receipt of this Order.

However, there will be no order as to costs.

Communicate the judgment and order at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.