

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
**Writ Petition No. 15537 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:

Bagerhat Press Club and others

.....Petitioners

*Present*  
*Mr. Justice Sashanka Shekhar Sarkar*  
*And*  
*Mr. Justice Faysal Hasan Arif*

-Versus-

Bangladesh Election Commission  
represented by the Chief Election  
Commission and others.

..... Respondents

Mr. Shaikh Mohammad Zakir Hossain, Senior  
Advocate with

Mr. Ragib Rouf Chowdhury, Sr. Adv.

Mr. Kayser Kamal, Adv.

Mr. Shaikh Atiar Rahman, Adv.

Mr. Humayun Kabir Bulbul, Adv.

Ms. Raziah Sultana, Adv.

Mr. Mohammad Ali, Adv.

Mr. Sheikh Jalal Uddin, Adv.

Mr. Biplob Kumar Poddar, Adv.

Mr. Md. Tanbir Ahmed, Adv.

Mr. Wahiduzzaman Dipu, Adv.

Mr. Shahidul Islam, Adv.

Mr. Borhan Uddin, Adv.

Mr. Faysal Mustafa, Advocate

Mr. Md. Anawarul Islam, Advocate

Mr. Mahbubur Rahman, Advocate

Mr. Aminuzzaman Shohag, Adv.

Mr. KB Sahriar Ahmed, Adv.

Ms. Israt Kamal, Adv.

... for the petitioners.

Mr. Kamal Hossain Miazi, Advocate with

Mr. Mohammad Miftaul Alam, Advocate

Mr. Sumit Kumar Sarkar, Advocate

...For the respondent No. 1

Mr. Abdullah Al Mamun, Sr. Advocate with

Mr. Khandaker Maruf Hossain, Advocate

... For the respondent No. 6

Judgment on: The 10<sup>th</sup> November, 2025

**Sashanka Shekhar Sarkar, J:**

Challenging the elimination of constituency No. 98(Bagerhat-4) this writ petition was filed under Article 102 of the Constitution whereon the instant rule was issued in the following terms;

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Article 125(a) of the Constitution of the People’s Republic of Bangladesh should not be declared to be ultra vires the Article 7 and Part III of the Constitution and is of no legal effect and why section-7 of জাতীয় সংসদ নির্বাচনী এলাকার সীমানা নির্ধারণ আইন, ২০২১ should not be declared to be ultra vires the Constitution and also the Gazette Notification bearing Memo No. 17.00.0000.025.22.090.24-654 dated 04.09.2025 (Annexure-‘D’ to the writ petition) having the effect of reducing Parliamentary Constituency from 4(four) to 3(three) for District, Bagerhat-now corresponding Nos. 95, 96, 97 and 198 by violating law should not be declared to have been done

without lawful authority and is of no legal effect and as to why the respondents should not be directed to keep the 4(four) parliamentary constituencies/seats for Bagerhat District as these earlier were as evident Annexure-‘A’ to the writ petition and/or pass such other or further order or orders as to this court may seem fit and proper”.

In course of hearing, the learned Advocate for the petitioners opted not to press the portion of the rule issued challenging the vires of Article 125(a) of the Constitution and Section 7 of the জাতীয় সংসদ-দর নির্বাচনি সীমানা নির্ধারণ আইন, ২০২১.

**Backdrop facts of the petitioners case:**

The petitioners are law-abiding and permanent citizens of Bangladesh, residing in District-Bagerhat. They are currently holding different posts and positions in their respective organizations. Petitioner No. 1 is the President of Bagerhat Press Club, petitioner No. 2 is the Convener of Bangladesh Nationalist Party (BNP), Bagerhat, petitioner No. 3 is the Ameer of Bangladesh Jamaat-e-Islam Bagerhat, the petitioner No. 4 is the General Secretary of Bagerhat Zilla Ainjibi Samity, Petitioner No. 5 is the President of “Save the Sundarban Foudnation”, petitioner No. 6 is the General Secretary of Bagerhat Truck Tank-Lorry and covered van owners Samity and petitioner No. 7 was the nominated candidate in 2018 from BNP from the Constituency of Bagerhat. They all have been working for the development and welfare of Bagerhat District consisted of

