

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

Writ Petition No. 16365 of 2024

With

Writ Petition No. 2617 of 2025

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. Helal Ahmed

...Petitioner

-Versus-

Government of Bangladesh, represented
by the Secretary, Local Government
Division, Ministry of Local Government,
Rural Development and Co-operative and
others

..... Respondents

Mr. H M Shanjid Siddique, Advocate

...For the petitioner

Mr. Sk. Omar Sharif, Advocate

... For the respondent nos.2, 3 & 4

Heard on 22.02.2026 and 07.06.2026

Judgment on 10.06.2026

Urmee Rahman, J:

Both the Rules issued in these two writ petitions have arisen
out of the same subject matter, between the same parties and
involve common facts and issues of law. Hence these are taken up
together for disposal by a single judgment.

In Writ Petition No. 16365 of 2024 Rule was issued in the following terms:

“Let a Rule Nisi be issued calling upon the Respondents to show cause as to why the impugned notices published in the Daily Azadi and Daily Purbokone on 16.12.2024 by the respondent Nos.2-3 (Annexure-G and G-1) inviting proposals for conducting beautification work, tree plantation, landscaping and maintenance of the area on and beneath the flyovers and overpass so far it relates to Akhteruzzaman Chowdhury Flyover, Bohoddarhat M.A. Mannan Flyover, Kodomtoli Flyover and Dewanhat Overpass in Chattogram, in breach of the contracts executed with the petitioner and disregarding the Memo No. 46.11.1600.008.06.037.18 dated 26.07.2020 issued by the respondent No. 5 shall not be declared to have been passed 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.”

Pending hearing of the Rule, the operation of the impugned notices published in the Daily Azadi and Daily Purbokone on 16.12.2024 by the respondent Nos.2-3 (Annexure-G and G-1) was stayed for a period of 03(three) months from date, which has been extended from time to time.

In Writ Petition No. 2617 of 2025 Rule was issued in the following terms:

“Let a Rule Nisi be issued calling upon the Respondents to show cause as to why the impugned Memo No. 46.11.1600.008.04.035.25.718 dated 02.02.2025 (Annexure-J) issued under signature of the Respondent no. 4 cancelling/terminating the contracts dated 31.12.2019 and 09.02.2020 as executed with the petitioner for conducting of the work of beautification, tree plantation, landscaping and maintenance of the area on and beneath the flyovers and overpass of the Akhtaruzzaman Chowdhury Flyover and Dewanhat Overpass in Chattogram, by disregarding the Memo No. 46.11.1600.008.05.037.18 dated 26.07.2020 issued by the respondent No. 5 should not be declared to have been made without lawful authority and is of no legal effect and why a direction should not be given upon the respondent No. 2 to reimburse the financial loss sustained by the petitioner amounting to Tk. 3,59,00,000/- (three crore and fifty nine lac taka) as evident from the inquiry report, bearing Memo No. 46.11.1600.006.00.000.24-412 dated 22.10.2024 issued under the signature of the president, Inquiry Committee and Law Officer, Chattogram City

Corporation 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, let operation of the impugned Memo No. 46.11.1600.008.04.035.25.718 dated 02.02.2025 (Annexure-J) issued under signature of the Respondent no. 4 be stayed for a period of 03(three) months from date.”

Necessary facts for disposal of the instant Rules, as narrated in the writ petitions, in short, are that, the respondent No. 2 i.e. the Chattogram City Corporation invited proposal from prospective bidders for conducting beautification, tree plantation, landscaping and maintenance works on and beneath the Akhteruzzaman Chowdhury Flyover, Bohoddarhat Flyover, Kodomtoli Flyover and Dewanhat Overpass in Chattogram. The petitioner participated in the said tender and his bid was accepted by the respondent No. 2. Subsequently, a contract regarding ‘Akhteruzzaman Chowdhury Flyover’ was executed between the Chattogram City Corporation and the petitioner on 31.12.2019, which is to take effect from 01.01.2020, for conducting the aforesaid work. The said contract would remain valid for 5 (five) years as per the terms of the contract. In addition to that another contract was executed regarding ‘Bohoddarhat Flyover, Kodomtoli Flyover and Dewanhat Overpass’ between the said parties on 09.02.2020, which would

