

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
Writ Petition No. 15214 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:

Fokhrul Hasan

.....Petitioner

-Versus-

The Administrator, Sylhet City Corporation, Nagar Bhaban, Sylhet-3100 and others

.....Respondents

Mr. Md. Jahangir Hussain, Advocate with
Mr. Md. Selim Advocate

.....For the petitioner

Mr. Syed Fazla Elahi Obhi, Advocate

....For the respondent Nos.5-10

Mr. Akhtar Hossain Md. Abdul Wahab, DAG with
Mr. Sultan Mahmood Banna, DAG with
Ms. Khandaker Asma Hamid, AAG with
Mr. S.M. Emamul Musfiquer, AAG with
Mr. Md. Mashiur Rahman (Riad), AAG with
Mr. Md. Mehebab Hossain, AAG

..... For the respondents

Present

Justice Fatema Najib

And

Justice A.F.M. Saiful Karim

**Heard on 13.01.2026, 14.01.2026 & 15.01.2026
and Judgment on 27.01.2026.**

A.F.M. Saiful Karim , J :

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh Rule was issued on 18.12.2024 in following terms:-

Let a Rule Nisi be issued calling upon the respondents to show cause as to why the inaction of the respondents in disposing the applications dated 25.03.2024 and 26.11.2024 (Annexure-F and G) respectively should not be declared without lawful authority and is of no legal effect and also as to why a direction should not be given upon the respondents to renew the petitioner's Trade License No. 1230002284 which has expired on 30.06.2024 (Annexure-C) and also as to why the Trade License dated 29.11.2023 (Annexure-E) should not be declared to have been done 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.

The facts from which the Rule has arisen in brief are as follows:

The petitioner is the proprietor of M/S. Razzak Chemical Industries and Bhai Bhai Food Products. He has been operating the business as a proprietor since 10.07.2008 obtaining trade license in his name from the office of the Respondent No. 1. The trade license was renewed year to year since 2009 to 2022 and lastly was issued on 31.07.2023 for 1(one) year (Annexure-C) which was expired on 30.06.2024. But on 29.11.2023 the respondents issued the same trade license (Annexure-E) including 4 (four) other person's name as

owner of the business named M/S. Razzak Chemical Industries and Bhai Bhai Food Products and after getting information of the same the petitioner, on 25.03.2024 and 26.11.2024, made applications to the Respondent No. 1 (Annexures-F and G respectively) praying for renewal of the license dated 21.07.2023 and for cancellation of the license dated 29.11.2023, failing to get any response, the petitioner after sending a notice demanding justice dated 28.11.2024, by invoking Article 102 of the Constitution filed the instant writ petition and obtained Rule Nisi.

The added respondent Nos. 5-10 by filing affidavit-in-opposition contested the Rule and controverted the statements made in the writ petition.

The case of the contesting respondents as stated in their affidavit-in-opposition, supplementary affidavit and application for addition of party, in brief, are that the trade license in question of Razzak Chemical Industries and Bhai Bhai Food Products, originally issued in the name of late Abdur Razzak, the father of the writ petitioner as well as the added respondents Nos. 6-10 and the husband of added respondent No. 5, and subsequently, had been transferred to the writ petitioner in 2012 without obtaining consent or authorization from the legal heirs of late Abdur Razzak.

After getting information about the trade license the added respondents filed an objection before the respondent No. 1 regarding issuance of license in favour of the petitioner in place of the father of the petitioner and added respondents and after elaborate hearing in presence of both the parties on 22.06.2023 Chief Revenue Officer opined that a new trade license may be issued including the name of the legal heirs of late Abdur Razzak suspending the previous one and subsequently the City Corporation authority lawfully issued the trade license including the name of added respondent Nos. 5-10. There is no valid reason for the writ petitioner to claim sole ownership of the business of his father depriving other legal heirs. With these arguments the respondents prayed to discharge the Rule.

At the very outset Mr. Jahangir Hussain, the learned Advocate appearing for the petitioner, submits that the petitioner is the sole owner/proprietor of the business concern M/S. Razzak Chemical Industries and Bhai Bhai Food Products, Kazir Bazar, Sylhet-3100 and none of the person is his partner or co-sharer of this business, but without assigning any reason issued trade license including the name of 4(four) other persons, which is illegal and without lawful authority.

He next submits that respondents being the people's representative and public servant should have served the people. But inaction in disposing of the petitioner's applications and non-renewal

the petitioner's Trade License the respondents violated Articles 27, 40 and 42 of the Constitution of the People's Republic of Bangladesh, and as such the same is liable to be declared without lawful authority and is of no legal effect.

He vigorously submits that the petitioner is the proprietor of his business concern since 2008 and has been continuing his business by obtaining Trade License from the respondents and other licenses and certificates from different institution in his sole name, as such respondents need to be directed to renew his Trade License issued on 31.07.2023 and cancel the license issued on 26.11.2023 along with the names of 4(four) others.

He candidly submits that respondents should have issued notice to the petitioner before issuing Trade License in the name of the petitioner along with 4(four) others on 26.11.2023 giving opportunity of being heard to the petitioner. But without doing so, the Respondent has violated principle of natural justice. Therefore, Trade License issued dated 26.11.2023 is liable to be declared without lawful authority and is of no legal effect.

In reply, the learned counsel on behalf of the added respondents, Mr. Syed Fazla Elahi Obhi, submits that the trade license in question is originally belonged to late Abdur Razzak and subsequently the petitioner, depriving the legal heirs of Abdur Razzak, obtained the trade license in his name only and thus the

added respondents filed objection thereto to the respondent No. 1 and after hearing both the parties the Chief Executive Officer of the Sylhet City Corporation opined in favour of the added respondents and accordingly the new trade license has been issued in the name of legal heirs of late Abdur Razzak along with the name of the writ petitioner and therefore the writ petitioner has no tenable grievances to make any representation to the Sylhet City Corporation afresh and therefore Rule Nisi is liable to be discharged.

He further submits that Sylhet City Corporation authority has subsequently given renewal of the trade license.

He lastly submits that the petitioner by suppressing the fact that a partition suit being No. 99 of 2024 is pending in Joint District Judge, 2nd Court, Sylhet praying for the distribution of dividend of the business concern named and styled "মেসার্স রাজ্জাক কেমিক্যাল ইন্ডাস্ট্রিজ এন্ড ভাই ভাই ফুড প্রোডাক্টস" and obtained the instant Rule Nisi and thus the Rule Nisi is liable to be discharged.

We have heard the submissions of the respective learned Advocates and gone through the documents as annexed by the respective parties in their writ petition, supplementary affidavit to the writ petition, application for addition of parties, affidavit-in-opposition and supplementary affidavit-in-opposition.

It appears that late Hajji Abdur Razzak , who died in 2008, had been operating a proprietorship business in his name since 1990 after obtaining trade license from the then Sylhet Pouroshava as named and styled 'ভাই ভাই কেমিক্যাল এন্ড ফুড প্রোডাক্টস'.

It is admitted fact that the writ petitioner and the respondent Nos. 5 to 10 are legal heirs of late Abdur Razzak. In 2008 the writ petitioner obtained a trade license in his name only from the Sylhet City Corporation under the name and styled "মেসার্স রাজ্জাক কেমিক্যাল ইন্ডাস্ট্রিজ এন্ড ভাই ভাই ফুড প্রোডাক্টস" and the writ petitioner has been operating his business since then after obtaining license and certificates from different institution in his sole name and there was no dispute between the parties regarding the trade license No. 1230002284 till the added respondents raised objection before the respondent City Corporation.

It appears from the record that in presence of both the claimant of the license, after hearing the objection, the Chief Revenue Officer on 22.06.2023 opined that a new license might be issued suspending the earlier one adding the names of all the legal heirs of late Abdur Razzak and thereafter on 29.11.2023 Sylhet City Corporation issued trade license No. 1230002284 adding names of the added respondents and the petitioners being aggrieved by the same, after

making representation, came before this court and obtained Rule Nisi and order of stay as well.

It also appears that the respondent nos. 5 to 10 as petitioners filed the Civil Petition for Leave to Appeal being no. 483 of 2025 along with an application for stay against the order of stay dated 18.12.2024 passed in the writ petition and after hearing on 04.02.2025, the Hon'ble Chamber Judge of the Appellate Division passed an order of stay for a period of 8 (eight) weeks from date and thereafter on 01.09.2025 Hon'ble Appellate Division directed the High Court Division to dispose of the writ petition within 2 weeks and passed an order to the effect that the order of stay granted earlier by the learned Judge-in-Chamber shall continue till disposal of the Writ Petition.

It also appears that the Sylhet City Corporation respondent No.1 already issued trade license in the name of all heirs of Abdur Razzak on 27.04.2024 and 02.07.2025 (Annexures E and E-1 to the affidavit-in-opposition).

It is also appeared that a partition suit being No. 99 of 2024 is pending before the learned Joint District Judge, 2nd Court, Sylhet regarding the ownership of the proprietorship business to "মেসার্স রাজ্জাক কেমিক্যাল ইন্ডাস্ট্রিজ এন্ড ভাই ভাই ফুড প্রোডাক্টস" having trade license No. 1230002284 which has been filed by the present contesting

respondent adding the writ petitioner as defendant No. 1 before filing of the writ petition and the writ petitioner had knowledge about the said suit.

Under the facts and circumstances of the case and the discussions made above, our view is that the crux of the disputed issues in this writ petition is completely civil in nature out of a family property dispute which cannot be resolved in this summary proceedings rather in the partition suit pending before the subordinate court below, the dispute can be resolved after taking proper evidence from both the contesting parties as there are certain disputed questions of facts to be adjudicated and before completion of the trial of the suit the real dispute cannot be resolved by Sylhet City Corporation.

Thus we think justice would be best served if the said partition suit be adjudicated by the learned Joint District Judge, 2nd Court, Sylhet.

Hence, the Rule is disposed of, without any order as to cost.

The learned Joint District Judge, 2nd Court, Sylhet is directed to conclude the trial of Partition Suit No. 99 of 2024 within 6(six) months preferably in accordance with law.

The respective parties are directed to maintain status-quo in respect of the ownership of the trade license No. 1230002284 till

disposal of the Partition Suit No. 99 of 2024 pending in the learned Joint District Judge, 2nd Court, Sylhet.

It is pertinent to mention here that this judgment will have no bearing in deciding the merit of the said partition suit by the trial court below independently.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J: