

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

WRIT PETITION NO. 15780 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:

Liton Mia, son of Badsha Mia, Village-Choto
Hamirdi, Nowpara, Post Office-Hamirdi-7830,
Upazilla-Bhanga, District- Faridpur and others.
... Petitioners

-Versus-

Bangladesh Election Commission represented
by the Chief Election Commissioner,
Bangladesh Election Commission Secretariat,
Nirbachan Bhaban, Plot No. E-14/Z, Agargaon,
Dhaka-1207 and others.

... Respondents

Mr. Mustafizur Rahman Khan, Senior Advocate
with

Ms. Sumaiya Ifrit Binte Ahmed,

Mr. Safayet Ahmed and

Mr. Md. Jewel Munshi (Sumon), Advocates

...For the petitioners

Mr. Md. Raju Mia, Advocate

...For the respondent nos. 1 and 2

Heard and Judgment on 11.12.2025.

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 notification no. 17.00.0000.025.22.090.24-654 dated 04.09.2025 (Annexure-‘A’ to the writ petition) published by the respondent no. 1, Bangladesh Election Commission in exercise of its powers under Section 6(4) of জাতীয় সংসদের নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ so far it relates to excluding *Algi* and *Hamirdi* Unions of *Bhanga* Upazilla from the territorial limits of Constituency No. 214, Faridpur-4 and including them in Constituency No. 212, Faridpur-2 along with *Saltha* and *Nagarkanda* Upazillas should not be declared to be made 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.

The short facts leading to issuance of the rule are:

The petitioners are enlisted voters of *Algi* and *Hamirdi* Unions under *Bhanga* Upazilla, District-Faridpur which fell within Constituency No. 214, Faridpur-4 in the last National Parliamentary Election held in 2023. It has been stated that in the last two National Parliamentary Elections, namely, the 11th and 12th Parliamentary Elections held in 2018 and 2024 respectively, *Algi* and *Hamirdi* Unions were part of *Bhanga* Upazilla that included within Constituency No. 214, Faridpur-4. On 30.07.2025, the respondent no. 1, Bangladesh Election Commission in exercise of its powers under section 6(3) of জাতীয় সংসদের নির্বাচনি এলাকার

সীমানা নির্ধারণ আইন, ২০২১ (hereinafter referred to as the Ain of 2021) published Notification No. 17.00.0000.025.22.090.24-341 containing the preliminary list of re-delimitation of Parliamentary Constituencies and invited written demands/objections/suggestions from the inhabitants of the affected Constituencies within 10.08.2025. It is pertinent to mention here that in the said preliminary (draft) notification dated 30.07.2025 (Annexure-‘C’ to the writ petition) although changes were proposed to the boundaries of as many as 39 Constituencies, no proposal was made for any changes in either Constituency No. 214, Faridpur-4 or Constituency No. 212, Faridpur-2. In other words, *Algi* and *Hamirdi* Unions continued to remain included within Constituency No. 214, Faridpur-4 and no alteration was proposed in relation thereto and as such, the petitioners and other residents of the said Unions did not feel the necessity of filing any objection or representation. Subsequently, to the utter surprise and shock of the petitioners, the respondent no. 1, Election Commission published the impugned Notification dated 04.09.2025 in exercise of its powers under section 6(4) of the Ain of 2021 finalizing the delimitation of Constituencies whereby *Algi* and *Hamirdi* Unions of *Bhanga* Upazilla were excluded from the territorial limits of Constituency No. 214, Faridpur-4 and included in Constituency No. 212, Faridpur-2 along with *Saltha* and *Nagarkanda* Upazillas. Thereafter, on 11.09.2025, the petitioners made a written representation to the respondent no. 1, explaining the administrative, geographical, and social realities by humbly requesting to reconsider the decision and withdrawal of the changes introduced in the final notification. But it is a matter of regret that no

action has been taken till now by the respondent no. 1, Commission in that regard. Thereafter, the sudden shifting of *Algi* and *Hamirdi* Unions into Constituency No. 212, Faridpur-2, disregarding their established ties with *Bhanga* Upazilla and Faridpur-4, has created serious resentment, frustration, widespread protest and unrest among the residents, undermining their democratic participation and confidence in the electoral process. The respondent no. 4 has also written to the respondent no. 1, Commission vide Memo dated 15.09.2025 raising his concern about the matter and the resulting situation, including the adverse impact on law and order situation through various forms of protest, blockades and so forth.

