

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

Civil Revision No. 4507 OF 1991.

IN THE MATTER OF:

An application under Section 115(1) of the Code of Civil Procedure.

IN THE MATTER OF

Abdur Rahim.

... Petitioner.

-Versus-

Zaker Hussain and others.

... Opposite Parties.

None appears for both the sides.

Present:

Mr. Justice Md. Hamidur Rahman

Heard and judgment on: 02.06.2025.

This Rule under Section 115(1) of the Code of Civil Procedure was issued on 19.10.2003 in the following terms:

“Let the records be called for and a Rule issue calling upon the opposite party No.1 to show cause why the order complained of in this petition, moved in Court to-day should not be set aside or such other or further order or orders passed as to this Court may seem fit and proper.”

The opposite party No.1 as petitioner filed Election Tribunal Case No. 10 of 1984 before the Election Tribunal, Satkania Upazilla District Chittagong against Sultan Ahmed since

deceased and other contesting candidates with a prayer for declaring the election of Sultan Ahmed, the Chairman as void and alternatively the election of the Ward No. 1 and 3 be declared void and to declare him elected in place of Sultan Ahmed since deceased.

That the short fact of the election case is that the opposite party no. 1 contested the election along with other candidates for the post of Chairman of Nalua Union Parishad, Satkania , Chittagong along with 4 others and the same was held on 05.01.1984; that the opposite party found that the election in 2 centre of ward 1 and 3 could not be held peacefully and without interruption because of the rowdy behaviour of elected Chairman Sultan Ahmed since deceased ; that Sultan Ahmed resorted to hooliganism and others illegal means to get him elected; that Sultan Ahmed violated practice and procedures of election and managed to cast innumerable false votes by his followers by impersonation; that the presiding officer in ward No. 1 failed to control Sultan Ahmed who created such havoc in the election centre where the presiding Officer was compelled to postpone the polling for sometime and afterword the respondent No. 1 compelled the Presiding officer to restart the polling and in this way by resorting to unprecedented corruption he secured

highest number of votes and got him elected , hence the opposite party No. 1 filed the election petition.

That after the service of summons and notice late Mr. Sultan Ahmed entered appearance and filed written statement denying the martial allegation contending inter alia that the election in Ward No. 1 and 3 were held peacefully and without interruption where he was duly elected by securing highest number of votes as such the election petition is liable to be dismissed with cost.

That the case was heard by the learned Tribunal by examining a number of witnesses cited by the opposite party and Sultan Ahmed, the elected Chairman.

That in the meantime the elected Chairman Sultan Ahmed died and the present petitioner entered appearance by filling Vokatnama and resisted the election petition.

The Tribunal counted the ballots of Ward No.1 and 3 when the rule issued in writ Petition No. 152 of 1985 at the instance of Sultan Ahmed, the elected Chairman was discharged.

Thereafter, the learned Tribunal under complete misapprehension of law and facts and on the basis of partial recounting of ballot papers where most of the votes bagged by the elected Chairman were invalidated, the opposite party No. 1

was declared elected Chairman in place of Sultan Ahmed since dead.

That against the judgment and order of the Election Tribunal the petitioner preferred the appeal but the learned District Judge, Chittagong on misapprehension of law and facts affirmed the judgment of the Tribunal.

Being aggrieved by and dissatisfied with the judgment and order of the learned District Judge, Chittagong the above petitioner move this Court and obtained the present Rule.

That the matter appeared in the daily cause list on 02.06.2025 no one appears to contest the said case. On perusal of the papers I find that the petitioner challenged the judgment and order dated 30.11.1987 in Election Appeal No. 1 of 1987 by the District Judge, Chattogram in affirming the judgment and order dated 16.08.1987 passed by the Election Tribunal, Satkania Upazilla in Election Tribunal Case No. 10 of 1987, the tenure of the said Election already expired. Therefore, several elections were held and instant Rule issued became infructuous.

In view of the above the Rule is discharged as being infructuous. No order as to costs.

Let the judgment and lower Court's record be sent down at once.

(Md. Hamidur Rahman)