

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

WRIT PETITION NO. 6157 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:

Niramoy Indu Halder and others

.....Petitioners

-VERSUS-

Bangladesh, represented by the Secretary, Ministry
of Education, Technical and Madrasha Education
Division and others

..... Respondents

Mr. Tapan Kumar Bepary, Advocate

..... For the Petitioners

Mr. Muhammad Rafiul Islam, Advocate

..... For the Respondent No.2

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 on 01.02.2026 and 10.02.2026

Judgment on 22.02.2026

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 inaction and failure of the respondents to grant MPO to the petitioners, serving as Instructor, Biology (Non-Tech) in Non-Government Krishi Colleges under the Bangladesh Technical Education Board, should not be declared to have been made without lawful authority and is of no legal effect and as to why they should not be directed to grant government portion of salary and other financial benefits to the petitioners (Instructors, Biology) in the form of Monthly Payment Order (MPO) in compliance with the staffing Pattern (Janabal Kathamo) dated 05.11.2003 (Annexure-A) as required by law to do and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Subsequently by an order dated 22.07.2025 a supplementary Rule was issued in the following terms:

“ Let a supplementary Rule Nisi be issued calling upon the respondents to show cause as to why the Memo No. 57.03.0000.028.002.21-699(08) dated 25.11.2021 (Annexure-J) issued by the respondent No. 3, rejecting the application for MPO of the petitioner No. 1 and 2 (serial No. 10 and 4 respectively) and the Memo No. 57.03.0000.028.013.18-719(05) dated 05.12.2021 (Annexure-K) issued by the respondent No. 3, directing the teachers and staffs including the petitioner No. 3 not to forward MPO application further should not be declared to have been issued without lawful authority and is of no legal

effect and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Necessary facts for disposal of the instant Writ Petition, in short, are that, the petitioner No. 1 after completing B.Sc. (Hon's) and M.Sc. in Zoology applied for the post of Instructor (Biology) in the 'Mazeda Begum Krishi-Projukti College, Kachua, Bagerhat in pursuant to the appointment circular dated 21.11.2004. Following due process, he was selected and appointed by the authority and accordingly he joined as Instructor, Biology (Non-Tech) on 10.01.2005.

Petitioner no. 2 after completing B.Sc. (Hon's) and M.Sc. in Zoology applied for the post of Instructor (Biology) in the Baily Bridge Agriculture and Polytechnic Institute situated at Mirbag under Upazila-Kaunia, District-Rangpur in pursuant to the appointment circular dated 01.04.2009. Following due process, he was selected and appointed and accordingly he joined as Instructor, Biology (Non-Tech) on 01.10.2009.

Similarly, petitioner no. 3 after completing B.Sc. (Hon's) and M.Sc. in Zoology applied for the post of Instructor (Biology) in the Digpait Shamsul Haque Degree College situated at Sonatia Bazar under Jamalpur Sadar, Jamalpur in pursuant to the appointment circular dated 26.02.2005. Following due process, he was selected and appointed and accordingly he joined as Instructor, Biology (Non-Tech) on 19.03.2005.

In 2019 Government decided to enlist the teachers and staffs of selected private colleges of the country, including the petitioners' colleges, in the Monthly Pay Order (MPO) of the government. The

principals of the respective colleges of the petitioners made formal applications to the respondent no. 2 in the prescribed form to grant MPO to the teachers and staff of their colleges including the petitioners. Though MPO was granted to other teachers and staffs of the colleges but vide memo dated 31.01.2021 the respondent no. 3 declined to grant MPO to the petitioner No. 1 showing the reason that “There is no availability of the post in the Staff Pattern of 2003”. By the memo dated 15.02.2021 the application of petitioner no. 2 was rejected stating the similar reason. No such response was made regarding the application of the petitioner no. 3 either negative or positive. The petitioners made several representations to grant them MPO but with no result.

Being aggrieved thereby and there having no other alternative and efficacious remedy the petitioners have filed the instant writ petition and obtained the Rule.

Learned Advocate Mr. Tapan Kumar Bepary, appeared on behalf of the petitioners and submitted that, the petitioners were appointed as Instructors, Biology (Non-Tech) in their respective institutions in pursuance of the Staff Pattern (জনবল কাঠামো) of 2003 and their service is guided and controlled by the same and in the said জনবল কাঠামো (staff pattern) there is availability of 6 posts (one teacher for each subject) as Instructors of Non-Tech subjects namely, Bangla, Mathematics, Physics, Chemistry, Biology and Education regarding Self Employment (Management). For the post of Instructor of Biology, the qualification has been set forth as Master Degree in the concerned subject. Having required

qualifications, the petitioners were given appointments following the provisions of the *Janabal Kathamo*-2003 and they are very much competent to be included in the MPO as per the said *Janabal Kathamo*. All the Instructors of other non-Tech subjects have been enlisted in the MPO except the petitioners without any lawful basis.

