

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

WRIT PETITION NO. 835 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:

Mohammad Hasan

.....Petitioner

-VERSUS-

Bangladesh, represented by the Secretary, Secondary
and Higher Education Division, Ministry of
Education and others

..... Respondents

Mr. Md. Mahabubur Rahman Kishore, Advocate

..... For the Petitioner

Mr. Mohammad Waliul Islam Oli, D.A.G with

Mr. Md. Ershadul Bari Khandakar, D.A.G with

Ms. Nilufar Yesmin, A.A.G with

Mr. Md. Moshir Rahman (Rahat), A.A.G with

Mr. Md. Motasin Billah Parvez, A.A.G with

Mr. Md. Faridul Islam, A.A.G

.....For the Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard and Judgment on 16.02.2026

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 rejection order (Annexure-E) issued by the respondent No. 6 rejecting the petitioner's online application for Monthly Pay Order (M.P.O.) enlistment in the staff pattern as the Computer Lab Operator of Baralia High School, Lakshmipur Sadar, Lakshmipur without assigning any cogent reason and thereby violating the clause 17.5 of the বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১ should not be declared to have been passed without lawful authority and is of no legal effect and also as to why the respondents should not be directed to consider the enlistment of the petitioner's name in the Monthly Pay Order (M.P.O.) in the staff pattern as the Computer Lab Operator of Baralia High School, Lakshmipur Sadar, Lakshmipur with arrear and other service benefits from the date of his joining on 23.11.2022 meeting the requirements stipulated in Serial No. 32 of the School category of Schedule-Gha, বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১ 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 Writ Petition, in short, are that, the petitioner completed his S.S.C in the year 2009 and H.S.C in the year 2013 in Science group with G.P.A. 3.50. In 2022 he did a 6 (six) month professional course in Computer Diploma scoring G.P.A. 5.00 from Charukola Diploma Training Institute, a government approved institution.

Baralia High School, Lakshmipur Sadar, Lakshmipur District is enlisted in the Monthly Pay Order (M.P.O.) scheme of the government. A recruitment advertisement was published in 2022 for the post of Computer Lab Operator in the said school. Pursuant to that advertisement the petitioner applied and after following due process of law he was appointed in that School on 18.11.2022 and subsequently he joined in the said post of Computer Lab Operator on 23.11.2022. After joining the petitioner filed online application for M.P.O. enlistment on 09.12.2022. All the necessary documents were uploaded with the online application as required by the authority. The petitioner also sent a hard copy of the said application to the authority concerned. The respondent No. 6 i.e. the District Education Officer, Lakshmipur, in exercise of his power, rejected the petitioner's online application on the ground of 'insufficient papers'. This rejection order was shown online. This rejection order is devoid of any cogent reason and also violative of clause 17.5 of the *বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১*.

Being aggrieved by the impugned rejection and there having no other alternative and efficacious remedy, the petitioner has filed the instant writ petition and obtained the Rule.

Learned Advocate Mr. Md. Mahabubur Rahman Kishore, appeared on behalf of the petitioner. At the very outset he submitted that, the petitioner holds the required qualifications as has been stipulated in the *বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১*। He is eligible for the post of Computer Lab Operator as he passed H.S.C. in

Science group and he also did a 06 (six) month professional course in Computer Diploma from a government approved institution. Thereafter following a written test and viva voce examination by the Selection Board he secured the highest marks and thereby in line with the recommendation of the Selection Board he was appointed as the Computer Lab Operator and as such he is entitled to be enlisted in the M.P.O.

Learned Advocate for the petitioner next submitted that, in many cases it is seen that the applicants having the qualification as that of the petitioner have been enlisted as the Computer Lab Operator in the M.P.O. which is evident from Annexure G to G-7. Thus non-inclusion of the petitioner's name in the M.P.O. is discriminatory and in violation of Articles 27, 29 and 31 of the Constitution.

It is further submitted by the learned Advocate that, the petitioner holds all the required qualifications for the post and this post is very much available in the staff pattern of the school. He provided all the necessary documents with his application as required by the বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১ but the authority did not consider those documents and rejected the application arbitrarily and whimsically without showing any specific reason.

Mr. Md. Ershadul Bari Khandakar, the learned Deputy Attorney General opposed the Rule; however, without submitting any vokalatnama or any affidavit in opposition.

We have heard the learned Advocate for the petitioner as well as the learned Deputy Attorney General and perused all the documents annexed as annexures in the writ petition.