Constituency Nos. 95 (Bagerhat-1), Constituency No. 96 (Bagerhat-2), Constituency No. 97 (Bagerhat-3) and Constituency No. 98 (Bagerhat-4). Hence, the impugned decision that adversely affected the district and undermined the interests of the local people makes them aggrieved and as such they are entitled to seek redress of their grievances. All the petitioners concordantly stated that Bagerhat is the sixth largest district in Bangladesh, covering an area of 3,959.11 square kilometers comprising 9 upazilas, 75 unions, 3 pourashavas, and 1,087 villages, which have significantly contributed to the district's overall growth and development, ultimately qualifying it as an 'A' category district. Bagerhat is historically significant and enriched with notable heritage and resources, including the UNESCO-declared Sixty Dome Mosque, the Sundarbans, Mongla Seaport, the Economic Processing Zone (EPZ), port-based industrial areas and the Rampal Power Plant. According to the 2022 census, the district has a population of approximately 1.6 million who are frontline sufferers of natural disasters such as floods and cyclones, particularly the residents of coastal areas like Sarankhola, Morrelganj, and Mongla, live under constant environmental vulnerability. Since independence in 1971 up to the 12<sup>th</sup> National Parliamentary Election held in 2024, the district has consistently maintained four parliamentary constituencies. The local people and the leaders of the district, who are engaged in grassroots-level communication, have been striving for development with the expectation that an impartial and credible election will bring

forth a popular, people-oriented representative. However, to their utter shock, they came to learn that one of the four constituencies of the Bagerhat district had been eliminated. Against the elimination of the parliamentary constituency No. 98 (Bagerhat-4), the people initiated the first democratic protest. People from all walks of life from Bagerhat District unanimously participated in the protest demanding cancellation of the decision of elimination Constituency No. 98 (Bagerhat-4). Alongside, they submitted several representations to the competent authorities, urging reconsideration of the decision, and finally approached the Election Commission highlighting their grievances and the adverse consequences of abolishing Constituency-98(Bagerhat-4). However, the Election Commission, without considering the grievances of the petitioners and of the local people and without taking into account the legal and factual aspect and issues, while adjudicated the objections by sustaining the elimination of the constituency No. 98 (Bagerhat-4) from Bagerhat District, the petitioners being aggrieved filed this writ petition and obtained the instant rule.

This Rule is opposed by respondent No. 1 by filing a formal affidavit in opposition, contending that the Election Commission has rightly exercised its constitutional as well as statutory functions as have been constitutionally provided. It was further contended that, usually, the Election Commission performs the task prior to parliamentary elections pursuant to Article 119(1)(C) of the

Constitution, read with Sections 6 and 8 of the জাতীয় সংসদ-দর নির্বাচনি এলাকার সীমানা নির্ধারণ আইন ২০২১. While performing functions of delimitation, the Election Commission relies upon the latest census report and also takes into consideration certain aspects, such as administrative convenience, territorial unity/integrity, and distribution of population in the concerned area/constituency. The Election Commission complying with the primary procedure provided under Section 6(2) of the জাতীয় সংসদ-দর নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ published a primary gazette notification under Section 6(3) of the said Act and invited objections and suggestions from interested and aggrieved persons regarding the primary list of draft gazette prepared as per the proposal of the notification dated 30.07.2025 and fixed a date on 25.08.2025 for open hearing on written objections and suggestions and accordingly the petitioners were afforded a chance of hearing prior to publishing the final gazette.

The Election Commission finally published the gazette notification on 04.09.2025 by reshuffling the constituencies of Bagerhat District from four to three. It was further contended that, by the said delimitation, Bagerhat District has not been affected in any manner because the decision was legally sound, factually correct, and objectively justified in view of the fact that Bagerhat District consists of four constituencies with a smaller number of population/voters in comparison with some other districts having the same number of constituencies. The opposition also submitted a chart containing the

total population of voters in the fourteen-fourth quarter districts in Bangladesh, which shows that the position of Bagerhat District is low. The population as well as the number of voters in Bagerhat District is comparatively much lower than the other thirteen-fourth quarter districts.

It was further contended that the Commission, in due compliance with Section 6 of the National Parliamentary Constituency Delimitation Act, 2021, published the primary list on 30th July 2025, which appears to be supported by the facts of population distribution in the constituencies of Bagerhat District and the actions of the Election Commission in making a final gazette notification with three constituencies in Bagerhat District was justified. The Election Commission has carefully maintained geographical compactness, and administrative convenience of the district that has been reflected in the resolution taken by the Election Commission on 25th August 2025.

Delimitation is an essential task to be completed after the census is prepared and before the schedule of a national election declares. Bangladesh held its first parliamentary election in 1973 based on 300 electoral constituencies drawn by the Pakistan authority for both national and provincial assembly seats within the then 19 districts, which were amalgamated and readjusted after the promulgation of the Constitution in 1972. Historically, this readjustment is now recognized as the first delimitation under respondent No. 1. However, from a global perspective, it can be said

that delimitation is a continuous process which usually becomes sine qua non prior to a national election in order to ensure balanced population representation in Parliament. In the instant matter, the Election Commission rightly followed all the legal requirements in delimiting the constituencies of Bagerhat District and eliminating constituency 98 (Bagerhat-4).

It was further contended that the Election Commission is a constitutional body, and Article 118(4) empowers it to exercise functions independently, subject to only the provisions of the Constitution. Article 119 empowers the Election Commission to supervise, direct, and control the preparation of the electoral roll for elections to the offices of the President and Parliament, and to conduct all such elections. Article 120 empowers Parliament to make provisions for elections to Parliament, including delimitation of constituencies, preparation of electoral rolls, holding of elections, and other matters necessary for ensuring the due constitution of Parliament. Article 125 of the Constitution empowers to enact laws, the validity of which shall not be questioned in any court of law. Thus, having exercised its constitutional authority, the Election Commission made the impugned decision, which in no way be interfered with by any court of law.

Amid hearing of this Rule, one Md. Salauddin Sarker, claiming himself to be a voter and a prospective candidate of newly formed constituency No. 198 (Gazipur-6), filed an application for being



added party as respondent No. 6 which, upon objection of the petitioners, was allowed and added as respondent No. 6 vide an order dated 28.10.2025. Thereafter, respondent No. 6 also filed an affidavit in opposition, controverting the petitioners' case and made submission conceding the case made out by respondent No. 1, therefore, we think the same are not required to be reiterated again.

**Submissions of the petitioners.**

Mr. Shaikh Mohammad Zakir Hossain, the learned Senior Advocate, along with other learned Advocates appearing for the petitioners, takes the lead part of the hearing and first of all regarding the *locus standi* to file the writ petition submits that all the petitioners are the inhabitants of Bagerhat District with their respective professions and political portfolio since inception of the constitution and parliamentary election. In the history of Bangladesh, Bagerhat District all through maintained four parliamentary constituencies. Bagerhat District is the sixth largest district as well as a developing and high potential localities surrounded by so many rivers and adjacent to world class famous Mangrove Sundorban which whenever was losing its born entity that very naturally infected the heart of the local people. So with the bleeding in heart they became aggrieved and the aggrieved persons as per constitutional provision have right to address their grievances. According to Mahmudul Islam's Constitutional Law, under Article 102 of the Constitution, except in cases of habeas corpus and quo warranto, a writ petition may be