Learned Advocate next submitted that, the petitioners have fulfilled all the conditions precedent for enlistment of their names in the Monthly Payment Order (MPO) as their colleges are recognized by the appropriate authority and all the employees of the said institutions other than the petitioners are getting their MPO. Moreover, the Instructors, Biology (Non-Tech) of other institutions, being in the similar footing as that of the petitioners, have already got their government portion of salary by way of MPO, hence the petitioners are also entitled to be granted MPO.

Learned Advocate for the petitioners then submitted that, the petitioners having requisite qualifications, have been lawfully appointed as Instructor, Biology (Non-Tech) in their respective Colleges by the appropriate authorities and they have been discharging their talent, time and labour at the service of their respective colleges, but in return, they are not getting any salary which is inhumane and unreasonable. As their appointment was given in accordance with law in pursuance of the *Janabal Kathamo*, 2003, the petitioners are entitled to be enrolled in the M.P.O. in compliance with the said *Janabal Kathamo*, 2003 without any waste of time.

Learned Advocate further submitted that, there remains a specific post of 'Instructor, Biology (Non-Tech)' in the *Janabal Kathamo, 2003* for every agricultural college but in spite of that, the refusal of the respondents to grant MPO to the petitioners as the Instructor, Biology on the plea of 'having no availability of the said post' is out and out malafide, whimsical and illegal and therefore the said action of the respondents is liable to be declared to have been made without lawful authority and is of no legal effect.

Learned Advocate for the petitioners finally submitted that, the impugned failure and inaction of the respondents in granting MPO to the petitioners have violated the petitioners' fundamental right guaranteed under Article 27 and 31 of the Constitution as they have not been treated equally and fairly in accordance with law and hence the said inaction and failure of the respondents are liable to be declared to have been made without lawful authority and is of no legal effect and at the same time the said respondents are liable to be directed to grant MPO to the petitioners on an urgent basis, as required by law to do so.

On the other hand, learned Advocate Mr. Muhammad Rafiul Islam, appeared on behalf of the respondent No. 2 by filling an affidavit in opposition and opposed the Rule.

Learned Advocate for the respondent No. 2 submitted that the Ministry of Education issued a circular setting forth the staffing pattern (*Janabo lKathamo*) for the Non-Government Intermediate Krishi Colleges, where it has been categorically stated that " জীব বিজ্ঞান বিষয়ের জন্য

কোন বিষয় ভিত্তিক শিক্ষক নিয়োগ করা যাবেনা।" and, as such, there is no scope for the petitioners to be enlisted in the MPO and as such the instant rule is liable to be discharged for ends of justice.

He next submitted that since there was no availability for the post of Instructor (Biology) in the staff pattern of 2003, the respondent no. 3 rightly issued the Office Order dated 31.01.2021 stating the reason mentioned therein for not enlisting the petitioner No. 1 in the MPO. Similarly, the petitioner No. 2 obtained NTRCA Certificate for the post of Lecturer (Zoology) but he was appointed in the post of Instructor (Biology). As a result, the respondent no. 3 issued the Office Order dated 15.02.2021 stating the reason for not enlisting the petitioner No. 2 in the MPO. On the similar ground the application of the petitioner no. 3 is not liable to be considered.

Finally, the learned Advocate for the respondent no. 2 submitted that since there is no availability for the said post in the *Janabol Kathamo of 2003*, the respondents rightly rejected the petitioners' applications and therefore, the Rule having no merit, is liable to be discharged.

We have heard the learned Advocate for the petitioners as well as for the respondents and perused the writ petition, supplementary affidavit thereto, the affidavit in opposition and all the documents annexed as annexures therewith.

From Annexure-A to the writ petition it appears that, by the circular dated 05.11.2003 the staffing pattern (জনবল কাঠামো) for the Private

Intermediate Agricultural Colleges was determined by the Ministry of Education. In this জনবল কাঠামো, in the Non-Tech part there remains availability for six subjects, namely, Bengali, Mathematics, Physics, Chemistry, Biology self Employment (Management) Education and one teacher for each of these subjects have been given permission to be appointed. It further appears that, in the column below it is stated, "জীব বিজ্ঞান বিষয়ের জন্য কোন বিষয় ভিত্তিক শিক্ষক নিয়োগ করা যাবে না।" (No subject-wise teacher shall be appointed for the subject of Biology).

