

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

Writ Petition No. 14984 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. Azizul Islam Talukder

.....Petitioner.

-VS-

Bangladesh and others

.....Respondents.

Mr. Mantu Chandra Ghosh, Advocate

.....for the petitioner

Mr. Tushar Kanti Roy, DAG with

Mr. Md. Salim Azad, A.G.G with

Ms. Anis ul Mawa, A.A.G

.....For the respondents.

Heard on: 05.03.2024

Judgment on : 06.03.2024

Present:

Mr. Justice Mustafa Zaman Islam

And

Mr. Justice Md. Atabullah

Mustafa Zaman Islam, J;

In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the order dated 25.09.2023 being order no.11 passed by the learned Chairman, 1st labour Court, Dhaka in BLA (IRO) case no. 852 of 2023 should not be declared to have been made without lawful authority and is

of no legal effect and/or pass such other or further order or orders passed as to this Court may seem fit and proper.

Facts necessary for disposal of the Rule, in brief, are that:

The petitioners are the worker of BIWTA. The workers of the Bangladesh Inland Water Transport Authority has got a trade union being Dhaka B-2176. The petitioner was elected as the President of the said union on 21.02.2023 through the general workers i.e the members of the said union. The election committee declared the committee on 09.07.2023 of 25 names of the elected persons including the petitioner. The election committee of the said Union sent the list of the committee to the respondent no.3.

The respondent no.3, the Deputy Director of labour in the current responsibility issued a letter on 09.07.2023 in reference no. 04.03.0000.034.86.281.16.628 dated 17.08.2023 holding that there is a scope to accept the election result. The respondent no.1 is the Secretary of the Ministry of Labour being empowered to look after the trade union activities as a whole and the welfare of the country. The respondent no. 2 is the Chairman of the 1st Labour Court, Dhaka having the power to administrate the court of labour to relive the labour disputes of his jurisdiction. The respondent no. 3 is the Director General of Labour Department of Dhaka Division having the power to look after the trade union activities of the labour and

the registered trade union. The Respondents No. 4 is president of BIWTA Sramik Karmochari union.

It is stated in writ petition that the petitioner submits a prayer before 1st labour Court, Dhaka in BLA (IRO) case no. 852 of 2023 under sections 188, 213 of Bangladesh Labour Law with the prayer that the order dated 17.08.2023 under reference no. 04.03.0000.034.86.281.16.628 should be declared to be

authority and also a prayer to give the certified copy of the elected 25 Executive Committee.

It is also stated that the petitioner submitted a prayer under section 216(1)(g) for the temporary injunction for restraining the impugned order dated 17.08.2023 under reference no. 04.03.0000.034.86.281.16.628. The learned Labour court, the respondent no.2 was pleased to pass an order on 03.09.2023 restraining the opposite parties not to create any bar till further order for running their functions.

It is stated that a prayer to vacate the order of ad-interim injunction in B.L.A case no. 852 of 2023 dated 03.09.2023. The learned court has been pleased to dismiss the petition before the Hon'ble Court being C.P. No. 2055 of 2019 and also about the election of his union and considering the circumstances reject the prayer for time and also vacate the order of status-quo most illegally. The respondent no.4 has been managing with the said union just after the forming of the union. But has been charging the committed hearing now without following the labour law and the constitution of the union itself. They have been forming the committee last up to 13.11.2023 as such the legality of the same committee has become authority as such the petitioner was elected by the General worker without any contest. The employee have taken the resolution against the respondent no.4 and his compassion to make the new committee of the union.

It is stated that the petitioner has been elected by the General members of the union and has submitted the election commissioner to respondent no.3 for rejected the prayer of the petitioner without showing any reason. Moreover, the learned court being the respondent no.2 was pleased to reject the order of maintaining status-quo without having any lawful grounds by the opposite

party as such the election of the union as has no barrier of the same. It is stated that the petitioner is competent to continue his function as the President of the union in accordance with the election held through the proper election committee of the union. The learned court of the labour being respondent no.2 has been taken the view closing the one side but not as a whole of the proceeding of the election. The pendency of the Civil Petition for leave to appeal did not had any bar to continue the function of the union as C.B.A and there is no any order on the election of the union itself as such the impugned order is liable to be considered to have been made without lawful authority.

Finding no other alternative efficacious remedy the petitioner has moved before this Court and obtained the instant Rule Nisi.

Mr. Mantu Chandra Ghosh, the learned Advocate for the petitioner submits that the petitioner was elected as a President of the union through the general opinion of the members of the union and has been pursuing the trade union activities and the respondent no.3 did not accept the result of the election of the union most illegally and the respondent no.2 labour court has been pleased to reject the same without proper cause, hence the impugned order is liable to be declared to have been made without lawful authority. He submits that the impugned order created the problem in holding the regular programs for the grater interest of the workers as such the impugned order is liable to be declared to have been made without lawful authority as such the rule is liable to be made absolute.

Mr. Tushar Kanti Roy, learned Deputy Attorney General appearing on behalf of respondents opposes the Rule. He submits that the BLA (IRO) case no. 852 of 2023 is pending before the 1st Labour Court, Dhaka. He prays to pass an order to dispose of the said case within 90(ninety) days.

We have heard the learned Advocate for the petitioner and the learned Deputy Attorney General and perused the Writ Petition its annexure and others materials on record.

It appears that the petitioner has been filed the BLA (IRO) case no. 852 of 2023 for adjudicate the election dispute of the petitioner and the said case is now pending before the 1st labour court, Dhaka. On 25.09.2023, the case was fixed for hearing and the petitioner prayed for time which is rejected by the 1st labour Court, Dhaka. Though, the time prayer was rejected but the petitioner was not appear in the court for hearing. The learned 1st Labour court, Dhaka pleased to pass an order to vacate the order dated 03.09.2023 of temporary injunction and the next date was fixed for application hearing under section 216 (1)(Chha) hence the 1st labour Court, Dhaka is the competent to dispose and justify the election dispute between the parties.

In view of above, we are think that the ends of justice would be best served, if we direct the learned 1st labour court, Dhaka to dispose of the said BLA (IRO) case no. 852 of 2023 within 90(ninety) days from the date of the receipt of this judgment and order.

With the above observation and directions, the rule is disposed of. The order of stay granted earlier by this court is hereby recalled and vacated.

The respondent no.4 is hereby directed to dispose of the BLA (IRO) case no. 852 of 2023 within 90(ninety) days from the date of receipt of this judgment and order.

Communicate the judgment and order at once.

Md. Atabullah, J:

I agree.