Mr. Mustafizur Rahman Khan, the learned senior counsel appearing for the petitioners by adopting most of the submission made by the learned counsel for the petitioners in Writ Petition No. 15410 of 2025 further adds that in the preliminary notification dated 30.07.2025, it states that the respondent no. 1, Election Commission had, “upon considering as far as possible administrative convenience, territorial integrity and the practical distribution of population,” published the preliminary list upon re-determination of the territorial limits of the Constituencies listed therein, inviting written demands, objections and/or suggestions from the inhabitants of the relevant area, insofar as Constituency No. 214, Faridpur-4 and Constituency No. 212, Faridpur-2, there was no proposal for any change and hence, insofar as these two Constituencies are concerned, there was actually no re-delimitation in the primary notification and hence, the changes have been made without affording the voters of both the constituencies including the petitioners an opportunity

to be informed of and object to such changes, thereby violating the principles of natural justice, fairness and transparency.

The learned counsel further submits that the preliminary notification dated 30.07.2025 did not propose any change in respect of *Algi* and *Hamirdi* Unions and as such, the petitioners and other affected residents were deprived of any meaningful opportunity to lodge objections or representations and this amounts to violation of the principles of natural justice and due process of law.

The learned counsel also contends that under section 6(2) of the Ain of 2021, the respondent no. 1 is required to have due regard to administrative convenience, territorial integrity and the practical distribution of population while determining constituency boundaries but in the present case, *Algi* and *Hamirdi* Unions are naturally, geographically, administratively and socially integrated with *Bhanga* Upazilla which has historically been included within Constituency No. 214, Faridpur-4 and their sudden transfer to Constituency No. 212, Faridpur-2 breaks this long-standing continuity and fragments *Bhanga* Upazilla into two different Constituencies which is contrary to the express purpose and spirit of the law and therefore, ignores the statutory criteria.

The learned counsel then contends that the impugned notification is violative of section 6(3) and section 6(4) of the Ain of 2021 because the preliminary notification dated 30.07.2025 (Annexure- "C" to the writ petition) did not indicate any proposal to exclude *Algi* and *Hamirdi* Unions from Faridpur-4 and the petitioners were denied a fair and effective opportunity to file objections which is also clear breach of the

principles of natural justice and universal proposition '*audi alteram partem*'.

The learned counsel further contends that instead of reducing disparity, the removal of *Algi* and *Hamirdi* from Faridpur- 4 and their inclusion in Faridpur- 2 has only increased voter imbalance and such balancing has not been applied uniformly across constituencies because Faridpur- 4 had about 4,75,474 voters whereas Faridpur-2 had only 3,31,670 and even adding approximately 50,000 voters from *Algi* and *Hamirdi*, the distribution remains disproportionate compared to constituencies like Faridpur-1 with 5,03,186 voters, so such selective adjustment is discriminatory, arbitrary and undermines equal suffrage.

The learned counsel lastly contends that the impugned notification is arbitrary, unreasonable, malafide and has been done for collateral purposes in as much as it does not take into account the geographical character of the area, in particular, the convenience and inconvenience of transportation.

Per contra, Mr. Md. Raju Mia, the learned counsel appearing for the respondent no. 1 by filing an affidavit-in-opposition very robustly opposes the contention of the learned counsel for the petitioners and submits that during the process of delimitation in question, the Election Commission completed the task of delimitation in strict compliance with the provisions of sections 6 and 8 of the Ain of 2021 and they published the primary notification dated 30.07.2025 under section 6(3) of the Ain of 2021 by re-determining the territorial limits of the Constituencies including Faridpur- 2 and 4. In response to the primary list that asked for

public hearing with respect to territorial limits of the Constituencies which was held on 25.08.2025 and the Election Commission finally published, the impugned notification dated 04.09.2025 under section 6(4) of the Ain of 2021 but the instant writ petition, the petitioners sought to open the process of delimitation under writ jurisdiction which is not permissible in law.

