

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 1587 of 2020

Md. Liakat Hossain.

..... -Petitioner.

-Versus-

Md. Younus Ali Hawlader and others.

..... Opposite parties.

Mr. Md. Mahabubur Rashid, Advocate

..... For the petitioner.

Mr. Mohammad Mojno Mollah, Advocate

..... For the opposite party No.1.

Heard on: 07.01.2026 and

Judgment on: 08.01.2026.

This Rule was issued calling upon the opposite parties to show cause as to why the judgment and order dated 12.10.2020 passed by the learned District Judge, Jhalakathi, in Miscellaneous Appeal No. 01 of 2020, allowing the appeal and thereby reversing the order dated 14.11.2019 passed by the learned Assistant Judge, Nalchity, Jhalakathi, in Title Suit No. 77 of 2017 allowing an application for temporary injunction filed by the plaintiff under Order XXXIX Rule 1 of the Code of Civil Procedure should not be set aside and or pass such other or further order or orders as to this court may seem fit and proper.

Facts relevant for the disposal of the Rule are that the present petitioner, as plaintiff, instituted Title Suit No. 77 of 2017 in the Court of the learned Assistant Judge, Nalchity, Jhalakathi, praying for a declaration that the appointment of defendant No. 7 to the post of Daptory-cum-Guard of Moloar Ideal Government Primary School,

Nalchity, Jhalakathi, was void, illegal and without lawful authority, and therefore liable to be cancelled, on the allegation that the said appointment was obtained by practicing fraud.

In the said suit, the plaintiff filed an application under Order XXXIX Rule 1 of the Code of Civil Procedure praying for an ad-interim injunction restraining defendant Nos. 1-4 and 7-10 from taking any further steps in respect of the impugned appointment. Defendant No. 7 contested the said application by filing a written objection and also filed a separate application for withdrawal of his arrear salary. Both the applications were heard together and, by order dated 14.11.2019, the learned Assistant Judge allowed the application for temporary injunction, stayed all further proceedings relating to the appointment till disposal of the suit, and rejected the application for withdrawal of arrear salary.

Challenging the said order, defendant No. 7 preferred Miscellaneous Appeal No. 01 of 2020 before the Court of District Judge, Jhalakathi. The learned District Judge, by judgment and order dated 12.10.2020, allowed the appeal, reversed the order of the trial Court and rejected the application for injunction, holding inter alia that defendant No. 7 had already joined the post and had been discharging his duties and that the balance of convenience and inconvenience was in his favour. However, no order was passed regarding withdrawal of arrear salary.

Being aggrieved thereby, the plaintiff moved this Court by filing this civil revision and obtained the present Rule.

Mr. Md. Mahabubur Rashid, learned Advocate for the petitioner, submits that the learned District Judge committed an error of law in

reversing the order of the trial Court without properly appreciating the prima facie case of the plaintiff. He further submits that since the appointment of defendant No. 7 was obtained by fraud, allowing him to continue in the post during pendency of the suit violates the principles of natural justice.

On the other hand, Mr. Mohammad Mojno Mollah, learned Advocate appearing for opposite party No. 7, submits that defendant No. 7 had joined the post long before the injunction application was filed and, therefore, the plaintiff failed to establish any prima facie case, and the balance of convenience or irreparable loss is in favour of defendant No. 7. He further submits that the learned District Judge, being the final Court of fact rightly and lawfully set aside the order of injunction by the impugned order and that this Court in revisional jurisdiction should not interfere the same.

I have heard the learned Advocates for both sides and perused the materials on record.

It appears that the learned District Judge, as the appellate Court and final Court of fact, upon proper consideration of the materials on record, found that defendant No. 7 had already joined the post and had been discharging his duties and that the balance of convenience and inconvenience was in his favour. It was also found that continuation of the injunction would cause greater inconvenience to defendant No. 7. The learned Advocate for the petitioner has failed to point out any misreading or non-consideration of material evidence by the appellate Court.

In the facts and circumstances of the case, this Court finds that the learned District Judge did not commit any illegality, material

irregularity or misreading of evidence in passing the impugned judgment and order, and therefore, finds no reason to interfere in the impugned order in its revisional jurisdiction.

Accordingly, the Rule is discharged without any order as to costs.

However, the learned Assistant Judge, Nalchity, Jhalakathi, is directed to dispose of Title Suit No. 77 of 2017 as expeditiously as possible, preferably within one (1) year from the date of receipt of this judgment, if not otherwise disposed of in the meantime.

Let a copy of this judgment be communicated to the Court concerned at once.