

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

Writ Petition No. 3758 of 2024

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. Tanvir Ahmed

...Petitioner

-Versus-

Present:
Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmee Rahman

The Government of the People's Republic
of Bangladesh, represented by the
Secretary, Ministry of Road Transport
and Bridges and others

... Respondents

Mr. Md. Tanvir Ahmed, Appeared In-Person

...For the petitioner

Mr. Md. Abu Jafor Shaikh Manik, Advocate

... For the respondent No. 1

Mr. Md. Hafizur Rahman Khan, Advocate

... For the respondent No. 2

Heard on 15.07.2026 and

Judgment on 16.07.2026

Urmee 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 inaction and
apathy of the concerned authorities not to take
necessary steps to stop further proceeding of the*

Memo No. 35.05.0000.022.07.004.23-437 dated 14.03.2024 (Annexure-A) so far as relates to এম আর টি লাইন ৬ এর উত্তরা ডিপোতে অবস্থিত ৭৫৮০,০০ বর্গফুট স্টাফ ক্যান্টিন পরিচালনার নিমিত্ত চুক্তি সম্পাদনের নোটিশ Notification of Award (NOA) shall not be declared illegal and without lawful authority and as to why the memo no. 35.05.0000.022.07.004.23-437 dated 14.03.2024 (Annexure-A) so far as relates to এম আর টি লাইন ৬ এর উত্তরা ডিপোতে অবস্থিত ৭৫৮০,০০ বর্গফুট স্টাফ ক্যান্টিন পরিচালনার নিমিত্ত চুক্তি সম্পাদনের নোটিশ Notification of Award (NOA) shall not be declared illegal and without lawful authority and/or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule it was further ordered that:

“Pending hearing of the Rule, the respondent No. 1 is directed to make an inquiry for the conduct to initiate of the said unequal/imbalance contract and submit report of the inquiry as compliance within 30(thirty) days from the date of receipt of the order in accordance with law.”

Relevant facts leading to the issuance of the instant Rule, as narrated in the writ petition, in short, are that, the petitioner filed the instant writ petition, appearing in person, in the form of Public Interest Litigation (PIL). He is a practicing Advocate of the Supreme of Bangladesh, High Court Division, and a regular

member of the Supreme Court Bar Association as well as a Human Right activist and also a regular tax payer. The petitioner noticed from the social media the Memo No. 35.05.0000.022.07.004.23-437 dated 14.03.2024 (Annexure-A) which has been issued regarding এমআরটি লাইন-৬ এর উত্তরা ডিপোতে অবস্থিত ৭৫৮০,০০ বর্গফুট স্টাফ ক্যান্টিন পরিচালনার নিমিত্ত চুক্তি সম্পাদনের নোটিশ (Notification of Award). After having knowledge of the said memo, he browsed the government website for verification on 17.03.2024 and downloaded the same. In the meantime many newspapers covered this memo as news. It has come to the knowledge of the petitioner that the monthly rent of this property has been given at a very unusually low price. The total space of the staff canteen is 7580.00 square feet and the rent has been fixed for only BDT 1000/- per month, which is highly suspicious. It seemed that, the said contract is going to make at a undervalue price. Government property is public property and the regulatory authorities are responsible for their activities but they have evidently failed to do so. As such immediate action is required to be taken in order to rectify this.

The petitioner sent a legal notice to the concerned respondents through registered post on 19.03.2024 requesting them to stop further proceeding of the memo dated 14.03.2024 immediately and also to hold an inquiry into the matter at once but the respondents did not make any response thereto.

Being aggrieved thereby and there having no other equally efficacious alternative remedy available, the petitioner has been

constrained to file this writ petition in the form of Public Interest Litigation (PIL) and obtained the present Rule.

Learned Advocate Mr. Md. Tanvir Ahmed, appearing in person, as the petitioner submitted that, it appears from the impugned notice that total space of the staff canteen is 7580 square feet but the rent is fixed only at taka 1000/- per month, which is suspicious and the contract is going to make at a undervalue price. Not only that, the space is also huge for a staff canteen. Government property is the public property and such property cannot be used unnecessarily. Therefore, the inaction of the respondents in not taking necessary steps to stop such proceeding is liable to be declared illegal and without lawful authority.

He next submitted that, the regulatory authorities are responsible for all their activities, and the authority has evidently failed in their own respective obligations, as such, immediate action is required to rectify the present situation.

He finally submitted that, the respondents are duty bound to exercise their administrative power fairly, justly and in accordance with law but the respondents have issued the impugned memo in an arbitrary manner which is mala fide and in violation of the constitutional provision. Hence the impugned memo is liable to be declared to have been issued without any lawful authority.

On the other hand, learned Advocate Mr. Md. Abu Jafor Shaikh Manik, entered appearance on behalf of the respondent No.

1 and learned Advocate Mr. Md. Hafizur Rahman Khan, appeared on behalf of respondent No.2.

It transpires from the record that, pursuant to the direction given by this Division at the time of issuance of the Rule, respondent No. 1 has filed an affidavit in compliance on 12.06.2024. In that affidavit in compliance an enquiry report has been annexed as Annexure-2. In that report it has been stated that, a two-member committee was formed according to the direction given by this Court. In the report it was opined by the committee that, the space which has been leased out to the contractor is proposed to be used as Staff Canteen for the Metrorail Workers, who are mainly low income generating employees and with a view to provide them food at a reasonable lower price. This is a Key Point Installation (KPI) area and not open to the general public. This project is not a commercial venture and a minimum courtesy rent of 1,000/- (Taka one thousand) per month has been fixed, which cannot be said to be unreasonable because this project has been initiated as an experiment. Since the canteen is proposed to have been opened for the first time, it will not be possible to consider its viability before 2/3 years.

Upon placing the affidavit in compliance learned Advocate for the respondent No. 1 submitted that, this is a special project taken by the respondent No. 1 for a special group of workers and the petitioner has no reason to be aggrieved thereby. Hence the

Writ Petition is not maintainable in its present form and the same is liable to be discharged.

The respondent No. 2 on the other hand, filed an application for discharging the Rule and submitted that, the contractor with whom the contractual agreement was entered into, has finally decided not to continue the canteen service anymore due to unavoidable circumstances. By the letter dated 20.10.2025 (Annexure-I) he informed his decision to the respondent No. 1.

Learned Advocate thus submitted that, the 'Notification of Award (NOA)' has been challenged in this Writ Petition but the ultimate contract having been terminated, the present Rule has become infructuous and therefore he prayed that the Rule may be discharged at once.

We have heard the learned Advocates for the respective parties and perused writ petition, affidavit in compliance and all the documents annexed therewith.

It appears from the Writ Petition that, the petitioner appearing in person has filed this writ petition in the form of Public Interest Litigation (PIL) challenging a 'Notification of Award' dated 14.03.2024 and also the inaction of the respondents to stop further proceeding on the basis thereof. A legal notice was sent by the petitioner to the respondents on 19.03.2024 and it is the allegation of the learned Advocate that since the respondent did not

take any action on the basis of the legal notice, he had no other option but to file the Writ Petition.

However, on perusal of Annexure-B, the legal notice, we find that, the legal notice was sent on 19.03.2024 by registered post and the affidavit of this Writ Petition was sworn on 20.03.2024, which is the very next day of sending the legal notice. As such no opportunity was given to the respondent to make any response to the legal notice sent by the petitioner. The purpose of sending the legal notice has thus become futile.

In the given context the primary issue that falls for determination is whether the writ petition is maintainable in its present form as a Public Interest Litigation.

In the case of ***National Board of Revenue Vs. Abu Saeed Khan and others*** reported in ***18 BLC (AD) 116*** our apex court set out a very clear direction in which circumstances a Public Interest Litigation can be entertained by the High Court Division. The Appellate Division also raised concern regarding filing of numerous numbers of Public Interest Litigation which are now a days being filed by different quarters. It has been observed in that decision that:

“The filing of PIL petition is essentially meant to protect basic human rights of the disadvantaged citizens and the High Court Division should guard that the filing of such petition does not convert into a “publicity interest litigation” or “private interest litigation”.

It was very clearly pointed out by Appellate Division that:

“Every wrong or curiosity is not and cannot be subject matter of PIL. In the name of public interest frivolous applications therefore should be avoided.”

“Now-a-days, it is noticeable that a group of lawyers have developed a tendency of filing PIL petitions on behalf of persons or organization challenging the propriety of the Government in taking decision relating to policy matter, its development works, Orders of promotion and transfer of public servants, imposition of taxes and fixation of tariff value by the authority for achieving dubious goal for generating publicity for themselves or to create public sensation.”

The apex court categorically held that:

“...the High Court Division does not have power to take cognizance of any petition which trespasses into the areas which is reserved to the executive and legislative by the Constitution.”

It is thus very clear that the Appellate Division has set out the criteria in which cases PIL should be welcomed and entertained by the High Court Division. In the instant case, we have already seen from the documents on record that the impugned project taken by the respondent No. 1 was for granting privilege to the low income generating workers of the Metrorail project, who are working for a long hours at the said project, by providing sufficient food for them at a lower price. This project is not commercial neither open for general public. The rent was fixed at a lowest level as a courtesy

price with a view to facilitate the service to be provided by the contractor.

The learned Advocate for the petitioner appearing in person, without inquiring into the objective of the authority for initiating this project, has directly come before this Court and filed the writ petition in the form of PIL on the very next day of sending the legal notice to the respondents and without even waiting for any response thereto. Such conduct, viewed in the backdrop of the materials on record does not justify the petitioner's action in filing the Public Interest Litigation. Therefore, we are of the view that the instant writ petition, though styled as a Public Interest Litigation, does not appear to have been instituted in furtherance of any genuine public interest. A proceeding instituted in the guise of PIL but lacking a bona fide public cause, cannot be permitted to invoke the extra ordinary jurisdiction of this Court.

In view of the facts and circumstances of the case and with the discussion made hereinabove as well as in the light of the judgment of the Appellate Division we find that the writ petition is not maintainable in its present form.

In the result, the Rule is discharged.

However, there is no order as to costs.

Communicate the judgment and order at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.