remain valid for next 5(five) years as well. The petitioner's firm completed the beautification work as per the approved landscape. By the contract the petitioner also undertook to carry on regular maintenance work at the aforesaid flyovers and overpass. However, certain parts of the concerned flyovers were under construction and thus were not handed over to the petitioner for carrying out the beautification works. Due to the emergence of COVID-19 and subsequent lockdown declared by the Government in March 2020, the beautification project came to a halt. Consequently, the respondent No. 5 issued the Memo No. 46.11.1600.008.06.037.18 dated 26.07.2020 extending the tenure for completion of the beautification work up to December 2020, granting waiver of 50% revenue payment for the 1st year and extending the tenure of the contract till 31.12.2026.

On 14.08.2024 the petitioner again made an application to the respondent No. 4 for extending the tenure of the contract and also for adjusting the revenue for the areas of the flyovers which were under construction and were not handed over to him for carrying out the beautification works. On 27.08.2024 a 5-member committee was formed to inquire into the matter. A report was accordingly submitted on 22.10.2024. It is evident from the aforesaid report that the petitioner has sustained loss of Tk. 3,59,99,000/- (Three Crore Fifty Nine Lac Ninety Nine Thousand Taka).

Though the tenure of the contract executed with the petitioner is supposed to expire on 31.12.2026, the respondent Nos. 2 and 3 on 16.12.2024 published two notices in the Daily Azadi and Daily Purbokone inviting proposals for conducting beautification, tree plantation, landscaping and maintenance works of the area on and beneath the flyovers and overpass for which the contract was entered into with the petitioner.

Due to the breach of the contract the petitioner suffered a huge amount of loss and there having no other equally efficacious remedy, he filed the writ petition no. 16365 of 2024 and obtained the Rule along with an order of stay of the impugned notices published in the Daily Azadi and Daily Purbokone on 16.12.2024.

During pendency of the writ petition Chattogram City Corporation terminated the contract entered into with the petitioner on 02.02.2025, for which the petitioner was constrained to file the subsequent writ petition No. 2617 of 2025 and obtained the Rule and also an order of stay of the letter of termination.

Learned Advocate Mr. H M Shanjid Siddique, appearing on behalf of the petitioner, submits that, the impugned notices published in the Daily Azadi and Daily Purbokone on 16.12.2024 by the respondent Nos. 2-3 inviting proposals for conducting the similar works for which contract was entered into with the petitioner is ex-facie illegal and without lawful authority inasmuch as the contracts executed between the parties is still subsisting and is valid till 31.12.2026 and disregarding the terms of the contract

the respondents published the impugned notices, which are liable to be declared to have been published without any lawful authority.

Learned Advocate further submits that, the report submitted by a 5-member committee of the Chattogram City Corporation substantiates that, certain parts of the flyovers were not handed over to the petitioner as construction work was ongoing and the petitioner had therefore sustained a loss of Tk. 3,59,99,000/- (Three Crore Fifty-Nine Lac Ninety-Nine Thousand Taka) which is liable to be adjusted following clause 3 of the contract dated 09.02.2020.

He next submits that, the respondents in repudiatory breach of the agreements with the petitioner have published the impugned notices and subsequently terminated the contract which is arbitrary in nature and amounts to colorable exercise of power by the local government authority; hence the same is liable to be set aside.

His next submission is that, the petitioner has a legitimate expectation that the respondents will serve a show cause notice or terminate the contract by following due process of law but the respondents without affording any opportunity of hearing to the petitioner and disregarding their contractual obligations, have published the impugned notices and subsequently terminated the contract in violation of principle of natural justice, which is liable to be declared to have been done without any lawful authority.

He also submits that, the petitioner will suffer a significant financial loss of around Tk. 12 crore and hundreds of workers will

become redundant if the respondents are allowed to grant beautification and maintenances works to another bidder by surpassing the contract with the petitioner.

By placing a supplementary affidavit sworn in on 01.03.2026 learned Advocate for the petitioner submits that, challenging the interim orders passed by this Division at the time of issuance of both the Rules the respondent No. 2 preferred two Civil Petition for Leave to Appeal Nos. 3499 of 2025 and 3500 of 2025 before the Hon'ble Appellate Division and the Hon'ble Judge-in-chamber was pleased to dispose of the Civil Petition for Leave to Appeals without staying the interim orders passed by the High Court Division and directed to dispose of the Rules by this Division within 2(two) months vide an order dated 15.09.2025.

