

In the Supreme Court of Bangladesh
 High Court Division
 (Special Original Jurisdiction)
Present
Justice Md. Habibul Gani
And
Justice Sk. Tahsin Ali

Writ Petition No. 7401 of 2024

In the matter of:

An application under Article
 102(2)(a)(i)(ii) of the Constitution of the
 People's Republic of Bangladesh.

-And-

In the matter of:

Md. Jahidul Islam

..... Petitioner

Vs.

Govt. of Bangladesh represented by the
 Ministry of Law and Justice Division
 and others

..... Respondents

Ms. Amena Siddika, Advocate

..... petitioner

Mr. Md. Mohaddesh-Ul-Islam, DAG with

Mr. Kamrul Islam, AAG

Mr. Kamrunnahar Tamanna, AAG and

Mr. Ahmad Musanna Chowdhury, AAG

..... For the respondents.

Mr. Md. Hemayth Uddin, Advocate

..... for the respondent No. 7

Heard on: 26.10.2025, 02.11.2025 and
Judgment on: 03.11.2025

We are of the view that in different dates and time six minor marriages solemnized by the staff of the petitioner it is the admitted position of the writ petition which is evident from the inquiry report conducted by the District Registrar, Sirajgonj regarding the misconduct of the petitioner dated 13.11.2022.

If the petitioner have any personal difficulties for the reason expiry of his father as well as new born baby. The petitioner could have followed the Rule 17 of the Muslim Marriages and Divorces (Registration) Act, 2009 restrict himself act as Nikah registrar of said Upazila. The contended of the said Rule are as follows:

“১৭. নিকাহ রেজিস্ট্রারের দায়িত্ব পালনে বিরত

থাকা:- (১) কোন নিকাহ রেজিস্ট্রার স্বাস্থ্যগত, ধর্মীয়, পারিবারিক বা অন্য কোন কারনে সাময়িক সময়ের জন্য নিকাহ রেজিস্ট্রারের দায়িত্ব পালন হইতে বিরত থাকিবার জন্য উপ-বিধি (৩) এর বিধান অনুযায়ী আবেদন করিলে সংশ্লিষ্ট জেলা রেজিস্ট্রার সন্তুষ্ট হইলে তাহাকে অনধিক ২ (দুই) মাস পর্যন্ত দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করিতে পারিবে।

(১ক) উপ-বিধি (১) এর অধীন সিটি কর্পোরেশন এলাকা বহির্ভূত কোন এলাকার কোন নিকাহ রেজিস্ট্রারকে দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করা হইলে যে নিকাহ রেজিস্ট্রারকে উক্তরূপ অনুমতি প্রদান করা হইয়াছে সেই নিকাহ রেজিস্ট্রার উহা, লিখিতভাবে, অনতিবিলম্বে, সংশ্লিষ্ট সাব-রেজিস্ট্রারকে অবহিত করিবেন।

(২) কোন নিকাহ রেজিস্ট্রারকে দুই মাসের অধিক সময় দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করিবার প্রয়োজন দেখা দিলে অথবা উপ-বিধি (১) উল্লিখিত মঞ্জুরীকৃত সময় দুই মাসের

অতিরিক্ত বর্ধিত করিবার প্রয়োজন হইলে, সরকারের

অনুমতি গ্রহন করিতে হইবে:

তবে শর্ত থাকে যে, কোন নিকাহ রেজিস্ট্রার
একাদিক্রমে ছয়মাসের অধিক দায়িত্ব পালন হইতে
বিরত থাকিতে পারিবে না।

(৩) নিকাহ রেজিস্ট্রারগণ, যে তারিখ হইতে
দায়িত্ব পালন হইতে বিরত থাকিতে ইচ্ছুক, উক্ত
তারিখের এক সপ্তাহ পূর্বে উপযুক্ত কারণ উল্লেখপূর্বক
প্রয়োজনীয় কাগজপত্র সংশ্লিষ্ট জেলা রেজিস্ট্রারের নিকট
দরখাস্ত পেশ করিবেন।”

The petitioner utter a irresponsible person handed over the balam
boi of Nikah Registrar to the added respondent No. 7 who is neither his
assistant nor he has any responsible person to holding the secret balam
boi of the said Nikah Registry office. While damage has been done by
the (added respondent No. 7) by solemnized marriages of six minor girls.
The petitioner started accusing the stranger (added respondent No. 7)
only to give up his official responsibility as Nikah registrar of the said
locality which is not at all acceptable in any manner being government
responsible person like the instant petitioner.

