

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

WRIT PETITION NO. 8137 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. Mamonor Rashid

-Petitioner

-VS-

Government of Bangladesh and others

-Respondents

And

Mr. Mohammad Hossain, Senior Advocate with
Mr. Kazi Akbar Ali, advocate

...For the Petitioner

Mr. Md. Mahfuzur Rahman (Milon), DAG with
Mr. Khan Ziaur Rahman, DAG and
Mr. Md. Nazmul Haque, AAG and
Mr. Manowarul Islam, AAG and
Mr. Al-Faishal Siddique, AAG and
Mr. Md. Emdadul Haif, AAG and
Mr. Khorshed Alam(Selim), AAG and
Mr. K. M. Rezaul Firoj (Rintu), AAG and
Mr. Ashraful Alam, AAG and
Mr. Md. Husni Mubarak, AAG

...For the Respondents-government

The 22nd of May, 2025

Present:

Mr. Justice Md. Akram Hossain Chowdhury
and

Mr. Justice Debasish Roy Chowdhury

In this application, filed under Article 102 of the Constitution of the
People's Republic of Bangladesh, 1972, the petitioner by way of Public
Interest Litigation (PIL) has challenged the judgment and decree dated

27.03.2025 passed by the respondent No.5, Joint District Judge, 1st Court and Election Tribunal, Dhaka in Election Tribunal Case No.15 of 2020 declaring the respondent No.6 as elected Mayor of Dhaka South City Corporation (Annexure H and H-1) and Notification No. 17.00.2600.035.46.003.20-120 dated 27.04.2025 published in the Official Gazette dated 27.04.2025 (Annexure-L) by the respondent Nos. 3 and 4 showing the respondent No.6 as elected Mayor of Dhaka South City Corporation.

Facts, in brief, are that on 03.03.2020 the respondent No.6 filed an Election Petition before Election Tribunal, Dhaka which was numbered as Election Tribunal Case No. 15 of 2020. Thereafter, without any Power of Attorney executed by the respondent No.6 one Mr. Rajib Bepari filed an application for amendment of the plaint replacing the main prayer and on 21.11.2024 same was allowed by the Tribunal. Subsequently, after concluding the trial on 27.03.2025 the respondent No.5 passed the impugned judgment and decree by declaring the respondent No.6 as elected Mayor of Dhaka South City Corporation with an direction upon the respondent No.4 to publish Gazette Notification within 10 (ten) days by showing the respondent No.6 as elected Mayor of Dhaka South City Corporation.

On 27.04.2025 the petitioner served a notice demanding justice upon all the respondents concerned and thereby, requested the respondent Nos. 3 and 4 not to publish the name of the respondent No. 6 in the

Official Gazette as directed under the judgment and decree dated 27.03.2025. But ignoring such legal notice dated 27.04.2025 the respondent No.4, the Election Commission, published a Gazette Notification by showing the respondent No.6 as elected Mayor of Dhaka South City Corporation. Challenging the said judgment and decree and Gazette Notification the petitioner filed the present writ petition.

In support of the assertions so made in the writ petition, Mr. Mohammad Hossain, learned Senior Advocate along with Mr. Kazi Akbar Ali, learned Advocate appearing for the petitioner submit that the impugned judgment and decree was passed by the learned Tribunal by going through fraudulent procedures and being a party of the said Election Petition the respondent Nos.3 and 4 failed to appear before the Tribunal and even after passing the said fraudulent judgment without challenging the said judgment they published the Gazette Notification showing the respondent No.6 as elected Mayor of Dhaka South City Corporation, which is arbitrary, illegal, unreasonable and against public interest.

To buttress his submissions the learned Advocates for the petitioner canvass the contention that the petitioner, a voter of Dhaka South City Corporation area and being a member of the Supreme Court Bar Association, is involved in public life and has no personal or private motive in filing the instant petition and therefore, he has *Locus Standi* for filing the present writ petition by way of Public Interest Litigation.

Per contra, Mr. Md. Mahfuzur Rahman (Milon), the learned Deputy Attorney General along with Mr. Khan Ziaur Rahman, the learned Deputy Attorney General representing the respondent Nos.1 to 4 resisting the stand of the petitioner, contended that, the instant Public Interest Litigation is a politically motivated petition having been filed with the oblique motive of gaining political mileage. That, the instant petition does not fulfil the requisite criteria of a Public Interest Litigation and the petitioner has no *Locus Standi* for filing this writ petition challenging a Election Tribunal Judgment. On this ground alone, it is liable to be rejected at the threshold.

They further submit that the writ petitioner was not a party of the Election Petition and without being a party there is no sanction of law for challenging any judgment passed by the Election Tribunal by way of Public Interest Litigation before the writ jurisdiction of the Hon'ble High Court Division.

Having heard the submissions advanced by Learned Advocates for the parties at length, it is worth remarking that Public Interest Litigation is that class of litigation where the public in general are interested, perceiving that public interest has been undermined by arbitrary or perverse executive action, which requires vindication of some right or the enforcement of some public duty. The Court, however, is to be prima facie satisfied that the information laid before the Court is of such a nature that it calls for examination. Public Interest Litigation is not a pill or a

panacea for all wrongs. It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the Courts, especially this Court, should leave aside procedural shackles and hear such petition and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected persons.

Moreover, it needs no emphasis that a petitioner filing a Public Interest Litigation is to specifically disclose his credentials and his direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. His petition must set forth what he does for a living, what public interest he has been espousing, the work done by him for such cause and the particulars of any matter preferred by him as Public Interest Litigation earlier. He cannot just file a Public Interest Litigation by stating that he is a citizen of Bangladesh and involved in public life being a Lawyer or a member of the Supreme Court Bar Association. His contribution must be indicated to the Court. From the records, there is no disclosure whatsoever as to what public interest the present petitioner espousing, the work done by him for such cause or his contribution to society at large.

The Courts expect a public interest litigant to discharge high standards of responsibility. Negligent use or use for oblique motives is extraneous to the Public Interest Litigation process and if that be so, the

application will be rejected at the threshold. Only a person acting bona fide will alone have *Locus Standi* can approach to the Court for ensuring that there is no violation of fundamental rights.

It is no more *res integra* that judicial interference by way of orders in a Public Interest Litigation can be exercised only if the Courts detect dereliction of constitutional or statutory obligations that have injured public interest. Having considered submissions advanced before us, we do not witness such a circumstance in the instant matter.

It is also apparent from section 37 of the Local Government (City Corporation) Act 2009 that only a contesting party of an election can file an Election Petition before the Election Tribunal and by virtue of Rules 61(3) of the Local Government (City Corporation) Election Rules, 2010 only aggrieved party of said Election Petition has the right to file an appeal before the Election Appellate Tribunal.

In the given context, it appears that the present writ petitioner was not a party to the Election Petition in question and there is an alternative forum for filing an appeal against the judgment of the Election Tribunal by any aggrieved party of the said Election Petition. Accordingly, the instant writ petition being a Public Interest Litigation is totally devoid of any merit and is liable to be summarily rejected as being not maintainable.

In light of the foregoing detailed discussions and having considered the grounds canvassed by the parties, we are of the view that without being a party in the Election Tribunal Case the petitioner cannot obliquely

espouse his own cause in order to satisfy his personal grievance and expect this Court to intervene in respect of a decision or direction passed by the Tribunal, which we, for reasons stated above, are not inclined to interfere.

In the facts and circumstances elucidated hereinabove, we are not inclined to interfere with the present writ petition which is not maintainable having no *Locus Standi* of the petitioner.

Accordingly, this writ petition is summarily rejected as being not maintainable without any order as to costs.

However, the days elapsed by this time, in the process of legal proceeding as proceeded is condoned in filing any appeal by any contending party of the Election Tribunal Case in question.

Communicate the order to the authority concerned, at once.