He finally submits that, during subsistence of the ad-interim order passed by this Hon'ble Court, the respondent No. 2 entered into a fresh contract with another bidder in gross violation of the order passed by this Court by executing an agreement on 18.06.2025 and 23.12.2025, which is highly contemptuous. Hence, he prayed that both the Rules may be made absolute for ends of justice.

On the other hand, learned Advocate Mr. Sk. Omar Sharif, entered appearance on behalf of respondent Nos. 2, 3 & 4 and vehemently contested the Rule by filing an affidavit in opposition.

Learned Advocate for the respondents submits that, the alleged extension claimed by the petitioner was granted by the

previous city corporation authority and the extension of the contract was granted without any lawful authority, in excess of jurisdiction and in blatant disregard of the governing legal and contractual framework. The decision dated 26 July 2020 (Annexure-D) is therefore ultra vires, constitutes a colorable and mala fide exercise of statutory power and offends the doctrine of public trust, and thus is void ab initio and of no legal effect.

He next submits that, the decision of arbitrary remission of revenue and extension dated 26 July 2020 (Annexure-D), granted without transparency, lawful justification, or competitive consideration, by the previous city corporation authority, are violative of Articles 27 and 31 of the Constitution.

He also submits that, the petitioner cannot invoke or derive any advantage from the doctrine of legitimate expectation. It is well settled that legitimate expectation cannot arise from an act that is illegal, void, mala fide, or ultra vires. A person cannot claim equity from illegality nor can an expectation founded upon an unlawful administrative act acquire constitutional protection. Consequently, the petitioner's reliance on the doctrine of legitimate expectation is misconceived, untenable in law and liable to be rejected outright.

He further submits that, both the agreements contained no 'termination clause', which is very unusual in case of a commercial agreement and those were executed through collusion with the then unscrupulous and corrupt functionaries of the Corporation. Such contracts, being tainted with illegality and devoid of bona fides,

were executed in violation of public interest and therefore subsequently the respondent authority in its General Meeting duly passed a resolution annulling the agreement with the petitioner.

He finally submits that, it is a settled provision under Section 23 of the Contract Act, 1872 that any agreement opposed to public policy is void. Besides, the appropriate legal remedy of the petitioner lies before a competent Civil Court by filing a suit for specific performance under Section 12 of the Specific Relief Act, 1877. Both the matters being purely contractual and civil in nature, the instant writ petitions are not maintainable and the Rules issued in both the writ petitions are liable to be discharged.

In support of his submission learned Advocate referred to the decisions in the case of *Government of Bangladesh and others vs. Md. Ghulam Mustafa and others* reported in **32 BLD (AD) 232 (2012)**; *Bangladesh Jute Mills Corporation vs. Maico Jute and Bag Corporation and others* reported in **22 BLD (HCD) 320**; and *Rokibul Islam (Lavlu) (Md) and others vs. Government of the People's Republic of Bangladesh and others* reported in **21 BLC 14 (HCD)**. Accordingly he prayed that, the instant writ petitions are ex facie misconceived, devoid of merit and not maintainable and thus both the Rules are liable to be discharged *in limine*.

We have heard the learned Advocates for both the parties and perused the writ petition, the supplementary affidavit, the affidavit in opposition and all the documents annexed thereto.

Annexure-B to the writ petition is the deed of contract between the Petitioner and Chattogram City Corporation, which has been executed on 31.12.2019 regarding 'Akhteruzzaman Chowdhury Flyover' and said to be effective from 01.01.2020 for a period of 5(five) years for conducting the beautification work, tree plantation, landscaping and maintenance of the area on and beneath the flyover. It appears from clause 3 of the contract agreement that, though the validity of the contract was for a period of 5(five) years, the petitioner was bound to complete the beautification and development works within the next 6(six) months from the date of execution of the contract; however if that could not be done due to any natural disaster or any other extenuating circumstances, the stipulated period of six months might be extended. It also appears from clause 5 of the agreement that for this work order the petitioner shall have to submit an amount of 1(one) crore taka per year as revenue in the fund of Chattogram City Corporation out of which 50% would have to be submitted at the beginning of the year and the rest 50% to be submitted after 6(six) months.