The learned counsel further contends that the Election Commission transposed two Unions from Faridpur-4 Constituency in the final list and then published in the official gazette dated 04.09.2025 as per section 6(4) of the Ain of 2021 following due process of the law as the Election Commission has been assigned for holding free and fair election after delimiting the territorial constituencies with constitutional protection and as such the Rule *Nisi* issued by this Hon'ble Court may kindly be discharged.

The learned counsel also contends that the instant writ petition is devoid of any merits in view of the facts and law and the Election Commission has committed no illegality in delimiting the constituencies under Article 119(1)(c) of the Constitution read with section 6 of the Ain of 2021 and as such, the Rule *Nisi* issued by this Hon'ble Court may kindly be discharged.

The learned counsel next contends that the Election Commission while publishing the preliminary notification has considered the conditions embodied in section 6(2) of the Ain of 2021 though the said step taken by respondent no. 1 is directory in nature and not mandatory one which is within the province of the Election Commission that was

made by taking into consideration in distribution of population as far as practicable vis-à-vis territorial unity and administrative convenience and as such, the Rule *Nisi* issued by this Hon'ble Court may kindly be discharged.

The learned counsel further submits that the conditions enshrined in section 6(2) of the Ain is matter of assessment of facts by the Election Commission which cannot be inquired into the writ jurisdiction by the Hon'ble High Court Division under Article 102 of the Constitution as it cannot arrogate to itself the jurisdiction of making assessment of facts and as such, the Rule *Nisi* issued by this Hon'ble Court may kindly be discharged.

The learned counsel wrapped up his submission contending that the delimitation of the territorial Constituency is a matter of policy of the government and also a question of facts which cannot be adjudicated in writ jurisdiction and as such the Rule *Nisi* issued by this Hon'ble Court may kindly be discharged.

Be that as it may, we have considered the submission so advanced by the learned counsel for the petitioners and that of the learned counsel for the respondent no. 1. Together, we have also very meticulously gone through the provision so have been provided in the Act No. 14 of 2021 in particular, provision of section 6 thereof which is one of the important guiding provisions in delimiting any Parliamentary Constituency.

At the first instance, we feel it expedient to have a glimpse to what has been propounded in section 8(1)(kha) and section 6(3) of the Ain of 2021 which runs as follows:

“৮। (১) উপ-ধারা (২) এর বিধান সাপেক্ষে, নিম্নবর্ণিত কোনো কারণে কমিশন নূতন করিয়া আঞ্চলিক নির্বাচনি এলাকার সীমানা নির্ধারণ করিতে পারিবে, যথা :—

(খ) কমিশনের নিকট অন্য কোনো কারণ উপযুক্ত বিবেচিত হইলে উহা লিপিবদ্ধ করিয়া, জাতীয় সংসদের প্রত্যেক সাধারণ নির্বাচন অনুষ্ঠানের পূর্বে।

৬। (৩) কমিশন, প্রয়োজন মনে করিলে যথাযথ অনুসন্ধান এবং দলিলাদি পরীক্ষা করিয়া, প্রতিটি আঞ্চলিক নির্বাচনি এলাকার জন্য প্রস্তাবিত এলাকা উল্লেখপূর্বক, আঞ্চলিক নির্বাচনি এলাকাসমূহের একটি প্রাথমিক তালিকা প্রস্তুত করিয়া, সরকারি গেজেটে বিজ্ঞপ্তি প্রকাশ করিবে এবং উক্ত বিজ্ঞপ্তিতে উল্লিখিত সময়ের মধ্যে উহার উপর লিখিত আপত্তি এবং পরামর্শ আহ্বান করিবে।”

