

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

WRIT PETITION NO. 16271 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:

A.B.M. Ashiquzzaman and others

.....Petitioners

-VERSUS-

Bangladesh, represented by the Secretary, Ministry
of Education and others

..... Respondents

Mr. Ekramul Haque, Senior Advocate with
Mr. Md. Mozammel Hossain, 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. Rashadul Hassan, 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. Bishwanath Karmaker, A.A.G

.....For the Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard on 02.03.2026, 08.03.2026 and 09.03.2026

Judgment on 21.04.2026

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 impugned order dated 25.09.2023 issued under Memo No.57.03.0000.091.20.007.23-1191 by the respondent No.3 suspending the Monthly Payment Order (MPO) of the petitioners from the month of September, 2023 (Annexure-L), shall 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 Rule, in short, are that, the “Tabiul Mursalin Nagar Technical School and College, Kendua, Netrokona, was established in the year 2012. The Managing Committee by its resolution dated 25.05.2013 decided to appoint a total number of 16(sixteen) teachers and staffs for the S.S.C (Vocational) course in this institution. Accordingly, circular was published in the newspaper and interested candidates applied, including the petitioners (as many as three), and admit cards were issued to them. Thereafter the Board constituted a Selection Committee with the designated representatives and sent the same to the Technical College authority on 17.07.2013 with a direction to communicate the result of appointment within 7(seven) days to the Board. With this end in view written examination and viva voce were conducted duly on 30.08.2013 and finally the Managing Committee by its resolution dated 05.09.2013 approved the selection of seven teachers and staffs including the petitioners as recommended by the Selection Committee. Accordingly, appointment letters were issued on 07.09.2013 and on 11.09.2013 the petitioner no. 1 joined the post of Computer Demonstrator;

petitioner no. 2 joined the post of Science Lab Assistant and the petitioner no. 3 joined the post of M.L.S.S. The institution got enlisted in the M.P.O. on 01.07.2019. Thereafter the head of the institution applied through the proper authority to the Director General on 02.05.2020 for enlisting 7(seven) teachers and staff in the list of MPO. On finding the relevant papers as correct and proper, the Director General enlisted the petitioners and others in the MPO list with effect from 01.07.2019.

While the instant Technical College was running smoothly, suddenly the respondent No.3 issued a notice on 29.03.2023 addressing the Chairman of the Managing Committee and Superintendent of the said Institution with some allegations of forgery and suppression of fact regarding four teachers and staffs (including the petitioners) and directed them to explain within 7(seven) days as to why action should not be taken against the Chairman of the Committee, the Head of the institution as well as those four teachers and staffs. The Chairman of the Managing Committee and Superintendent of said institution replied to the notice on 12.04.2023 denying the allegations.

Without considering the reply to the said notice and without conducting any enquiry as per clause 29.1.7 of "বেসরকারী কারিগরি শিক্ষা প্রতিষ্ঠান জনবল কাঠামো ও এমপিও নীতিমালা-২০১৮ [ভোকেশনাল, ব্যবসায় ব্যবস্থাপনা (বিএম), কৃষি ডিপ্লোমা ও মৎস ডিপ্লোমা] (২৩ নভেম্বর, ২০২৪ পর্যন্ত সংশোধিত)" the Respondent No.3 issued an office order on 25.09.2023 stopping the MPO of the petitioners with effect from the month of September, 2023.

The petitioners came to know about the above impugned office order on obtaining the same from internet. They approached the concerned authority for withdrawal of the impugned order but without any result. On 19.11.2024 the petitioners filed an application before the Director General of Technical Education Directorate (Respondent no. 2) for reconsideration of the order stopping MPO of the petitioners but no step has yet been taken to the effect.

Being aggrieved thereby and there having no other alternative and equally efficacious remedy available, the petitioners invoked the writ jurisdiction and obtained the present Rule.

Learned Senior Advocate Mr. Ekramul Haque appeared on behalf of the petitioners and submits that, the petitioners were enlisted in the M.P.O. by the office order issued by the Director General (respondent No. 2) on 28.01.2022 with effect from 01.07.2019 on finding all papers to be correct. Therefore, issuance of the impugned office order finding the signatures of the representatives of Director General and the Board in the Tabulation Sheet as forged and thereby stopping the M.P.O. is absolutely barred by estoppel and illegal, hence, is liable to be declared to have been made without lawful authority and is of no legal effect.