The second contract regarding 'Bohoddarhat Flyover, Kodomtoli Flyover and Dewanhat Overpass' (Annexure-C) was executed on 09.02.2020 to be expired after five years i.e. on 09.02.2026. In clause 3 of this agreement it is stipulated that, within the next two years from execution of the contract the first party shall complete the entire work order, if that cannot be done within that period, it may be further extended for a maximum period of

6(six) months more. In clause 6 of the agreement it has been stated that, for this project the petitioner shall submit 15 lac taka each year to the Chattogram City Corporation revenue fund; half of the amount to be paid at the beginning of the year and the rest half to be paid after six months.

Both the agreements were executed by the Chief Executing Officer on behalf of the Chattogram City Corporation.

Annexure-D is a memo dated 26.07.2020 issued by the Chattogram City Corporation under the signature of the Chief Urpan Planner by which waiver of 50% revenue for the first year and extension of the aforesaid contract was granted. The content of the memo is reproduced below:

“বিষয়ঃ করোনা ভাইরাস জনিত রোগের প্রাদুর্ভাবের কারণে আখতারুজ্জামান চৌধুরী ফ্লাইওভার, বহদ্রারহাট ফ্লাইওভার, কদমতলী ফ্লাইওভার এবং দেওয়ানহাট ওভারপাস"- এর চুক্তির প্রথম বছরের রাজস্ব হতে ৫০% অর্থ মওকুফ ও চুক্তির মেয়াদকাল বৃদ্ধি প্রসঙ্গে।

আপনার গত ১৯/০৩/২০২০ খ্রিঃ তারিখের আবেদনের প্রেক্ষিতে এবং সংশ্লিষ্ট কর্তৃপক্ষের অনুমোদনক্রমে জানানো যাচ্ছে যে, কভিড-১৯ এর প্রেক্ষাপটে সার্বিক পরিস্থিতি বিবেচনায় নিম্নোক্ত বিষয় সমূহ কর্পোরেশন কর্তৃপক্ষ কর্তৃক বিবেচিত হয়েছেঃ

ক. বৈশ্বিক কভিড-১৯ পরিস্থিতির কারণে সৌন্দর্য বর্ধন কার্যক্রম সম্পন্ন করার জন্য জুন ২০২০ খ্রিঃ এর পরিবর্তে ডিসেম্বর ২০২০ খ্রিঃ পর্যন্ত প্রকল্প বাস্তবায়নের সময় বৃদ্ধি করা হল।

খ. এযাবৎ প্রকল্পের কার্যক্রম সম্পন্ন করতে না পারার কারণে কোন রাজস্ব আয় করা সম্ভব না হওয়ায়, বর্তমান বছরের অবশিষ্ট ৫০% কর মওকুফ করা হল।

গ. এছাড়াও, কভিড-১৯ পরিস্থিতিতে প্রকল্পের কাজ বাস্তবায়নে বিলম্ব হওয়ায় প্রকল্পের চুক্তির মেয়াদ ৩১-১২-২০২৮ খ্রিঃ পর্যন্ত বর্ধিত করা হল।

মোহাম্মদ হেলাল আহমেদ
স্বত্বাধিকারী

প্রধান নগর পরিকল্পনাবিদ
চট্টগ্রাম সিটি কর্পোরেশন
ফোন নং-০৩১-৬১৪৯৩৮

ঢেডম্যাক্স, চট্টগ্রাম।

On meticulous perusal of this memo it appears that, this memo was issued referring to an application dated 19.03.2020 submitted by the petitioner. By this memo three kinds of advantages were given to him, which are:

1. Period of completing beautification work was extended up to December, 2020 instead of June, 2020;

2. Waiver of 50% revenue for the first year since the petitioner could not complete the work and

3. The tenure of the original contract was extended up to 31.12.2026 instead of 31.12.2024.

It is noteworthy that, the application was filed by the petitioner on 19.03.2020, which is after only two and half months from the date of execution of the contract. Whereas in Bangladesh the nationwide lockdown due to Covid-19 pandemic officially started on 26.03.2020. Considering the non-completion of the beautification work an application for extension of the period of six months could have been justified but extension of the entire contract at the very initiation and in the absence of any demonstrated supervening circumstances preventing performance, the very basis for seeking extension is found to be premature and misconceived. Such premature application could not furnish a lawful foundation for alternation of the contractual terms.