**Considering the above, we are inclined to discharge the Rule
for ends of Justice.**

Sk. Tahsin Ali, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh filed by the petitioner, a Rule Nisi was issued calling upon the respondents to show cause as to why Memo being 10.00.0000.131.11.158.86-63 No. dated 06.05.2024 issued by the Respondent No. 4 cancelling the license of the petitioner in the post of Nikah Registrar of 04 No. Magurabinod Union under Police Station-Tarash, District- Sirajganj and directing respondent No. 5 to seize the Balam book of the Nikah Registrar from the petitioner and to give additional charge to the nearest Nikah Registrar and thereby directing respondent No. 6 to prepare a panel for appointment in the vacant post and transmit the same to him to that effect should not be declared to have been done without lawful authority and is of no legal effect and as to why a direction should not be given upon the respondents to reinstate the petitioner in the said post and/or pass such other or further order or orders as to this court may seem fit and proper.

Facts relevant for disposal of the said Rule in short, are that the father of the petitioner was a Nikah Registrar of 04 No. Magurabinod Union under Police Station- Tarash, Dist- Sirajganj after his death the authority published an advertisement for vacant post of Nikah Registrar. The present petitioner along with other duly applied for the vacant post and the appointment authority completed all the formalities selected the petitioner for the post of Nikah Register and the petitioner was appointed in the said post by a letter vide Memo No. Bichar-7/2-N-158/86-218

dated 16.08.2022 issued by the respondent No. 4. In the meantime the petitioner's pregnant wife became sick and he was engaged for her treatment in Dhaka. Consequently, he gave his responsibilities upon his office assistant namely, Md. Rezaul Karim to perform temporary duties on his behalf. Subsequently, Md. Rezaul Karim solemnised marriage of 6 minors in absence of the petitioner. On 17.10.2022 his close relative Md. Polan Fakir filed a complaint before respondent No. 3 for cancellation of license of Nikah Registrar of the petitioner. The respondent No. 3 issued a letter upon respondent No. 5 to conduct an enquiry of the allegations made in the said complaint and thereby directed him to submit a report to that effect within 15 days. Thereafter, the respondent No. 1, issued a show cause notice upon the petitioner under the signature of Respondent No. 4 on 22.10.2023. Upon receipt of the said show cause notice, the petitioner on 14.11.2023 filed his Reply to the said Show Cause Notice before Respondent No. 1 annexing some other relevant documents. The Respondents without giving any opportunity to the petitioner most illegally and arbitrarily cancelled the Nikah Registrar license of the petitioner. Hence the case.

Mr. Md. Abdul Alim Miah Jewel along with Ms. Amena Siddika learned advocates appeared on behalf of the petitioner while learned Deputy Attorney General Mr. Md. Mohddesh-Ul-Islam with Mr. Kamrul Islam, Assistant Attorney General with Mr. Kamrunnahar Tamanna, Assistant Attorney General with Mr. Ahmad Musanna Chowdhury, Assistant Attorney General appeared for the respondents and Mr. Md. Hemayth Uddin, learned advocate appeared for the respondent No. 7.

Mr. Md. Abdul Alim Miah Jewel learned Advocate for the petitioner submits that the petitioner's father Mr. Liakat Ali Mia was the Nikah Registrar of Magurabinod Union and Md. Rezaul Karim (added respondent No. 7) was serving his office assistant with the father of this petitioner.

He further submits that the added respondent No. 7 took advantage of personal difficulties of the petitioner and back behind his knowledge and with an ulterior motive and malafide intention solemnized marriages of six minor bridegrooms including some other individuals those are Most. Sadia Akter on 24.08.2022, Most. Beauty Khaton on 29.08.2022, Most. Jannati Khatun on 21.08.2022, Most. Nupur Khatun on 22.08.2022 and Mussida Khatun on 04.09.2022. He further submits that the respondent No. 4 most illegally and arbitrarily issued the impugned Memo cancelling the license of the petitioner in the post of Nikah Registrar of 04 No. Magurabinod Union without giving any opportunity of hearing. He further submits that the respondent No. 1 issued a show cause notice upon the petitioner under the signature of Respondent No. 4 on 22.10.2023 against show cause notice, the petitioner reply on 14.11.2023 before Respondent No. 1 annexing some other relevant documents but the Respondents without giving any opportunity to the petitioner most illegally and arbitrarily cancelled the Nikah Registrar license of the petitioner. He concludes his submissions upon assertion that the Rule bears merit and ought to be made absolute for ends of justice.

On the other hand Mr. Md. Hemayth Uddin learned advocate appeared for the respondent No. 7 submits that the instant writ petition the petitioner challenged the impugned Memo being no. 10.00.0000.131.11.158.86-63 dated 06-05-2024 issued by the Respondent No. 04 cancelling the license of the petitioner in the post of Nikah Registrar of No.04. Magurabinod Union of under Police Station Tarash, District Sirajgonj and also directing the respondent no. 06 to prepare a panel for appointment in the vacant post and transmit the same to him but till today the respondent No. 06 did not take any step in relating to prepare a panel for appointment in the vacant post. He further submits that the present applicant being a law-abiding citizen of the locality and also very much efficient and prospective candidate for the post of Nikah Registrar but the respondent No. 06 without giving any specific reasons delaying the process for preparing the Panel. He further submits that in accordance with Section 6(Ka) of the Muslim Marriages and Divorces (Registration) Act, 1974, the applicant is a bonafide and efficient candidate for the post of Nikah Registrar and he has submitted an application along with all supporting documents and educational certificates before respondent No. 2 seeking his appointment as the temporary Nikah Registrar of 04 No. Magurabinod Union. He concludes his submissions upon assertion that the Rule bears no merit and ought to be discharged for ends of justice.

Mr. Md. Mohaddesh-Ul-Islam the learned Deputy Attorney General appearing for the respondents oppose the Rule.

We have heard the learned Advocates from both sides, perusal the application and the materials. The above Rule specifically laid upon regarding any such personal difficulties arises which compel the Nikah Register to perform his duties for a period of two months. Hence, the petitioner should have filed the application before the District Register for showing his incapacity to perform his duty due to his personal difficulties but here in the case the petitioner did not do so.

The petitioner submitted that earlier Mr. Liakat Ali Mia father of this petitioner was the Nikah Registrar of Magurabinod Union here in added respondent No. 7 Md. Rezaul Karim was serving his office assistant with the father of this petitioner.

Upon his death on 03.08.2022 the post of Nikah registrar become vacant thereby an advertisement was published inviting application for the appointment of the said post, to which the petitioner and other candidates applied after successfully passing the examination the petitioner was found eligible and appointed by respondent No. 4 vide office order dated 16.08.2022 and the petitioner formally assumed charge on 21.08.2022, during this period his pregnant wife fell seriously ill, regarding his presence in Dhaka for her medical care, on good faith the petitioner temporarily delegated his duties and handed over the balam boi of Nikah Register for solemnization of marriages in the said locality to the added respondent No. 7 (clerk of his father).

The petitioner's advocate further submitted that the added respondent No. 7 took advantage of personal difficulties of the petitioner and back behind his knowledge and with an ulterior motive and malafide

intention solemnized marriages of six minor bridegrooms including some other individuals those are Most. Sadia Akter on 24.08.2022, Most. Beauty Khaton on 29.08.2022, Most. Jannati Khatun on 21.08.2022, Most. Nupur Khatun on 22.08.2022 and Mussida Khatun on 04.09.2022.

