

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

**WRIT PETITION NO. 1211 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:**

Jhulan Kumar Das

.....Petitioner

**-Versus-**

Chattogram City Corporation, represented by the Mayor  
and others

... Respondents

Mr. Pankaj Kumar Kundu, Senior Advocate with  
Ms. Mukti Rani Kundu, Advocate

.....For the petitioner

Mr. M.A Hannan, Senior Advocate

... For the Respondent Nos.1 and 2

Mr. Akhtar Hossain Md. Abdul Wahab, DAG with

Mr. Sultan Mahmood Banna, DAG with

Ms. Khandaker Asma Hamid, AAG with

Mr. S.M. Emamul Musfiqur, AAG with

Mr. Md. Mashiur Rahman(Riad) AAG

Mr. Md. Mehebab Hossain, AAG with

.....For the Respondents

**Heard on 14.01.2025 and 28.01.2026.**

**Judgment on 15.02.2026.**

**Present:**

**Justice Fatema Najib**

**-And-**

**Justice A.F.M. Saiful Karim**

**A.F.M. Saiful Karim, J.**

On an application of the petitioner under Article 102 of the  
Constitution of People's Republic of Bangladesh a Rule Nisi was issued on the  
following terms:

*“Let the Rule Nisi be issued calling upon the respondents to show cause as to why the purported Memo No. 46.11.1600.001.31.076.10-1532 dated 15.12.2024 (Annexure-G) issued by the Mayor, Chottogram City Corporation (respondent no.1) removing the petitioner from the post of Executive Engineer (Electrical) should not be declared to have been made 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.”*

The relevant facts for disposal of the Rule as stated in the writ petition are as follows:

1. The petitioner is the Executive Engineer, Chottogram City Corporation. The petitioner got first appointment as a Sub-Assistant Engineer by order dated 29.03.1989.
2. The petitioner was given current charge of Assistant Engineer on 18.09.2001. Thereafter he was given current charge of Executive Engineer and lastly of Superintendent Engineer.
3. While he was performing function of Superintendent Engineer on current charge with original post of Assistant Engineer, he was promoted to the post of Executive Engineer by order dated 09.01.2020 and he also was given additional charge of Superintendent Engineer. The Local Government Division, Ministry of LGRD appointed the petitioner as project Director under the name “Modernization of City Street Light System” at

Different Areas under Chottogram City Corporation on 26.08.2020.

4. While in service he completed B.Sc Engineering from IEB and MBA Degree for which he had a legitimate expectation to be regularized in the post of Superintendent Engineer with appropriate scale of pay. Then he made representations to the Mayor of Chottogram City Corporation on 20.12.2021 and 10.01.2021 for regularization. But his representations were not considered. Thereafter, he filed Writ Petition no. 3635 of 2022 and obtained Rule Nisi which is still pending.
5. While performing function as Superintendent Engineer (Additional charge) the petitioner was suspended from the service by office order dated 14.08.2024 against which he filed appeal to the Administrator of Chottogram City Corporation but no step was taken by appellate authority. Rather on 26.09.2024 he was transferred to Rangpur City Corporation as Executive Engineer. Then he was re-transferred to Chottogram City Corporation on 08.12.2024.
6. Then the respondent no.1 removed him from the post of Executive Engineer vide memo dated 15.12.2024. He preferred an appeal to Respondent No. 3 i.e the Secretary, Local Government Division against the order of removal which has not yet been disposed of.

With these averments the petitioner filed the instant Writ Petition and obtained Rule Nisi.

The respondent No.1 contested the Rule by filing an affidavit-in-opposition contending *inter alia* that the respondent removed the petitioner as per the provision of rule 64(2) of the চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯; In the said rule it is clearly mentioned that the authority, either giving 90 days show case notice or after giving salary in cash of 90 days, can remove the employee; In the instant case the petitioner was removed giving 90 days salary in cash in accordance with rules, so, there is no illegality in removing the petitioner from service; The allegation was brought against the writ petitioner that during the anti-discrimination movement in July, 2024, the petitioner intentionally caused loadshedding at different points of Chottogram City between 3-5 August, 2024; The Chittagong City Corporation formed an inquiry committee to enquire into the matter; The inquiry Committee submitted a report giving opinion that there was negligence in performing his duty as he delegated the control of the road light server to a contractor company whose term had been expired long before. The petitioner filed an appeal against the impugned removal order which is still pending. During pendency of the appeal the petitioner is seeking remedy in the instant Writ Petition i.e the petitioner is seeking remedy simultaneously in two different forums for the same grievance which is not tenable in law. With these statements the respondent prays to discharge the Rule.

Mr. Pankaj Kumar Kundu, learned Senior Advocate for the petitioner submits that prior to removal the petitioner from the post of Executive Engineer a three member inquiry committee was formed and the said committee submitted its report wherein the allegation of keeping street lights switched off during 3-5 August, 2024 was not proved against the petitioner. He further submits that before issuing major penalty like removal

from service, the authority must follow the provisions of Rules 53 and 54 of the Chottogram City Corporation Employee Service Rules, 2019 but in the instant case the said provisions had not been followed. He next submits that the petitioner was removed from service under Rule 64(2) of the Chottogram City Corporation Employee Service Rules, 2019 but provisions of the said rule was not complied with. He by referring the decision reported in 14 BLT (AD)-25, submits that since the appeal filed was not disposed of within reasonable time, so Article 102 of the Constitution can be invoked. He also submits that even without filing appeal Article 102 of the Constitution can be invoked. With these submissions he prays to make the Rule absolute.

Mr. M.A.Hannan, learned Senior Advocate appearing on behalf of the respondent Nos. 1 and 2 have drawn our attention to Rule 64(2) of the চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯ i.e “এই বিধিমালায় ভিন্নরূপ যাহা কিছুই থাকুক না কেন, উপযুক্ত কর্তৃপক্ষ কোন কারণ দর্শাইয়া কোন কর্মচারীকে ৯০(নব্বই) দিনের নোটিশ প্রদান করিয়া অথবা ৯০(নব্বই) দিনের বেতন নগদ পরিশোধ করিয়া তাহাকে চাকরি হইতে অপসারণ করিতে পারিবে।” and submits that the petitioner was removed as per second part of that provision which is reflected in the impugned order. He further submits that in the inquiry report the allegation brought against the petitioner that during the anti discrimination movement in July, 2024 the petitioner intentionally cause loadshedding at different points of Chottogram City between 3-5 August, 2024 was proved. He next submits that the petitioner preferred appeal against the impugned order of removal from service before the respondent no. 3 and only after 1 month of filing appeal the petitioner filed the instant Writ Petition and thus the petitioner is seeking remedy simultaneously in two different forums for the same grievance which is not tenable in law. He also submits that the decision referred by learned Advocate for the Writ petitioner are not

applicable in the instant Writ Petition as the facts and circumstances of the cited cases and the instant case are totally different . With these submissions he prays to discharge the Rule.

We have heard the learned Advocates of the respective parties. Perused the Writ Petition, Supplementary Affidavit, Affidavit-in-opposition and the annexures annexed thereto.

Admittedly, the petitioner got first appointment of Sub-Assistant Engineer on 29.03.1989. Then he was promoted to Assistant Engineer, Executive Engineer. While he was sub- Assistant Engineer he was given in charge of Assistant Engineer, given in charge of Executive Engineer and again in charge of Superintendent Engineer. While he was performing to the post of Executive Engineer he was appointed as the Project Director under name “Modernization of City Street Light System” of different area under Chottogram City Corporation”. While in service he completed B.Sc Engineering from IEB and MBA Degree for which he had a legitimate expectation to be regularized in the post of Superintendent Engineer with appropriate scale of pay. Then he made representations to the Mayor of Chottogram City Corporation on 20.12.2021 and 10.01.2021 for regularization. But his representations were not considered. Thereafter, he filed Writ Petition no. 3635 of 2022 and obtained Rule which is still pending. While performing the functions as Superintendent Engineer (Additional charge) the petitioner was suspended from the service by office order dated 14.08.2024 against which he filed appeal to the Administrator of Chottogram City Corporation but no step was taken by appellate authority. Rather on 26.09.2024 he was transferred to Rangpur City Corporation as Executive Engineer. Then he was re-transferred to Chottogram City Corporation on 08.12.2024. Then the

respondent No.1 removed him from the post of Executive Engineer vide impugned memo dated 15.12.2024. He preferred an appeal to respondent No. 3 i.e the secretary, Local Government Division against the order of removal which has not yet been disposed of.

Now let us consider the submissions of the petitioner that-

1. Before imposing the major penalty “removal from service” the authority should follow the provisions of Rules 53 and 54 of the Chottogram City Corporation Employee Service Rules, 2019 which was not followed at all.
2. The allegation brought against him that keeping street light switched off during 3-5 August, 2024 which was not proved in the inquiry.
3. The petitioner was removed under Rule 64(2) of the Rules, 2019 but the impugned order does not reflect the provisions of law.

Perused Rule 50 (খ) of চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯.

The said provision clearly states which penalty are major. Those are:

(খ) গুরু দণ্ড:

(অ) নিম্নপদে বা নিম্ন বেতন স্কেলে অবনমিত করণ ;

(আ) কর্মচারী কর্তৃক সংঘটিত কর্পোরেশনের আর্থিক ক্ষতির অংশ বিশেষ বা সম্পূর্ণ তাহার বেতন বা অন্য কোনো খাতের পাওনা হইতে আদায়করণ ;

(ই) বধ্যতামূলক অবসর ;

(ঈ) চাকরি হইতে অপসারণ এবং

(উ) চাকরি হইতে বরখাস্ত।

Rules 53 and 54 state as to how the inquiry would be initiated and what will be the procedures to be followed in case of major penalty.

We have perused Annexure-2 to affidavit-in-opposition. It appears that on written allegation of the students against the petitioner an inquiry committee was formed consisting of three members. The petitioner was given an opportunity of being heard and the petitioner was allowed to submit his statement. The inquiry committee opined in their report as follows:

“(১) সকল সাক্ষীর বক্তব্য, দৈনিক পত্রিকায় প্রকাশিত প্রতিবেদন, তদন্ত কমিটি কর্তৃক লাইটিং সার্ভার পরিদর্শন, পরীক্ষা-নিরীক্ষা ও বিশেষজ্ঞ, মতামত গ্রহণ, পিডিবি'র সংশ্লিষ্ট জোনের মতামত গ্রহণ, বহদারহাট ও মুরাদপুর এলাকা পরিদর্শন, বিভিন্ন শ্রেণী ও পেশার স্থানীয় ব্যক্তিবর্গের বক্তব্য শ্রবনসহ ঘটনার পারিপার্শ্বিক অবস্থা পর্যালোচনায় তদন্ত কমিটির নিকট প্রতীয়মান হয় যে, ৩-৫ আগস্ট ২০২৪ খ্রি: তারিখ বহদারহাট ও মুরাদপুর এলাকায় সিটি কর্পোরেশনের সরক বাতি নেভানো ছিল।

(২) সড়ক বাতি নেভানোর বিষয়ে চট্টগ্রাম সিটি কর্পোরেশনের বিদ্যুৎ বিভাগের তত্ত্বাবধায়ক প্রকৌশলী (অতিরিক্ত দায়িত্ব) বুলন কুমার দাশ এর বিরুদ্ধে আনীত অভিযোগ সাক্ষ্য প্রমাণ দ্বারা প্রমাণিত হয়নি। তবে বিদ্যুৎ বিভাগের প্রধান হিসেবে উক্ত ৩ দিন ঐ এলাকায় বৈদ্যুতিক বাতি নেভানোর বিষয়ে কোন রকম ব্যবস্থা গ্রহণ না করে এবং সিটি কর্পোরেশনের উর্ধ্বতন কর্তৃপক্ষকে বিষয়টি অবগত না করে তিনি দায়িত্বহীনতা ও অবহেলার পরিচয় দিয়েছেন। দায়িত্ব পালনে এরূপ অবহেলা/ গাফিলতির জন্য তার বিরুদ্ধে বিধি মোতাবেক ব্যবস্থা গ্রহণ করার জন্য তদন্ত কমিটি সুপারিশ করছে।

(৩) জাইকার অর্থায়নে পরিচালিত প্রকল্পের মেয়াদ গত ১৫/০৩/২০২২ খ্রি: তারিখ এবং প্রকল্প পরবর্তী এক বছরের ডিফেক্ট লাইভেলোটি পিরিয়ড গত ১৫/০৩/২০২৩ খ্রি: তারিখে সমাপ্ত হলেও প্রকল্পের ঠিকাদারী প্রতিষ্ঠান এইচটিএমএস লিমিটেড যেভাবে এখনো সেন্ট্রাল সার্ভার পরিচালনার সাথে যুক্ত আছে তা তদন্ত কমিটির নিকট অস্বাভাবিক, নিয়ম বহির্ভূত ও অনৈতিক প্রতীয়মান হয়েছে। উক্ত বিষয়ে বিদ্যুৎ বিভাগের তত্ত্বাবধায়ক প্রকৌশলী (অতিরিক্ত দায়িত্ব) বুলন কুমার দাশ তার দায় কোনভাবে এড়াতে পারে না। এমতাবস্থায়, ১৮ মাস পূর্বে প্রকল্পের মেয়াদ শেষ হওয়া স্বত্বেও বুলন কুমার দাশ কর্তৃক বিধি বহির্ভূত প্রকল্পভুক্ত ঠিকাদারী প্রতিষ্ঠানকে দিয়ে সড়ক

বাতির সাভার নিয়ন্ত্রণ বা তদারকির দায়ে তার বিরুদ্ধে প্রশাসনিক/আইনানুগ ব্যবস্থা করা যেতে পারে।”

In the Inquiry report the committee found the Writ Petitioner’s negligence in performing his duty and the petitioner illegally delegated the control of the road light server to a contactor company whose term had been expired long 18 months before and recommended that administrative or legal action can be taken against him.

To appreciate further the submissions advanced by the learned Advocates of both sides, we need to quote the Rule 64(2) of the চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯।

Rule 64 of the বিধিমালা, ২০১৯ is quoted below:

“ ৬৪ চাকরি অবসার, চাকরি হইতে অপসারণ, ইত্যাদি।

(১) .....

(২) এই বিধিমালায় ভিন্নরূপ যাহা কিছুই থাকুক না কেন, উপযুক্ত কর্তৃপক্ষ কোন কারণ দর্শাইয়া কোন কর্মচারীকে ৯০(নব্বই) দিনের নোটিশ প্রদান করিয়া অথবা ৯০(নব্বই) দিনের বেতন নগদ পরিশোধ করিয়া তাহাকে চাকরি হইতে অপসারণ করিতে পারিবে।”

On plain reading the above sub rule-2 of Rule 64 it is crystal clear that the appropriate authority is given power to remove any employee giving 90 days show cause notice or after paying the salary of 90 days in cash.

Let us consider the impugned order (Annexure-G to the Writ Petition) which is quoted below:

“চট্টগ্রাম সিটি কর্পোরেশন  
সচিবালয় বিভাগ  
সংস্থাপন শাখা

স্মারক নং. ৪৬.১১.১৬০০.০০১.৩১.০৭৬.১০.১৫৩২

তারিখ ১৫.১২.২০২৪

অফিস আদেশ

জনাব ঝুলন কুমার দাশ, নিবহী প্রকৌশলী (সাময়িক বরখাস্ত), বিদ্যুৎ উপ-বিভাগ, চট্টগ্রাম সিটি কর্পোরেশনকে চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯, এর ৬৪(২) ধারার প্রদত্ত ক্ষমতাবলে জনস্বার্থে চট্টগ্রাম সিটি কর্পোরেশনের চাকরি হতে অপসারণ করা হল। তিনি বিধি মোতাবেক ৯০(নব্বই) দিনের বেতন নগদে প্রাপ্য হবেন।

২. এ আদেশ অদ্য হতে কার্যকর হবে।

(ডা: শাহাদাত হোসেন)  
মেয়র  
চট্টগ্রাম সিটি কর্পোরেশন।”

It reveals that the petitioner was removed with 90 days salary in cash in accordance with the provision of rule 64(2) of চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯.

It is pertinent to note that since appeal was filed against the impugned order and during pendency of the appeal this Writ Petition was filed after 01(one) month of filing appeal and only one month time can not be said to be reasonable for disposal of the appeal. In the decision, referred by the learned Advocate for the petitioner, reported in 14 BLT (AD)-25 it appears that the impugned dismissal order was declared to have been passed without lawful authority. In the said case without filing appeal writ petition was filed. Record shows that instant the petitioner filed appeal against the impugned order which is still pending for disposal before the respondent No. 3. During the pendency of appeal he filed the instant Writ Petition. Thus the facts and circumstances of the cited case is totally different from the instant one. So, the said decision is not applicable in the present case. The petitioner was seeking remedy simultaneously in two different forums for the same grievances, so, the instant Rule is not maintainable.

At this stage this court consider it reasonable not to give any opinion as to the veracity of the allegations brought against the petitioner of

keeping street light switched off during Anti-discrimination movement on 3-5 August, 2024 and as to whether there is any procedural/legal impropriety of the impugned order which will have direct bearing upon the pending appeal to be disposed of by the respondent No.3.

Having regard to facts and relevant law we are of the opinion that as the removal order passed as per the provision of Rule 64(2) of the চট্টগ্রাম সিটি কর্পোরেশন কর্মচারী চাকরি বিধিমালা, ২০১৯ is under challenge in appeal, during pendency of the said appeal the instant writ petition is not maintainable.

In the result, the Rule is discharged on the ground of maintainability only without any order of cost.

Let a copy of this judgment immediately be transmitted to the respondents at once.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J:

