

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

WRIT PETITION NO. 10033 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:

Mohammed Jahangir Alam, son of Hamid
Sharif, Mother- Sanoara Begum House of
Hamid Sharif of Village- South Char Hazari,
Shikolbaha, Post Office- Shikolbaha-4371
Former Police Station- Potiya, present Police
Station- Karnafully, District- Chattogram.
... Petitioner

-Versus-

The Secretary, Local Government Division,
Ministry of Local Government, Rural
Development and Co-operative, Bangladesh
Secretariat, Dhaka and others.
... Respondents

Mr. Syed Mamun Mahbub, Senior Advocate with
Mr. A.K.M. Fakhurul Islam,
Mr. Md. Masum Billah, Advocates
...For the petitioner

Mr. Joynal Abedin, Senior Advocate with
Mr. M. Mainul Islam, Advocate
...For the respondent no. 6

Heard and Judgment on 16.09.2025

Present:

Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Biswajit Debnath

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 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the office order vide Memo No. 05. 42. 1500. 701. 70. 014. 24. 381 dated 17.06.2025 issued under the signature of respondent no. 3 (Annexure-‘G’ to the writ petition) should not be declared to have been issued without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.”

At the time of issuance of the rule, the operation of the impugned office order dated 17.06.2025 (Annexure-‘G’ to the writ petition) was stayed for a period of 2(two) months which was lastly extended on 03.09.2025 for another 6(six) months.

The short facts leading to issuance of the rule are:

The petitioner is an elected Member and nominated Panel Chairman-2 of Number 3, *Shikolbaha* Union Parishad, Police Station-Karnafully, District- Chattogram. The election in *Shikolbaha* Union Parishad was held and the petitioner was elected as a Member of Ward No. 9 in the said Union Parishad under Police Station-Karnafully, District-

Chattogram on 14.02.2022. Then the elected Chairman of the said Union Parishad and other 12 (twelve) members took resolution constituting 3 (three) member Panel Chairman where petitioner became Panel Chairman Number-2 in accordance with section 33 of the Local Government (Union Parishad) Ain, 2009. On 13.05.2025, the petitioner submitted an application to the respondent no. 3, Deputy Commissioner praying for nominate him as Panel Chairman of the said Union Parishad. On the other hand, the respondent no. 5 on 04.06.2025 issued a letter being Memo No. 05.42.1539.000.16.008.22-236 to the Deputy Director of respondent no. 4 recommending to handover financial and administrative power to the petitioner. The respondent no. 3 then handed over the financial and administrative power to the petitioner as of Panel Chairman of *Shikolbaha* Union Parishad, Karnafully, Chattogram vide an office order being No. 05.42.1500.701.70.014.25.373 dated 04.06.2025. The respondent no. 3 on 17.06.2025 again vide an office order assigned financial and administrative power to the respondent no. 5 of that *Shikolbaha* Union Parishad. The petitioner then on 19.06.2025 filed applications both before respondent nos. 2 and 3 for canceling the said office order dated 17.06.2025 issued by the respondent no. 3, Deputy Commissioner, Chattogram, but of no avail.

By filing a supplementary-affidavit dated 02.09.2025, it has further been asserted by the petitioner that the writ respondent no. 5-Upazila Nirbahi Officer (shortly, UNO), Karnofully Upazilla, Chattogram after receiving the order of this Hon'ble Court passed in the Writ Petition on 30.07.2025 issued a letter to the Senior Assistant Commissioner, Local

Government Department, Chattogram apprising him that the petitioner had been performing his function as a Panel Chairman with full satisfaction of all concern till date. It has further been stated that one, S.M.N. Jamiul Hikma, Senior Assistant Commissioner, Local Government Department on 15.07.2025 issued a letter to the respondent no. 5 asking it to furnish report with specific opinion on the back of the filing writ petition. It has also been stated that the petitioner remained present in the Union Parishad and presided over a number of meetings where discussion was made on law and order situation in *Shikolbaha* Union. It has further been asserted that the petitioner has been regularly issuing different kind of certificates and issued a host of trade licenses. Aside from that the petitioner has regularly been presiding over Village Court and has passed orders thereof in his capacity as Panel Chairman of *Shikolbaha* Union Parishad. The petitioner has also received DWB Program Food Grains (Rice) from the Upazila DWB Committee. It has further been asserted that as per circular dated 19.08.2024, it has clearly been outlined that if the office of a Chairman of Union Parishad remains vacant for any reason in that case, the respondent no. 2 can assign financial and administrative power to the Penal Chairman and since the writ petitioner being the only available Panel Chairman and has thus been assigned such duties as of Chairman of *Shikolbaha* Union Parishad as per section 33, 101 and 102 of the Local Government (Union Parishad) Ain, 2009 and that of the said circular dated 19.08.2024.

Mr. Syed Mamun Mahbub, the learned senior counsel appearing for the petitioner by taking us to the writ petition together with all the

annexure appended therewith and that of the supplementary-affidavit at the very outset submits that the respondent nos. 2 and 3 with a malafide intention and being biased by a vested interested group published the impugned office order dated 17.06.2025 and as such the same is liable to be declared to have been passed without lawful authority and is of no legal effect.

The learned counsel further contends that the respondent nos. 2 and 3 by colorable exercise of power most illegally kept on showing reluctance in taking appropriate legal step in disposing of the application of the petitioner filed to them dated 19.06.2025 (Annexure-‘H’ and ‘H-1’ to the writ petition).

The learned counsel next contends that under Article 44(1) of the Constitution it is the absolute authority of this Hon’ble court to ensure that the petitioner enforces his fundamental rights guaranteed under Article 102(1) of the Constitution of Bangladesh.

The learned counsel also contends that the impugned letter was issued in an arbitrary manner without following the relevant *Nitimala* of the Local Government (Union Parishad) Ain, 2009 and as such, the impugned office order dated 17.06.2025 is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel further contends that the impugned office order is malice in law and fact as well as violation of natural justice and as such, the impugned office order dated 17.06.2025 is liable to be declared to have been issued without lawful authority and is of no legal effect.

With those submissions, the learned counsel finally prays for making the rule absolute.

By contrast, Mr. Joynal Abedin, the learned senior counsel appearing for the respondent no. 6 by filing an affidavit-in-opposition contends that the Ministry on extraneous circumstances to keep the activities of Union Parishad working, vide a Circular dated 19.08.2024 delegated authority to respective Divisional Commissioner/Deputy Commissioner to assign financial and administrative power of Union Council upon UNO/Assistant Commissioner (Land) [AC (Land)] to keep it functioning and pursuant to that circular the respondent no. 5, UNO was authorized with financial and administrative power to keep *Shikolbaha* Union Parishad active which has rightly been done in full compliance with impugned office order dated 17.06.2025 and hence, no illegality has been committed and as such the rule is liable to be discharged.

The learned counsel next contends that the writ respondents in full compliance with the circular issued by the Ministry dated 19.08.2024 and to meet the demand of exigencies of the time, removed the writ petitioner from his new position and as such, the office order dated 17.06.2024 issued by the Deputy Commissioner is liable to be maintained.

The learned counsel further contends that after July-Revolution, 2024 and under new circumstances, the respondent no. 5 was assigned the responsibility to conduct financial and administrative works of the Union Parishad in question, but the government executives on 04.06.2025 for reasons best known to them, authorized a fascist ally for such an important public service and therefore, the rule is liable to be discharged.

The learned counsel wrapped up his submission contending that if such a controversial personality (writ petitioner) is again re-instated in the same position, law and order situation will certainly be deteriorated, as was made earlier and will cause serious havoc in the administration and therefore, the rule is liable to be discharged for greater interest of the local people.

We have considered the submission so advanced by the learned senior counsels for the petitioner and that of the respondent no. 6. Together, we have gone through the documents so annexed with the writ petition, supplementary-affidavit *vis-à-vis* the affidavit-in-opposition filed by the respondent no. 6.

On going through the impugned office order (Annexure-‘G’ to the writ petition) dated 17.06.2025 issued by the respondent no. 3, we find that the respondent no. 5 was assigned with the financial and administrative authority for streamlining public welfare and administrative activities (জনসেবা ও প্রশাসনিক কার্যক্রম) of *Shikolbaha* Union Parishad.

In doing so, reference has been given to a circular (পরিপত্র) issued on 19.08.2024 by the Senior Assistant Secretary attached with the respondent no. 1 to have made under the provision of sections 101 and 102 of the Local Government (Union Council) Act, 2009 (স্থানীয় সরকার (ইউনিয়ন পরিষদ) আইন, ২০০৯).

For ready reference, let us reproduce sections 101 and 102 of the said Act here:

“ধারা ১০১। এই আইনের বিধানাবলী কার্যকর করিবার ক্ষেত্রে কোন অসুবিধা দেখা দিলে সরকার, উক্ত অসুবিধা দূরীকরণার্থ, আদেশ দ্বারা, প্রয়োজনীয় যে কোন ব্যবস্থা গ্রহণ করিতে পারিবে।

ধারা ১০২। (১) সরকার, সরকারি গেজেটে প্রজ্ঞাপন দ্বারা, এই আইন বা বিধিসমূহে বর্ণিত, যেকোন ক্ষমতা বিভাগীয় কমিশনার বা তাহার অধীনস্থ কোন কর্মকর্তাকে অর্পণ করিতে পারিবে।

(২) বিভাগীয় কমিশনার, সরকারের পূর্বানুমোদনক্রমে, তাহার উপর অর্পিত যেকোন ক্ষমতা তাহার অধীনস্থ অন্য কোন কর্মকর্তাকে অর্পণ করিতে পারিবে।”

On plain reading of those two provisions, we simply find that in order to obviate any inconvenience in implementing any provision of the Act, the government can take necessary step to be carried out through the Divisional Commissioner or by any officer subordinate to it. By virtue of such authority, circular was issued by the Senior Secretary of respondent no. 1 on 19.08.2024 (Annexure-‘O’ to the supplementary-affidavit). However, by exerting such authority, the petitioner was then assigned the responsibility to oversee the financial and administrative function of *Shikolbaha* Union on 04.06.2025 (Annexure-‘F’ to the writ petition) being Panel Chairman No. 2 who was earlier appointed vide resolution taken in the first meeting dated 14.02.2022 by all elected members of the Union Parishad (Annexure-‘C’ to the writ petition) under the provision of section 33 of the Ain of 2009.

Now let us take a glance of the provision so provided in section 33 of the Ain of 2009 here as well:

“ধারা ৩৩। (১) পরিষদ গঠিত হইবার পর প্রথম অনুষ্ঠিত সভার ৩০ (ত্রিশ) কার্যদিবসের মধ্যে অগ্রাধিকারক্রমে ৩ (তিন) সদস্যবিশিষ্ট একটি চেয়ারম্যানের প্যানেল, সদস্যগণ তাঁহাদের নিজেদের মধ্য হইতে নির্বাচন করিবেনঃ

তবে শর্ত থাকে যে, নির্বাচিত ৩(তিন) জন চেয়ারম্যান প্যানেলের মধ্যে কমপক্ষে ১ (এক) জন সংরক্ষিত আসনের^১[নারী] সদস্যগণের মধ্য হইতে নির্বাচিত হইবেন।

(২) অনুপস্থিতি, অসুস্থতাহেতু বা অন্য যে কোন কারণে চেয়ারম্যান দায়িত্ব পালনে অসমর্থ হইলে তিনি পুনরায় স্বীয় দায়িত্ব পালনে সমর্থ না হওয়া পর্যন্ত চেয়ারম্যানের প্যানেল হইতে অগ্রাধিকারক্রমে একজন সদস্য চেয়ারম্যানের দায়িত্ব পালন করিবেন।

(৩) পদত্যাগ, অপসারণ, মৃত্যুজনিত অথবা অন্য যে কোন কারণে চেয়ারম্যানের পদ শূন্য হইলে নির্বাচিত নতুন চেয়ারম্যান কার্যভার গ্রহণ না করা পর্যন্ত চেয়ারম্যানের প্যানেল হইতে অগ্রাধিকারক্রমে একজন সদস্য চেয়ারম্যানের দায়িত্ব পালন করিবেন।