It appears from the বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও.নীতিমালা-২০২১ that পরিশিষ্ট-ঘ refers to বেসরকারি শিক্ষা প্রতিষ্ঠানের শিক্ষক-কর্মচারীদের জন্য নিয়োগ-যোগ্যতা, অভিজ্ঞতা ও বেতন স্কেল। The required qualification for a Computer Lab operator appears in serial no. 32, which provides, “বাংলাদেশ কারিগরি শিক্ষা বোর্ড হতে ০৩ (তিন) বছর মেয়াদি কম্পিউটার ডিপ্লোমা/সমমান অথবা শিক্ষা বোর্ড হতে কম্পিউটার/তথ্য ও যোগাযোগ প্রযুক্তি বিষয়সহ বিজ্ঞান বিভাগে এইচ.এস.সি/সমমান। এইচ.এস.সি/সমমানসহ সরকার অনুমোদিত প্রতিষ্ঠান হতে ০৬ (ছয়) মাস মেয়াদি কম্পিউটার ডিপ্লোমাদারী অগ্রাধিকার পাবে। সমগ্র শিক্ষাজীবনে ০১ (এক) টির বেশি ৩য় বিভাগ/শ্রেণি/সমমান গ্রহণযোগ্য হবেনা।” From the documents annexed as Annexure A-A2 it appears that the petitioner holds the required qualification to be eligible for that post inasmuch as he has passed the H.S.C. (Science) examination under Higher Secondary Education Board and completed a 6 (six) months professional course in Computer Diploma from a government approved institution. As per Serial 32 of schedule- gha, the first part of the required appointment qualification is related to Bangladesh Technical Education Board and the second part is related to all other education Boards. The petitioner comes under the later part. The later part of the eligibility requirement states “এইচ.এস.সি/সমমানসহ সরকার অনুমোদিত প্রতিষ্ঠান হতে ০৬ (ছয়) মাস মেয়াদি কম্পিউটার ডিপ্লোমাদারী অগ্রাধিকার পাবে।”

Annexure G to G-7 shows that, another teacher from Bangladesh Madrasah Education Board with the similar educational qualification as that of the petitioner has been enlisted in the M.P.O.

Appendix ‘uma’ to the Rules-2021 provides a list of documents to be submitted at the time of filing the application for enlistment in the M.P.O. Petitioner’s case is that he submitted all the required documents with the application by the authority. Annexure-E is the online result sheet regarding the applications filed for enlistment in the M.P.O. It appears from this result sheet that in the column ‘reason for rejection’ it shows, “insufficient papers” and in the column of ‘approval status’ it shows, “Back to Applicant”. However, no particulars has been provided as to the deficit of papers and it was never communicated to the petitioner.

বেসরকারি শিক্ষা প্রতিষ্ঠানের (স্কুল ও কলেজ) জনবলকাঠামো ও এম.পি.ও. নীতিমালা-২০২১ has been framed providing some guidelines to be followed in enlisting the private educational schools and colleges as well as its teachers and staffs in the Monthly Pay Order (M.P.O.). Rule 17.5 of this নীতিমালা-২০২১ provides that: “এম.পি.ও.র কোনো আবেদন **reject** হলে তার যথাযথ কারণ ও সুনির্দিষ্ট ব্যাখ্যা দিতে হবে। (emphasis added) যৌক্তিক কোনো কারণ ছাড়া এম.পি.ও. ভুক্তির আবেদন নির্দিষ্ট সময়ে নিষ্পত্তি/অগ্রগামী না করে দীর্ঘ সূত্রিতার প্রমাণ পেলে সংশ্লিষ্ট প্রতিষ্ঠান প্রধান/উপজেলা/ থানা মাধ্যমিক শিক্ষা অফিসার/জেলা শিক্ষা অফিসার, সহকারী পরিচালক/উপপরিচালক, পরিচালক এর বিরুদ্ধে বিভাগীয় শাস্তি মূলক ব্যবস্থা গ্রহণ করা হবে। উপজেলা/জেলা/অঞ্চল পর্যায়ের যাচাই কমিটিতে কারও বিরুদ্ধে অনিয়মের সম্পৃক্ততার প্রমাণ পেলে তাদের বিরুদ্ধেও বিভাগীয় ব্যবস্থা গ্রহণ করা হবে।”

From the above quoted provision it is very clear that providing specific reason and reasonable explanation thereto is a pre-requisite in case of rejecting an application for M.P.O. In the instant case the petitioner has not been informed officially as to the specific reason for rejection. If the petitioner was informed as to the particulars of the insufficient documents, he would have submitted those for consideration. The reason 'insufficient papers' is absolutely vague and unspecific. Such action of the respondent no. 2 not only violates the specific provision of the Rules-2021 but also violates the principle of natural justice. Since the Rules-2021 imposed a procedural requirement to deliver reason with reasonable explanation for rejection, failure to do so shall render the decision procedurally flawed and susceptible to judicial intervention for being contrary to established principles of administrative law.

In view of the fact and circumstances discussed hereinabove we find substance in the Rule. The impugned result so far relates to the rejection of the petitioner's application is declared to have been done without any lawful authority. The Respondents are hereby directed to communicate the petitioner immediately as to what papers were deficit and on submission of the required documents by the petitioner the Respondents shall consider the enlistment of the petitioner's name in the M.P.O. in the staff pattern as the Computer Lab Operator of Baralia High School, Lakshmipur Sadar, Lakshmipur. However, there is no direction as to provide arrear and other service benefits from the date of his joining.

In the result, the Rule is made absolute-in-part.

However, without any order as to costs.

Let a copy of this judgment and order be communicated to the concerned authorities at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO