

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

Writ Petition No. 5540 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. Abdul Hai Talukder and others
.....Petitioners

-Versus-

Present:
Mr. Justice Sashanka Shekhar Sarkar
And
Justice Urmeem Rahman

Bangladesh, represented by the Secretary,
Ministry of Law, Justice and
Parliamentary Affairs, Government of
People's Republic of Bangladesh and
others

..... Respondents

Mr. Md. Bodruddoza, Senior Advocate with
Ms. Sufia Ahmed, Advocate

...For the petitioners

Mr. Mohammad Waliul Islam Oli, D.A.G with
Mr. Md. Ershadul Bari Khandakar, D.A.G,
Ms. Nilufar Yesmin, A.A.G,
Mr. Md. Moshir Rahman (Rahat), A.A.G,
Mr. Md. Motasin Billah Parvez, A.A.G and
Mr. Md. Faridul Islam, A.A.G

.... For the respondents

Heard on 9.02.2026, 23.02.2026, 24.02.2026
and Judgment on 25.02.2026

Urmeem 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*

inaction of the respondents to implement and give effect to the decision and resolution adopted by the Ministry of Law, Justice and Parliamentary Affairs in its meeting held on 04.11.2018 to raise the retirement age/validity of license of Nikah Registrars to 72 years shall not be declared to have been made without lawful authority and is of no legal effect and further as to why the respondents shall not be directed to issue SRO to amend the Muslim Marriages and Divorces (Registration) Rules, 2009 in line with the aforesaid decision and resolution of the Ministry of Law, Justice and Parliamentary Affairs and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Relevant facts for disposal of the instant Writ Petition, in short, are that, the petitioners are the licensed Nikah Registrar of different areas under Dhaka City Corporation, who obtained their licenses on different dates and have been performing regularly. According to Rule 12 of the Muslim Marriages and Divorces (Registration) Rules, 2009, the validity of a license of a Nikah Registrar expires on the attainment of the age of 67 years. On the basis of the demand made by the Bangladesh Muslim Nikah Registrar’s Welfare Association regarding amendment of Muslim

Marriages and Divorces (Registration) Rules, 2009 a meeting of the Ministry of Law, Justice and Parliamentary Affairs was held on 04.11.2018. In that meeting a number of issues were discussed amongst which there was one issue as to enhancing the validity of the license of a Nikah Registrar up to the attainment of the age of 75 years. Upon discussion the committee agreed that it would be reasonable if it is extended till the attainment of the age of 72 years. Finally, it was unanimously decided in that meeting, amongst others, that the validity of the license of the Bangladesh Muslim Nikah Registrars would be enhanced up to the attainment of 72 years.

Till date the Ministry has not taken any action to make necessary amendment in the said Rules of 2009 by implementing the aforesaid decision. In view of such inaction of the respondents, the petitioners submitted a joint representation dated 16.02.2025 to the Respondent no. 1 seeking implementation of the decision of the Ministry to enhance the validity of the license of the Nikah Registrars but no response thereto has yet been made.

Finding no other alternative and efficacious remedy, the petitioners have filed the instant writ petition in the form of mandamus and obtained the Rule and a direction upon the Respondent no. 1 to dispose of their letter dated 16.02.2025.

Learned Senior Advocate Mr. Bodruddoja with Ms. Sufia Ahamed appeared on behalf of the petitioners and submits that, the Ministry having decided to raise the retirement age and validity of

Nikah Registrar licenses to 72 years vide the decision and resolution adopted in the meeting held on 04.11.2018, there is no lawful justification for the respondents' failure and inaction to implement the said decision by issuing SRO to bring necessary amendment to the Muslim Marriages and Divorces (Registration) Rules, 2009 to that effect.

He further submits that, since the respondents have failed to take necessary steps to implement the decision of the Ministry even after lapse of more than 6 years, the intervention by this Hon'ble court is necessary to protect the rights of the petitioners and their legitimate expectation to function as Nikah Registrars till attaining the age of 72 years. As such he prayed that, the respondents are liable to be directed to issue SRO to implement and give effect to the decision of the Ministry in this regard.

Mr. Md. Walilul Islam Oli, the learned Deputy Attorney General opposed the Rule but without filing any vokalatnama or affidavit in opposition.

We have heard the learned advocates for the petitioners as well as the learned Deputy Attorney General and perused the writ petition and the documents on record.

It appears from the record that no Notice Demanding Justice was made by the petitioners before filing the writ petition though prayer was made in the form of a mandamus. However, subsequently a supplementary affidavit has been filed on

23.02.2026 annexing a Notice Demanding Justice dated 22.02.2026.

Rule 12 of the Muslim Marriages and Divorces (Registration) Rules, 2009 provides as follows:

“১২। বয়স পূর্তিতে লাইসেন্সের অবসান। এই বিধিমালার অধীন কোন লাইসেন্স পূর্বেই বাতিলকৃত না হইলে, নিকাহ রেজিস্ট্রারের লাইসেন্সপ্রাপ্ত ব্যক্তির বয়স ৬৫ (পয়ষাট্টি) বছর পূর্ণ হওয়ার তারিখে স্বয়ংক্রিয়ভাবে উক্ত লাইসেন্সের কার্যকারিতার অবসান ঘটিবে।”

It appears from Annexure-F that, on 04.11.2018 a meeting was held by the Ministry of Law, Justice and Parliamentary Affairs, presided over by the Joint Secretary (Administration-1), Law and Justice Division with the presence of six others including the Secretary General and Vice president of the Bangladesh Muslim Nikah Registrar's Welfare Association. The meeting was held to discuss on the proposed amendments in the Muslim Marriages and Divorces (Registration) Rules, 2009. Finally, amongst seven others decisions, it was unanimously decided that the validity of the license will be enhanced till attainment of the age of 72 years of the license holder. The meeting ended with the following decision, “সভার সভাপতিকে মাননীয় মন্ত্রী মহোদয় জরুরীভাবে অন্য একটি সভায় অংশগ্রহণের নির্দেশ প্রদান করায় তিনি বলেন যে, অদ্যকার মতো এ পর্যন্তই থাকুক। এ বিষয়ে তিনি মাননীয় মন্ত্রী মহোদয়কে অবহিত করবেন এবং আর্থিক বিষয়সহ অন্যান্য বিষয়সমূহ মাননীয় মন্ত্রী মহোদয়কে অবগত করে পরবর্তী সভাসমূহে সিদ্ধান্ত গ্রহণ করা হবে।”

No such decision was taken thereafter by the concerned Minister and therefore we find that the decision adopted in the aforesaid meeting did not reach its finality.

In support of their case the learned Advocate refers to the case of *Secretary, Ministry of Industries Vs. Saleh Ahmed and another* reported in *1981 BLD (AD) 91*. In that case the following principle laid down by Lord Denning J. was adopted, “ Where parties enter into an arrangement which is intended to create legal relation between them and in pursuance of such arrangement one party makes a promise to the other which he knows will be acted on and which is in fact acted on by the promisee, the Court will treat the promise as binding on the promisor to the extent that it will not allow him to act inconsistently with it even although the promise may not be supported by consideration in the strict sense.....”. In the case referred by the learned Advocate for the petitioner the subject matter was that, the Government took a formal decision to release the Mill in favour of the petitioner in that case but subsequently failed to do so. Hence it was held that Government was bound to implement its earlier decision.

We find that the fact and circumstances of that case is absolutely different from the case in our hand and therefore there is no manner of applicability of that principle in the present matter.

In the instant case the petitioners prayed for a direction upon the Respondents in the form of a mandamus to amend the Rules of 2009 in the line of the abovementioned decision.

It is a settled principle by a number of judicial decisions that a policy decision does not create enforceable legal right until incorporated into law and also no mandamus shall be issued directing the legislature to enact or amend particular law. In the case of ***Government of Bangladesh Vs. Shah Jamal Mollah and another*** in **Civil Petition for Leave to Appeal No. 1187 of 2018** it was held by the Appellate Division that, *“The High Court Division exceeded its jurisdiction assuming the power of Legislature, thereby, extending the retiring age limit of the Freedom Fighters, who have been serving in the service of the Republic. The High Court Division cannot usurp the functions assigned to the Legislature or Executive to exercise their constitutional power in any manner.”*

We have already observed that no final decision on this particular issue was arrived at by the concerned Ministry and even if it was, no direction can be issued in a judicial review in this regard until that decision is implemented by them.

Therefore we find that the Rule issued in the instant writ petition is devoid of any substance.

In the result, the Rule is discharged.

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.