Consider above application of the petitioner and application of additions of parties by the added respondent No. 7 supplementary affidavits filed by the petitioner with the documents of annexed thereto.

We are of the view that in different dates and time six minor marriages solemnized by the staff of the petitioner it is the admitted position of the writ petition which is evident from the inquiry report conducted by the District Registrar, Sirajgonj regarding the misconduct of the petitioner dated 13.11.2022.

If the petitioner have any personal difficulties for the reason expiry of his father as well as new born baby. The petitioner could have followed the Rule 17 of the Muslim Marriages and Divorces (Registration) Act, 2009 restrict himself act as Nikah registrar of said Upazila. The contended of the said Rule are as follows:

“১৭. নিকাহ রেজিস্ট্রারের দায়িত্ব পালনে বিরত থাকা:- (১) কোন নিকাহ রেজিস্ট্রার স্বাস্থ্যগত, ধর্মীয়, পারিবারিক বা অন্য কোন কারনে সাময়িক সময়ের জন্য নিকাহ রেজিস্ট্রারের দায়িত্ব পালন হইতে বিরত থাকিবার জন্য উপ-বিধি (৩) এর বিধান অনুযায়ী আবেদন করিলে সংশ্লিষ্ট জেলা রেজিস্ট্রার সম্মত হইলে তাহাকে অনধিক ২ (দুই) মাস পর্যন্ত দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করিতে পারিবে।

(১ক) উপ-বিধি (১) এর অধীন সিটি কর্পোরেশন এলাকা বহির্ভূত কোন এলাকার কোন নিকাহ রেজিস্ট্রারকে দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করা হইলে যে নিকাহ রেজিস্ট্রারকে উক্তরূপ অনুমতি প্রদান করা হইয়াছে সেই নিকাহ রেজিস্ট্রার উহা, লিখিতভাবে, অনতিবিলম্বে, সংশ্লিষ্ট সাব-রেজিস্ট্রারকে অবহিত করিবেন।

(২) কোন নিকাহ রেজিস্ট্রারকে দুই মাসের অধিক সময় দায়িত্ব পালন হইতে বিরত থাকিবার অনুমতি প্রদান করিবার প্রয়োজন দেখা দিলে অথবা উপ-বিধি (১) উল্লিখিত মঞ্জুরীকৃত সময় দুই মাসের অতিরিক্ত বর্ধিত করিবার প্রয়োজন হইলে, সরকারের অনুমতি গ্রহণ করিতে হইবে:

তবে শর্ত থাকে যে, কোন নিকাহ রেজিস্ট্রার একাদিক্রমে ছয়মাসের অধিক দায়িত্ব পালন হইতে বিরত থাকিতে পারিবে না।

(৩) নিকাহ রেজিস্ট্রারগণ, যে তারিখ হইতে দায়িত্ব পালন হইতে বিরত থাকিতে ইচ্ছুক, উক্ত তারিখের এক সপ্তাহ পূর্বে উপযুক্ত কারণ উল্লেখপূর্বক প্রয়োজনীয় কাগজপত্র সংশ্লিষ্ট জেলা রেজিস্ট্রারের নিকট দরখাস্ত পেশ করিবেন।”

The petitioner utter a irresponsible person handed over the balam boi of Nikah Registrar to the added respondent No. 7 who is neither his assistant nor he has any responsible person to holding the secret balam

boi of the said Nikah Registry office. While damage has been done by the (added respondent No. 7) by solemnized marriages of six minor girls. The petitioner started accusing the stranger (added respondent No. 7) only to give up his official responsibility as Nikah registrar of the said locality which is not at all acceptable in any manner being government responsible person like the instant petitioner.

Considering the above, we are inclined to discharge the Rule for ends of Justice.

Accordingly, the Rule is discharged without cost.

Communicate this judgment and order at once.

Md. Habibul Gani, J.

I agree.