From the documents annexed with the writ petition it appears that, all the petitioners have been appointed as Instructors of Biology (Non-Tech) in their respective institutions having required qualifications. The application of the petitioner No. 1 was rejected on 31.01.2021 with the comment that, "জনবল কাঠামো নীতিমালা ২০০৩ মোতাবেক উক্ত পদের প্রাপ্যতা নেই।"; the application of petitioner No. 2 was rejected on 15.02.2021 with the comment that, “১। "নিবন্ধন সনদ প্রভাষক পদের জন্য যা কৃষি ডিপ্লোমা প্রতিষ্ঠানের ইন্সট্রাক্টর /প্রশিক্ষক পদের জন্য প্রযোজ্য নয়।" ২। "জনবল কাঠামো ২০০৩ অনুযায়ী পদের প্রাপ্যতা নেই।” For the petitioner no. 3 no such order of rejection was issued however his application was not allowed either. From the documents annexed as Annexure-E, E-1 and E-2 it appears that, the teachers of other colleges of Biology subject have been given the government portion of M.P.O.

From the application for supplementary Rule dated 17.07.2025, it transpires that by the memo dated 25.11.2021 (annexure-J) the application of the petitioner No. 2 was further rejected stating that "জনবল কাঠামো ২০০৩ অনুযায়ী পদের প্রাপ্যতা নেই।" which means, the earlier objection regarding the

certificate of 'lecturer' has been omitted in the latest rejection letter. For the petitioner No. 1 the latest rejection order remains the same as that of the earlier one. No response has been made on the application of the petitioner no. 3, which amounts to rejection.

On 05.12.2021 the Director of PIU of Vocational Education Directorate issued a memo (Annexure-K) stating that there is no scope for any teacher or employees to be enlisted in the Monthly Pay Order without having sanction in the staff pattern granted by the Ministry from time to time and therefore requested not to forward any such application to his office. On 29.12.2021 the Secretary General of Bangladesh Non-Government Krishi Diploma Institute Association made an application before the Directorate of Vocational Education stating that due to the ambiguity prevailing in the "জনবল কাঠামো নীতিমালা ২০০৩।" as to the appointment of Biology teachers, they are facing difficulties although 1(one) teacher for the subject of Biology is available in the staff pattern of 2003. The rejection by the authority with the comment that, 'there is no availability for the said post in the 2003 staff Pattern', is creating embargo for the Biology teachers to be enlisted in the MPO. On 30.05.2022 an officer order was issued by the Deputy Secretary of Ministry of Education Vocational Madrasa Department (MPO Division) stating that, in order to resolve the complications as to the MPO enlistment of the teachers, it has been decided amongst others that, until amendment to the Rules, MPO shall be granted to the 'Instructors (Biology)', recommended by the

NTRCA, who holds the required degree either in Botany or Zoology (Annexure-F).

Considering all the documents mentioned hereinabove, we find that, the note with the star mark (**) in the circular dated 05.11.2003, that is, "জীব বিজ্ঞান বিষয়ের জন্য কোন বিষয় ভিত্তিক শিক্ষক নিয়োগ করা যাবে না।" (No subject-wise teacher shall be appointed for the subject of Biology) means there is availability of one teacher for general Biology and no appointment shall be given as separate subject teacher for two branches of Biology i.e. Zoology and Botany. This clarification was never given by the respondents and was never specifically raised by the affected quarters such as the petitioners. The explanation on this point given by the learned Advocate for the Respondent no. 2 is thus found to be misconceived. All the three petitioners have been employed as 'Instructor (Biology)' and their posts are very much available in the staffing pattern provided by the circular dated 05.11.2003 and therefore their applications for enlistment in the Monthly Pay Order ought to have been allowed by the respondents. Moreover, Instructors (Biology) of others institutions are receiving their M.P.O. being on the similar footing as that of the petitioners. Therefore, rejection of the petitioners' application on the basis of a misconceived explanation is declared to have been made without any lawful authority.

In view of the fact and circumstances and with the aforesaid finding, we find substance in the Rule. The Rule is therefore made absolute. Rejection of the petitioners' applications for enlistment in the MPO is hereby declared unlawful. The respondents are directed to enlist

the petitioners' names in the Monthly Pay Order (MPO) in accordance with the staffing pattern dated 05.11.2003 immediately on receipt of this order.

In the result, the Rule is made absolute with direction.

However, without any order as to costs.

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

Justice Sashanka Shekhar Sarkar, J:

I agree.