(৪) এই আইনের বিধান অনুযায়ী চেয়ারম্যানের প্যানেলভুক্ত সদস্যগণ অযোগ্য হইলে অথবা ব্যক্তিগত কারণে দায়িত্ব পালনে অসম্মতি জ্ঞাপন করিলে পরিষদের সিদ্ধান্তক্রমে নতুন চেয়ারম্যানের প্যানেল তৈরী করা যাইবে।

(৫) উপ-ধারা (১) ও (৪) অনুযায়ী সদস্যদের মধ্য হইতে চেয়ারম্যানের প্যানেল প্রস্তুত করা না হইলে, সরকার প্রয়োজন অনুসারে, সদস্যগণের মধ্য হইতে চেয়ারম্যানের প্যানেল তৈরী করিতে পারিবে।”

Now if we place sections 101 and 102 juxtaposition with section 33 of the Ain, we clearly find that section 33 is a substantive provision of law over those two sections i.e. sections 101 and 102 of the Ain of 2009 which are mere residuary one. And for having arisen extraneous circumstances and to give application to section 33(2) of the Ain, a circular was then issued on 19.08.2024 (Annexure- ‘O’ to the supplementary-affidavit) in pursuance of section 101 of the Ain and the petitioner was thus rightly assigned the financial and administrative authority vide office order dated 04.06.2025 by the respondent no. 3 as a delegated authority of respondent no. 2 (Annexure-‘F’ to the writ petition). But funnily enough, during subsistence of such authority to have carried out by the petitioner, the respondent no. 5 was given same authority vide impugned office order dated 17.06.2025– just within 13 days of earlier office order dated 04.06.2025 even without cancelling earlier office order narrating similar circumstances that “চট্টগ্রাম জেলার কর্ণফুলী উপজেলাধীন ৩নং শিকলবাহা ইউনিয়নের জনসেবা ও প্রশাসনিক কার্যক্রম গতিশীল রাখার স্বার্থে”.

So, on the face of the impugned office note, it turns out, how capricious manner an office order can be issued by the respondent no. 3. On top of that, under no circumstances, can the respondent no. 3 assigned any sort of responsibility of a Union Parishad upon any officer subordinate to it in absence of any provision provided in sections 101 and 202 of the Ain, 2009 as those two sections has never mandated either to the respondent no. 2 or respondent no. 3 to assign such authority. So what has been done vide impugned office order dated 17.06.2025 is a brazen violation of section 33 of the Ain of 2009.

Because, in section 33 of the Ain, a comprehensive recourse has been laid out as to who will run the duty of a Union Parishad in absence of an elected Chairman (চেয়ারম্যানের দায়িত্ব পালন করিবেন).

Further, the respondent no. 5 has not contested the rule even though its appointment has been called in question nor any submission has been advanced for any of the respondent nos. 1-5 by the office of the Attorney General which sounds unusual. Even though, the respondent no. 6 having added, contested the rule by filing an affidavit-in-opposition, but we don't find him to have any interest in the rule. Because, he was elected as member from a general seat of Ward No. 6 of the Union Parishad who admittedly has not been nominated any Panel Chairman of the Union Parishad as per section 33(1) of the Ain, 2009 giving rise any authority to challenge the function assigned to the petitioner. In essence, the respondent no. 6 has got no *locus standi* to contest the rule asserting the impugned office order and hence the assertion taken by the respondent no. 6 in this writ petition is thus devoid of any shred of substance.

Regard being had to the above legal perspective, we don't find any substance in issuing impugned office notice dated 17.06.2025 (Annexure- 'G' to the writ petition).

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

The impugned office order vide Memo No. 05. 42. 1500. 701. 70. 014. 24. 381 dated 17.06.2025 issued by respondent no. 3 (Annexure- 'G' to the writ petition) is thus struck down.

The order of stay granted at the time of issuance of the rule stands recalled and vacated.

Let a copy of this judgment and order be communicated to the respondents forthwith.

Biswajit Debnath, J.

I agree.