Section 6(2) of the Ain of 2021 also mandates the Election Commission to have due regard to administrative convenience, territorial integrity and practical distinction of population while determining boundary of a Constituency. But if we carefully read all these provision in juxtaposition, we find that the impugned notification is unreasonable, malafide and has been done for collateral purpose because in the preliminary notification dated 30.07.2025, the Election Commission does not propose any change for Faridpur-4 or Faridpur-2 Constituency so it reasonably assumes, there was no needs of re-delimitation to those Constituencies but in the impugned notification change has been made without offering the voters of those two Constituencies opportunity to be informed and give chance of being heard as per mandatory provision of

section 6(4) of the Ain of 2021. In other words, no hearing took place on the delimitation of Faridpur-4 Constituency as per section 6(4) of the Ain of 2021 or notification (প্রজ্ঞাপন) of the Election Commission itself dated 18.08.2025 and it (the Election Commission) thus reserves no authority to arrive at any decision with regard to delimitation of any Constituency on its own accord which has been done in the instant case.

On top of that, the impugned notification is violative to section 6(3) and section 6(4) of the Ain of 2021 as well because the preliminary notification dated 30.07.2025 (Annexure- "C" to the writ petition) did not indicate any proposal to exclude *Algi* and *Hamirdi* Unions from Faridpur-4 and the petitioners were denied a fair and effective opportunity to file objections which is also clear violation of the principles of natural justice and universal proposition *audi alteram partem* as has rightly been asserted by the learned counsel for the petitioners.

Further, from the decision of the Election Commission while delimiting Faridpur-4 Constituency, it amongst others, take into account of balancing voter among Faridpur-4 and Faridpur-2 Constituencies which is also clear violation of section 6(2) of the Ain, as that section has very distinctively denotes the word “population” (জনসংখ্যা) not voter (ভোটার) to be taken into account from latest census but instead of reducing disparity, removal of *Algi* and *Hamirdi* from Faridpur-4 and their inclusion in Faridpur-2 has only increased voter imbalance to some extent and such balancing has not been applied uniformly across constituencies because Faridpur-4 had about 4,75,474 voters whereas Faridpur-2 had only 3,31,670 voters and even adding approximately 50,000 voters from *Algi*

and *Hamirdi*, the distribution remains disproportionate compared to constituencies like Faridpur-1 with 5,03,186 voters so such selective adjustment is nothing but subjective satisfaction of the Election Commission done beyond the premises of law.

Then again, since as per section 8(1)(kha) of the Ain of 2021 realignment of Parliamentary area had already been there (সীমানা পুনঃনির্ধারণ করিয়া) as has been specified in the preliminary notification dated 30.07.2025, then there has been no earthly reason to file any complaint by any individual let alone to invite any suggestion, opinion and pass decision on that by Election Commission and therefore, issuing of impugned notice are all colourable exercise of power of the Election Commission.

Regard being had to the facts, circumstances and discussion made hereinabove, we find ample substance to the submission so placed by the learned senior counsel for the petitioners.

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

The impugned notification no. 17.00.0000.025.22.090.24-654 dated 04.09.2025 (Annexure-‘A’ to the writ petition) published by the respondent no. 1, Bangladesh Election Commission in exercise of its powers under Section 6(4) of জাতীয় সংসদের নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ so far it relates to excluding *Algi* and *Hamirdi* Unions of *Bhanga* Upazilla from the territorial limits of Constituency No. 214, Faridpur-4 and including them in Constituency No. 212, Faridpur-2 along with

Saltha and *Nagarkanda* Upazillas is thus declared to be made without lawful authority and is of no legal effect and the same is thus struck down.

The respondents are thus directed to publish a Gazette Notification deleting two Union *Parishads*, namely, *Algi* and *Hamirdi* from 212 Faridpur-2 Parliamentary Constituency and add them to 214 Faridpur-4 Parliamentary Constituency within 24(twenty-four) hours from today.

Let a copy of this judgment and order be communicated to the respondents forthwith treating it utmost urgent.

Md. Hamidur Rahman, J.

I agree.