Secondly, two separate contracts were executed between the parties. The letter of extension dated 26.07.2020 does not specify which of the two contracts it purports to extend or whether both the contracts are purported to be extended. Since the terms of both the contracts were different, it is very unusual to change the terms by a single letter of extension. For example, in the first contract for ‘Akhteruzzaman flyover’ there was a condition to complete the beautification work by six months; however, in the later contract for ‘Bohoddarhat flyover and Kadomtoli overpass’ the work was said to be completed within two years as per the terms of the contract. Terms of the two contracts being different and the letter of extension dated 26.07.2020 being unspecific, we find this extension order to be ineffective.

More importantly, this alleged extension as well as waiver of revenue order was issued under the signature of the ‘Chief Urban Planner’ i.e. ‘প্রধান নগর পরিকল্পনাবিদ’ of the Chattogram City Corporation. According to The Local Government City Corporation Act, 2009 the Chief Executive Officer is the main executive officer of the City Corporation and therefore he is the competent authority to enter into any contract on behalf of the City Corporation. On the basis of this authority originally the contract was entered into between the petitioner and by the Chief Executive Officer on behalf of the City Corporation. Therefore, if any extension of that contract is to be given, that ought to have been granted by the authority who has executed the contract. In the present case it is evident on the

face of the record that, the Chief Executive Officer did not grant extension to the contract rather it was the Chief Urban Planner, who issued the memo dated 26.07.2020, who does not have any lawful authority to give such extension or grant any waiver to the petitioner.

Upon scrutiny of the relevant documents we find that, the Chief Urban Planner was neither a party to the contract nor vested with any statutory or contractual authority to alter, vary or amend the terms of the agreement executed by the competent authority. The power to modify a concluded contract could only be exercised by the authority competent to enter into the contract or by the authority specifically authorized by law. No such delegation or authorization has been produced before us.

The purported extension of time and grant of waiver of revenue by the Chief Urban Planner, therefore, were acts done *coram non judice*. Consequently, the said extension order is void ab initio, having no legal effect and cannot confer any right or create any obligation up to the parties. The contractual relationship between the parties shall accordingly be governed by the original terms and conditions of the agreement unaffected by the extension.

The respondent Nos. 2 and 3 therefore rightly issued the impugned memos in the daily newspapers calling for application to be submitted before 02.01.2025 i.e. after the tenure of the contract with the petitioner was over on 31.12.2024. The impugned letter of termination (Annexure-J) was issued by the authority on

02.02.2025 cancelling all the contracts entered into with the petitioner's institution after expiry of the original agreement. Since the termination letter was issued after the tenure of the agreement was over and considering the facts and circumstances, we find no illegality in issuing the same.

Before termination, an application dated 14.08.2024 was filed by the petitioner before the city corporation authority praying for extension for further 3-5 years. On receiving this application a 5 member committee was formed to inquire into this matter. The committee submitted its report on 22.10.2024 (Annexure F-1) with a finding as to the financial liabilities of the parties and opined that if the authority wants, it can enter into a supplementary contract with the petitioner regarding the account of income and expense. Petitioner alleges that he is entitled to get reimbursement of the financial loss sustained by him as evident from the aforesaid report. On this issue, we are of the view that, the calculation made in the said report is not conclusive, it is subject to the consideration and approval by the Chattergram City Corporation. If the petitioner raises any financial claim arising out of a pure contractual agreement, the same cannot be adjudicated in judicial review.

In view of the facts and circumstances of the case and with the discussion made hereinabove, we find that both the Rules Nisi issued in the instant two writ petitions are devoid of any substance.

In the result, both the Rules are hereby discharged.

Both the orders of stay granted at the time of issuance of the Rules are hereby re-called and vacated.

However, there is no order as to cost.

Communicate the judgment and order at once.

Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO