

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 8366 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:

Nadeya Nazneen

... Petitioner

-Versus-

The government of the people's republic of
Bangladesh and others

... Respondents

Ms. Nadeya Nazneen, Advocate

...For the petitioner-in-person

Mr. Syed Ejaz Kabir, DAG

with

Mr. Mohammad Imam Hossain, DAG

with

Ms. Mahbuba Tasnim Akhi, AAG and

Mr. Mustafizur Rahman Mukul, AAG

...For the government

**Heard on 23.11.2025, 24.11.2025
and Judgment on 24.11.2025**

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Hamidur Rahman

Md. Mozibur Rahman Miah, J.

On an application under article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the inaction and/or failure of the respondents to repay the principal fund of BDT 30,00000/- (Taka Thirty lakh only) along with accumulated interest accrued thereon upon maturity of the Fixed Deposit Account No. 108781 of the petitioner maintained with Bangladesh Post Office, Sher-e-Bangla Barishal Medical College (T.S.O) Post-Office Branch, Barishal should not be declared to be without lawful authority and is of no legal effect and as to why a direction should not be given upon the respondents to immediately pay the petitioner entire principal amount of BDT 30,00000/- (Taka Thirty lakh only) along with agreed accumulated interest accrued thereon upon maturity of the petitioner's Fixed Deposit Account being No. 108781 and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the rule, the respondent nos. 2-7 were directed to dispose of the petitioner's representations dated 20.11.2024 and 05.05.2025 as has been annexed as of Annexure-'C' and 'F' to the writ petition within a period of 03(three) working days with further direction to file affidavit-in-compliance by the said respondents by June 1, 2025. Record shows, in spite of receiving the notice of the direction together with the rule issuing order by the said respondents, they did neither dispose of the representation as has been stated hereinabove nor file affidavit-in-compliance compelling this court to pass a reminder on 02.06.2025 to comply with interim direction passed at the time of issuance of the rule making caution "without fail" fixing the matter on 23.06.2025 "for order.

Since the respondent nos. 2-7 have not complied with the direction even made on 02.06.2025, the rule issuing bench then fixed the matter for hearing on 29.07.2025 at the instance of the petitioner and the hearing continued before the rule issuing bench till 06.11.2025. However, on the back of reconstituting that bench, the matter went out of list treating the same as not heard-in-part. Against that backdrop, the matter was again fixed before this bench and we took up the matter for hearing accordingly.

The salient facts so figured in the writ petition leading to issuance of the instant rule are:

The petitioner on 05.02.2013 originally opened a Fixed Deposit (precisely FD) account bearing No. 108781 for taka 15,00,000/- (fifteen lakh only) in the Post Office Savings Bank at Sher-e-Bangla Medical College Post Office (T.,S.O), Branch, Basishal, and the said account was opened for 03(three) years term and accordingly a passbook was issued in the name of the petitioner and the said amount was duly made entry in the passbook affixing seal and putting signature by the authority concerned. On maturity of initial term, the petitioner then renewed the said FD account with accrued interest prevailing at the time of maturity upon deduction of applicable tax in accordance with the relevant provision of post office Savings Bank Rules. Lastly, the petitioner on 12.01.2020 renewed /reinvested taka 30,00,000/- (taka thirty lakh) for another tenure of 03 (three) years, and it was made entry duly in the passbook against the said FD account with signature and seal of the authority concerned of respondent no. 7. It has further been stated that upon maturity of three years, that is on 17.01.2023 the petitioner was entitled to receive an amount of taka 39,13,680/- on the face value of taka

30,00000/- with interest upon deduction of tax at source. The petitioner then on 16.10.2024 went to the concerned post office that is, respondent no. 7 to withdraw her aforesaid amount from her FD account by presenting her passbook along with other necessary document. However, the respondent no. 7 then examined the petitioner's passbook and other relevant documents who cross-checked the ledger book kept in his office (respondent no. 7) but at one point, he (respondent no. 7) instead of paying back the agreed sum against her FD account, kept on making different excuses and asked her to contact respondent no. 6. However, as per advice of the respondent no. 7, the petitioner then contacted the respective official of respondent 6 and explained him in details which earlier conveyed to her by respondent no. 7. The respondent no. 6 then checked and verified relevant records including the ledger book but surprisingly failed to pay money to the petitioner even though the said respondent no. 6 could provide any plausible explanation in not repaying the amount, the petitioner is entitled, only informed her that some dishonest and corrupt officials employed in the office of respondent no. 7 in collusion with each other had withdrawn and embezzled taka 25,00000/- from the FD account of the petitioner adopting fraud and forgery. It was also informed to the petitioner that the above incidents have also been conveyed to his higher authority. Having learned, the petitioner became completely shocked and stunned though the petitioner had not earlier been informed about the said incident though it reveals, the respondents were well aware of the said facts long before. Consequently, the petitioner lodged a formal written complaint to respondent nos. 6 and 7 on 20.10.2024 giving copy of the same to respondent no. 5 vide registered post with Acknowledgement

Due (A.D). However, despite receiving the said written complaint, the respondent nos. 5,6 and 7 neither bothered to respond to the petitioner nor took any steps whatsoever. Having found no response, the petitioner then vide letter dated 20.11.2024 informed the respondent nos. 1 and 3 elaborating entire incident and claimed to pay back her agreed amount against her FD account. However, it has been found that upon receiving the said letters, an inter departmental communication started among the respondents, as evident from letter dated 08.12.2024 (Annexure-‘D’ to the writ petition). However, in response to the petitioner’s subsequent letter (legal notice) dated 15.03.2025 (Annexure-‘E’ to the writ petition) the office of the respondent no. 5 undersigned by Additional Post Master General on 19.03.2025 sent a letter to the respondent no. 6 requesting him to provide update/ progress report to the concerned office (respondent No. 3) upon taking necessary measures regarding the matter. Finding no other alternative, the petitioner again on 05.05.2025 sent a letter to the respondent nos, 1,3,5,6 and 7 requesting them to take urgent step enabling her to receive the money with accrued interest. Despite those repeated endeavors, the respondents did not respond to the petitioner. Eventually, as the respondents did not pay any heed to her legitimate demands she was then compelled to issue a notice on 07.05.2025 upon respondent nos. 1,3,5-7 demanding justice asking them to take required actions paying back the amount accrued in her FD account within 24 hours. But as before, the respondents failed to respond to the said notice which is why she then compelled to file the writ petition and obtained rule as well as the interim direction as has been stated hereinabove.

Ms. Nadeya Nazneen, appearing in-person, upon taking us to the writ petition at the very outset submits that, the relationship between the petitioner and the respondents is of trustee (custodian of fund) and beneficiary whereby the respondents as a trustee is legally obliged to repay the deposited amount to the petitioner on its maturity however, in breach of the said trust, the respondent nos. 3-7 has miserably failed to keep their trust and repay the petitioner's amount on maturity demanded by her and therefore the petitioner is entitled to the money and the inaction to that effect shown by the respondents are required to be declared to have been made without lawful authority and is of no legal effect.

By taking us to the provision so have been provided in rule 21 of the Post Office Savings Bank Rules, the petitioner further contends that, as per the said rule there has been no scope to withdraw any amount of money from any FD account without production of respective passbook and but it was alleged an amount of taka 20 lakh and the 5 lakh was withdrawn on 05.09.2023 and 07.09.2023 through voucher from petitioner's FD account maintained with respondent no. 7 by some corrupt officials (as evident from annexure-‘5’ to the affidavit-in-opposition filed by respondent no. 5) but for that, the petitioner can in no way be deprived in getting her deposited fund with agreed rate of interest rather it is the respondents who are wholly responsible for committing such kind of deception with the petitioner.

The petitioner also contends that, the alleged embezzlement of the fund maintained by her in FD account with respondents no. 7, by some corrupt officials of respondent no. 6 and placed them under suspension is purely internal matter of the respondent. which has nothing to do with

getting back the money by the petitioner on maturity and since the petitioner opened the FD account with respondent no. 7 who is roundly responsible to pay the amount with accrued interest moment it becomes mature, when the petitioner cannot wait for time immemorial for the alleged internal communication to end something the respondents aim to fix liability of its corrupt officials.

The petitioner also contends that, the respondents have miserably failed to discharge their legal obligation by not taking into account whatsoever in regard to the representations made repeatedly to ameliorate the grievance of the petitioner and as such inaction or failure on the part of the respondents is gravely unwarranted, unlawful and the same is liable to be declared to have been made without lawful authority and is of no legal effect which manifests the vulnerability of the depositor's fund in such a public office. .

The petitioner by referring to different document so have been annexed with the writ petition as well as the affidavit-in-opposition also contends that, from those documents it transpires that the respondents are well aware of the incident of embezzlement of her fund much earlier but fact remains, they did not bother even to inform the said incident to the petitioner, let alone take urgent action to reimburse the amount to her petitioner which also demonstrate utter negligence and lack of diligence in handling hard earned money of small depositor by the respondents and therefore such stoicism of the respondents are liable to be declared unreasonable to have been made without lawful authority and is of no legal effect

The petitioner finally submits that, the failure/ inaction on the part of the respondent to address the issue forthwith are not only illegal but manifests gross violation of the fundamental right of the petitioner guaranteed under Article 31 and 44 of the Constitution and as a result such inaction on the part of the respondents, are liable to be declared so have been made without lawful authority and is of no legal effect. However, in support of her such submission the petitioner also placed her reliance to a decision in the case of West Bengal State Co-operative Bank Limited & others-Vs- Panjab National Bank and others held by the High Court of Calcutta by judgment dated 18.05.2022 which was upheld by a division bench of that state headed by Chief Justice vide judgment and order dated 22.03.2024 resolving the same issue as of the case to the petitioner and finally prays for making the rule absolute by giving a proper direction, by giving a time frame so that the respondents are obligated to pay the amount to the petitioner.

On the flipside, Mr. Mohammad Imam Hossain, the learned Deputy Attorney General by filing an affidavit-in-opposition mainly contends that after scrutinizing relevant documents, the respondents found two officials employed in respondent no. 6 committed alleged fraud and forgery primarily and it, undersigned by Assistant Post Master General suspended them on 15.10.2025. It has further been asserted by the learned Deputy Attorney General that the authority is sincerely working on the issue and the respondent no. 6 then on 29.06.2025 served letter to the chief Accounts Officer, Ministry of Post and Information and Technology, respondent no. 1 asking it to supply withdrawal voucher (উত্তোলন ভাণ্ডার) kept in its office (respondent no. 1) for conducting this writ petition. He further asserted that, the respondents have taken required steps to resolve the matter as requested

by the petitioner and even asked the concerned law enforcing agencies to look into the issue even though the respondents are obliged to return money to the petitioner in accordance with law as early as possible. With those assertion, the learned Deputy Attorney General finally prays for disposing of the rule.

Be that as it may, we have considered the submission so placed by the petitioner-in-person and the learned Deputy Attorney General for the respondent no. 5, Together, we have also gone through the writ petition and all the documents appended therewith vis-à-vis the affidavit-in-opposition and the documents annexed. On going through the averment so figured in the writ petition and that of the affidavit-in-opposition, we find that no intricate question of law and facts are involved in adjudicating the instant rule. There has been no gainsaying the facts and rather it turns out from Annexure-‘A’ to the writ petition that the petitioner lastly on 12.01.2020 deposited as total amount of taka 30,00000/- (taka thirty lakh) with respondent no. 7 under FD account No. 108781 which was scheduled to be matured on the expiry of 03(three) years that is, on 12.01.2023 to be returned back the said fund to be petitioner with accrued interest prevailed at the time of its depositon. From annexure Annexure-‘E-1’ to the writ petition, we also find that the Additional Post Master General, Khulna asked the respondent no. 6 to take immediate step to realize the misappropriated money from the delinquent staffs and let him informed the outcome. But fact remains, till filing of the writ petition no visible outcome emerged compelling the petitioner to take resort to this court. It is the contention of the petitioner that there has been no scope for any person other than a

depositor to withdraw the amount as it requires to produce passbook which is issued in favour of a depositor at the time of opening an FD account. But facts remains, it has been alleged as also found from annexure-‘5’ to the affidavit-in-opposition that through voucher taka 25,00000/- was withdrawn by two staffs of respondent no. 6. In that connection, the petitioner by referring to rule 21 and 25 of The Post Office Savings Bank Rules, contends that those rules clearly stipulate, without issuing and showing passbook against an FD account, neither any amount can be deposited nor it be withdrawn, where nothing has been mentioned in those two rules about the alleged withdrawn through “voucher”,

For our ready reference let us now reproduce the relevant part of those two rules here:

***“Rule 21.** The pass-book will show, in Bengali or in English, as the depositor may wish, the number of his account, with the name of the office from which the book is issued, his own name and address. No deposit can be made and no money can be withdrawn from an account without its production, and the Post Office will not be responsible for any sum not acknowledged in the pass-book.*

***Rule 25.** When a depositor who has not been issued a cheque book wishes to with-draw money, he must present his pass-book personally or by agent at the post office at which his account stands, with a printed form of application for withdrawal which can be*

obtained at the post office, signed by himself, and showing the balance at his credit and the amount which he wishes to withdraw. If the pass-book and application for withdrawal are presented by an agent, the name and signature of the agent should be entered in the application for withdrawal before it leaves the depositor's custody."

In view of the clear provision provided in those two rules we are thus totally at one with the said submission of the petitioner. So, what step is going to be taken by the respective authority of the respondents against their delinquent officials has nothing to do with in paying back the amount against the FD account to the petitioner on its maturity. But fact remains, from the record it shows, the respondents kept on communicating each other in the name of investigating the issue for fixing liability for the embezzlement of the amount. But there is no denying that passbook which is the core document in withdrawing the amount is all along lying with the petitioner. It is not the case of the respondent no. 5 or any other respondents that passbook has ever been produced to any respondents for withdrawal of the money which is *sine-quo non* both in parking any amount under an FD account or withdrawing it on maturity. Furthermore, from the rule issuing order we find that at the time issuing it on 21.05.2025 the respondent nos. 2 - 7 were directed to dispose of the representations of the petitioner which have been annexed as of Annexure-‘C’ and ‘F’ to the writ petition where the petitioner made a very naïve though legitimate prayer for returning back her deposited amount with accrued interest but showing utter audacity, those

respondents did not feel it bothered to dispose of the said representations let alone file any affidavit-in-compliance, compelling this court even to issue a reminder on 02.06.2025 making caution “**without any fail**”. Another pertinent point is that on the point of maintainability of the writ petition, the respondents in particular, respondent no. 5 did not raise any question in its entire affidavit-in-opposition when from paragraph no. 10 to the affidavit-in-opposition filed by the respondent no. 5 it rather asserted that the respondents are obliged to return money to the petitioner. So, non compliance of the direction by the respondent nos. 2-7 made by this court is nothing but a wanton violation of the order of this court which is contemptuous when the directions remains unchallenged before the Appellate Division.

Then again, we have very meticulously gone through the latest entry of taka 30 *lakh* in the passbook made as annexure-A’ to the writ petition, original of which has been shown by the petitioner at the time of hearing of the rule where we clearly find the column “withdraw” (উঠানো) against the deposit of taka of 30 lakh deposited on 12.01.2020 blank.

Simply Put, the petitioner reposed her absolute faith in the government savings scheme that is, Post Office Savings bank over any private functionaries and deposited her hard earned money. So, under no circumstances can the respondents play ducks and drakes with the fund of the petitioner. Though in support of her submission the petitioner placed her reliance in the decisions as has been stated hereinabove and on going through them we find that though the fact so have been described in those decisions are bit different from the present one but the legal proposition so

have been settled in the decisions is squarely applicable here particularly what has been held in paragraph nos. 37 and 38 thereof. Deep down, as per terms and condition in regulating an FD account, the respondents are duty bound to comply with the relevant rules of the post office Saving Bank rules by paying back the agreed amount and it is admitted fact that the petitioner deposited a total amount of taka 30 lakh on 12.01.2023, so on its maturity that is, on expiry of 3 years the respondent no. 7 is obliged to pay back the amount with interest accrued thereon. In view of the above discussion, observation and the submission so placed by the petitioner and that of the learned Deputy Attorney General, we find ample merit in the rule which has been issued both in the form certiorio and mandamus. It is admitted fact that validity of inaction involving fundamental right of a person of a republic can well be examined by this court under judicial review exercising Article 102 of the Constitution, if any breach is found to have committed by any state machinery.

Resultantly, the rule is made absolute however without any order as to costs.

The inaction and/or failure of the respondents to repay the principal fund of BDT 30 lack (Taka Thirty lackh only) along with accumulated interest accrued thereon upon maturity of the Fixed Deposit Account No. 108781 of the petitioner maintaining with Bangladesh Post Office, Sher-e-Bangla Barishal Medical College (T.S.O) Post-Office Brahch, Barishal, respondent no. 7 is thus declared illegal to be without lawful authority and is of no legal effect.

The respondent nos. 2-7 are thus directed to take urgent step in paying back taka 30,00000/- (taka thirty lakh only) to the petitioner deposited with respondent no. 7 on 12.01.2020 with agreed interest accrued thereon on its maturity under her FD account being no. 108781 maintained with respondent no. 7 within a period of 02(two) months from date.

The above respondents are further directed to pay interest at the rate of 9% per annum from the date of maturity of that amount till its realization along with the amount mentioned above also within 02 (two) months from date.

Let a copy of this judgment and order be communicated to the respondents by **special messenger** at the cost of the petitioner to be deposited within 07(seven) days from date.

Md. Hamidur Rahman, J.

I agree.