Learned Senior Advocate emphatically submits that, there is a clear provision in clause 29.1.7 that, "এমপিও বিষয়ে উত্থাপিত অভিযোগের ক্ষেত্রে উপযুক্ত কর্তৃপক্ষ কর্তৃক তদন্তের ভিত্তিতে প্রাথমিক সত্যতা প্রমাণিত হলে ক্ষেত্রমতে এম.পি.ও স্থগিত, কর্তন বা বাতিল করা হবে (কারিগরি ও মাদ্রাসা শিক্ষা বিভাগের অনুমোদনের আলোকে)" but in the instant case the impugned office order has been issued without making

any enquiry whatsoever and without the approval of the “কারিগরি ও মাদ্রাসা শিক্ষা বিভাগ.” The impugned memo having been issued in complete violation of clause 29.1.7 the নীতিমালা-২০১৮, the same is liable to be declared to have to been made without lawful authority, is of no legal effect and therefore is liable to be set aside.

He finally submits that since legal rights of the petitioners have been accrued by getting the M.P.O. with effect from 01.07.2019, the authority ought to have issued a show cause notice before taking away the said legal right. In the instant case the petitioners were not served with any such notice, which has offended the principle of natural justice, as such, the impugned order is liable to be declared to have been made without lawful authority and is of no legal effect.

In support of his submission regarding issuance of show cause notice learned Advocate referred to the case of *Government of Bangladesh and others Vs. Jamaluddin and another* reported in **20 BLC (AD) (2015) 135**, *Government of the Peoples Republic of Bangladesh and others Vs. Mrs. Kanij Salma and others* reported in **10 LM (AD) 199**, *Halima Khatun and another Vs. Government of the Peoples Republic of Bangladesh and others* reported in **67 DLR (2015) 478** and *Mainul Hossain and another Vs. Bangladesh and others* reported in **9 SCOB [2017] HCD 11**.

On the other hand, learned Advocate Mr. Muhammad Rafiul Islam, appeared on behalf of the respondent No. 2 i.e. the Director General, of Technical Education Directorate and contested the Rule by filing affidavit

in opposition. Upon placing the affidavit in opposition, he submits that, Directorate of Technical Education received application for enlistment of 05(five) teachers and staffs of the said college but the authority found that the signatures of the representative of the DG and representative of the Bangladesh Technical Education Board in the tabulation sheet were forged. The authority issued letter to those two representatives and they ensured that the signatures in the tabulation sheet are not theirs. Accordingly, the respondent no. 3 issued show cause letter to the Chairman of the Managing Committee and Superintendent of the said Technical College with the allegations made therein. After receiving their reply, the respondent No. 3 issued a memo dated 25.05.2023 to the Principal of the Netrokona Technical School and College to inquire into the matter and submit a report. Thereafter the inquiry officer submitted report on 06.07.2023 stating that the said signatures were forged and finally the respondent no. 2 issued the impugned office order suspending the MPO of the petitioners and, as such, no illegality having been committed by the respondents, the instant Rule is liable to be discharged.

Learned Advocate for the respondent no. 2 referred to the case of *Shakhawat Hossain (Md) and others Vs. Government of the People's Republic of Bangladesh represented by the Secretary, Ministry of Education and others* reported in **27 BLC (2022) 425** in which it has been held that, “*Although the clause 18 does not provide for issuance of any show cause notice before taking such action temporarily or permanent but the action being related to the livelihood of the concern incumbents as*

to payment of salary, principles of natural justice demand to issue show cause notice before taking such action. Obviously, it is before taking final action and in this case we find that final action has not yet been taken stopping payment of salary permanently under the MPO scheme.”In the result that Rule was discharged.

Learned Advocate submits that in the instant matter also the respondents issued show cause notice to the authority with the allegations before stopping the payment of M.P.O temporarily, which is not final action and, as such, there is no necessity to issue a further show cause notice upon the petitioners and therefore, the Rule is liable to be discharged as there is no substance in it.

Learned Advocate also put reliance on the case of *Government of Bangladesh Vs. Md. Nazrul Islam* reported in **7 LM (AD) 208** and submits that, M.P.O. is the policy decision of the government and the petitioners cannot not claim the same as of right unless there is an infringement of any legal right or violation of law. Nowhere in this instant writ petition it has been mentioned that, the respondents have done anything amounting to infringement of legal right or violation of law and, as such, the instant Rule 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, affidavit in opposition, affidavit in reply and all the documents annexed as annexures therewith.

It is admitted that the petitioners were enlisted in the M.P.O. on 20.08.2022 given effect from 01.07.2019 on verification of all the relevant papers and they have been receiving the same until it was stopped vide the impugned memo on 25.09.2023 (Annexure-L). Later on, an allegation was made stating that in the tabulation sheet of appointment the signatures of the DG representative and of the Board representative were found to be forged and a show cause notice was issued upon the Chairman of Managing Committee and Superintendent of the institution on 29.03.2023 (Annexure-J). In it appears from the affidavit in opposition that by the office order dated 25.05.2023 (Annexure-8) an inquiry officer was appointed to inquire into the allegations and was asked to submit report within seven working days. The inquiry officer submitted the report on 06.07.2023 stating that the allegations of forgery and irregularities were found to be proved (Annexure-11). Resultantly, the impugned order was issued stopping the petitioners' M.P.O.

From Annexure-2 to the affidavit-in-opposition it appears that, earlier the Board representative made a statement on 06.12.2020 stating that the signature appeared in the tabulation sheet signed by him is correct. The DG representative also stated by the letter dated 30.11.2020 that his signature in tabulation sheet is correct (Annexure-3). Surprisingly, in 2023 when further allegation was raised in this regard, they both denied their earlier statements and claimed that their signatures on the tabulation sheet were not given by them (Annexures-6 and 7). On the basis of their

subsequent statements, the authority took action and issued the impugned order.

On the face of the record there appears a serious dispute as to the veracity of the statements made by the concerned DG representative and the Board representative as to their signatures on the tabulation sheet on 30.08.2013. This disputed question of fact cannot be resolved in writ jurisdiction, which needs to be done by conducting an enquiry upon taking evidence in this regard.

Furthermore, we find that the petitioners, before filing the present writ petition, made an application on 19.11.2024 (Annexure-M) before the Director General, Technical Education Directorate, for reconsideration of the order by which their M.P.O. was stopped but that application was not disposed of by the respondent. The writ petition was filed on 18.12.2024 and Rule Nisi was issued on 25.02.2025. During this period on 10.02.2025 the petitioner made another application for reconsideration of the impugned order (Annexure-O) but without any result till date.

In this context the relevant provisions of বেসরকারি কারিগরি শিক্ষা প্রতিষ্ঠান জনবল কাঠামো ও এমপিও নীতিমালা-২০১৮ requires to be looked into.

Rule 29.1.7 of বেসরকারি কারিগরি শিক্ষা প্রতিষ্ঠান জনবল কাঠামো ও এমপিও নীতিমালা-২০১৮ provides that, “এমপিও বিষয়ে উত্থাপিত অভিযোগের ক্ষেত্রে উপযুক্ত কর্তৃপক্ষ কর্তৃক তদন্তের ভিত্তিতে প্রাথমিক সত্যতা প্রমাণিত হলে ক্ষেত্রমতে এমপিও স্থগিত, কর্তন বা বাতিল করা হবে (কারিগরি ও মাদ্রাসা শিক্ষা বিভাগের অনুমোদনের আলোকে)।”

Rule 32 provides that, “৩২.১-এ নীতিমালার আওতায় অনিবার্য কারণে এমপিও স্থগিত, কর্তন বা বাতিল আদেশের বিরুদ্ধে প্রতিষ্ঠান বা শিক্ষক-কর্মচারী নিম্নোক্তভাবে সরকারের নিকট পুনঃ বিবেচনার জন্য আবেদন করতে পারবে:

৩২.১.১ এমপিও স্থগিত, কর্তন বা বাতিল আদেশ জারির ৩০(ত্রিশ) কার্য দিবসের মধ্যে প্রতিষ্ঠান প্রধান বা শিক্ষক-কর্মচারীকে মহাপরিচালক বরাবর উপযুক্ত কারণ উল্লেখ পূর্বক প্রমাণাদিসহ আবেদন করতে হবে।

৩২.১.২ মহাপরিচালক ৩০(ত্রিশ) কার্য দিবসের মধ্যে শুনানী গ্রহণ পূর্বক সুপারিশসহ কারিগরি ও মাদ্রাসা শিক্ষা বিভাগে প্রতিবেদন প্রেরণ করবে।

৩২.১.৩ কারিগরি ও মাদ্রাসা শিক্ষা বিভাগ পুনঃ বিবেচনার আবেদন চূড়ান্ত নিষ্পত্তির লক্ষ্যে একজন অতিরিক্ত সচিবের নেতৃত্বে নিম্নরূপে 'প্রতিষ্ঠান ও শিক্ষক-কর্মচারী এমপিও পুনঃ বিবেচনা কমিটি' গঠন করবে:

১। অতিরিক্ত সচিব/যুগ্মসচিব (প্রশাসন), কারিগরি ও মাদ্রাসা শিক্ষা বিভাগ সভাপতি

২। কারিগরি শিক্ষা অধিদপ্তরের প্রতিনিধি (পরিচালক পর্যায়ের নিম্নে নয়) সদস্য

৩। পরিদর্শন ও নিরীক্ষা অধিদপ্তরের প্রতিনিধি (যুগ্ম-পরিচালকের নিম্নে নয়) সদস্য

৪। কারিগরি ও মাদ্রাসা শিক্ষা বিভাগের অডিট ও আইন অনুবিভাগের প্রতিনিধি সদস্য

৫। কারিগরি ও মাদ্রাসা শিক্ষা বিভাগের কারিগরি অনুবিভাগের প্রতিনিধি সদস্য

৬। উপসচিব/সিনিয়র সহকারী সচিব (এমপিও), কারিগরি ও মাদ্রাসা শিক্ষা বিভাগ সদস্য

সচিব

কমিটি ৩০(ত্রিশ) কার্য দিবসের মধ্যে পুনঃ বিবেচনার আবেদনের বিষয়ে সুপারিশ করবে।

সচিব, কারিগরি ও মাদ্রাসা শিক্ষা বিভাগ উক্ত সুপারিশের আলোকে বিষয়টি নিষ্পত্তি করবেন”

As per the provision of Rule 32.0, the application for reconsideration has to be filed within 30(thirty) days of issuance of the relevant office order but in the instant case the order was issued on 25.09.2023 and the petitioners filed the application for reconsideration after a long period on 19.11.2024. There is a detail procedure described in Rule 32 about conducting the inquiry proceeding after receiving the application for reconsideration; however, the same was not followed by the authority perhaps due to the inordinate delay in filing the application by the petitioners.

In Rule 29.1.7 of the Rules of 2018 there is a requirement to take prior approval from the Technical and Madrasha Education Division before stopping, deducting or cancelling M.P.O. On meticulous perusal of the documents on record it transpires that no such approval from Vocational Education Division was taken before issuing the office order stopping the petitioners' M.P.O.

It is evident from the record that, after long 10 (ten) years of joining of the petitioners, the allegation of forged signatures of the DG representative as well as the Board representative has been raised by the authority and no individual show cause notice was issued upon the petitioners. Learned Advocate for the petitioners' submitted that since a vested right has been created in favour of the petitioners, a show cause notice ought to have been issued before stopping their M.P.O following the principle of natural justice. On this issue we find that, in the present case petitioners' M.P.O. was not cancelled, rather it was stopped on the

basis of a prima facie satisfaction followed by a primary inquiry to that effect; this is a temporary action. Final decision shall be taken after conducting the procedure as per the provision of Rule 32.0 upon receiving an application for reconsideration within 30 days of the issuance of the order. The present petitioners filed the application for reconsideration after more than a year, as evident from Annexure-M.

In view of the facts and circumstances stated hereinabove we are of the view that, since there are disputed questions of fact involved in this writ petition and the application of reconsideration is pending before the authority, ends of justice would be best served if we dispose of this Rule Nisi with the following direction upon the respondents:

The respondent no. 2 i.e. the Director General of Technical Education Directorate, is hereby directed to dispose of the application for reconsideration filed by the petitioners on 19.11.2024 and 10.02.2015 upon strictly following the procedure laid down in Rule 32.1.2 of the বেসরকারি কারিগরি শিক্ষা প্রতিষ্ঠান জনবল কাঠামো ও এমপিও নীতিমালা-২০১৮ and send the matter before the Technical and Madrasha Education Division for final disposal of the matter in accordance with law following the provision of Rule 32.1.3 of the aforesaid নীতিমালা-২০১৮.

The respondent No. 2 is further directed to condone the delay in filing the petitioners' application for reconsideration and give them opportunity to submit relevant documentary evidence and dispose of the same in the light of the observations made hereinabove within a period of 30 (thirty) working days from receiving this order without any fail.

Accordingly, the Rule is disposed of.

However, without any order as to costs.

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

Justice Sashanka Shekhar Sarkar, J:

I agree.

Farida/BO