initiated by a person aggrieved, as locus standi is required to invoke the writ jurisdiction. An aggrieved person may seek the remedies of certiorari, mandamus, and prohibition. Moreover, even a person who is not a citizen of Bangladesh may maintain an application under Article 102 of the constitution if it is shown that the functionaries of the Republic have acted without lawful authority or not in accordance with law. A person against whom a decision has been pronounced that has wrongfully deprived him of something, refused him a lawful entitlement, or adversely affected his title to any property or right, is considered an aggrieved person. The facts reveal that, following the independence of the country, for the first time, a single parliamentary constituency in the district in whole the country was curtailed,, which naturally affected the petitioner and that is why being aggrieved by the decision, they have filed this writ petition. Accordingly, the question of locus standi for filing this writ petition is clearly maintained

He further goes to argue regarding arbitrary exercise of powers of the election commission that the impugned delimitation is a complete arbitrary exercise of power that does not confer the law under which the delimitation held. The proposal of delimitation vide notification dated 30.07.2025(annexure-B) was that the election commission in following constitutional provision of article 119(1)(c), and section 8(1)(Kha), section 6(2) and section 6(3) of জাতীয় সংসদ-দর নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ has prepared the primary draft list

of delimitation which contained some certain criterion that inferred to have been followed. The said circular states that “গণপ্রজাতন্ত্রী বাংলা-দ-শর সংবিধা-নর অনু-চ্ছদ ১১৯ এর দফা ১ এর উপদফা গ এবং জাতীয় সংস-দর নির্বাচনী এলাকার সীমানা নির্ধারনী এলাকা ২০২১ এর ৮ এর উপধারা ১(খ) অনুযায়ী জাতীয় সংসদ সদস্য নির্বাচনের লক্ষ্যে এলাকা ভিত্তিক নির্বাচনী এলাকা সমূহের সীমানা উপরোক্ত আইনের ৬ এর উপধারা ২ অনুসারে প্রশাসনিক সুবিধা, আঞ্চলিক অখন্ডতা এবং জনসংখ্যার বাস্তব বিভাজনকে যতদূর সম্ভব বি-বচনায় রাখিয়া প্র-ত্যক নির্বাচনী এলাকা সীমানা পূর্ণঃ নির্ধারন করিয়া ৬এর উপধারা ৩ অনুযায়ী নির্বাচন কমিশন এতদ সঙ্গে একটি প্রাথমিক তালিকা প্রকাশ করিতে-ছ।

Mr. Shaikh Mohammad Zakir Hossain pointing out from above notification dated 30.07.2025 submits that it is clearly manifested that the criterion No. ২(ক)-২(ঠ) of the notification having had followed, the Election Commission already has completed the delimitation process required to be fulfilled under section 6(2) of the Act. That is to say, as nobody or no institution or political party have raised any objection or made any suggestions against the existing four constituency Nos. 95, 96, 97 and 98 under Bagerhat District, as the criterion No. ২(ঘ) of the notification dated 30.07.2025 providing the question of invitation further objections and suggestions were redundant.

He also pointed out that when the election commission already having had maintained the criterion No. ২(ক)-২(ঠ) mentioned in the notification dated 30.07.2025 (Annexure-B) made delimitation to the Bagerhat District, eliminating Constituency No. 98, then only the question raising objection on this decision, comes forward under section 6(3). So the decision already taken after completing inquiry

under section 6(2) of জাতীয় সংসদের নির্বাচনী এলাকার সীমানা নির্ধারন আইন, ২০২১, and following the criterion mentioned under clause ২(ক)-২(ঠ) of the notification dated 30.07.2025 specifically following the criteria No. ‘ঘ’ (Annexure – “B” to the writ petition) that is to say, following criterion that “যই সকল আস-নর সীমানা পূর্ণনির্ধার-নর জন্য কোন আ-বদন দাখিল হয়নি সেগুলো অপরিবর্তিত রাখা” has illegally published the draft gazette of the parliamentary constituency.

Mr. Shaikh Mohammad Zakir Hossain further pointed out that in the delimitation process, no record was available with regard to any objection or suggestions made by any single person, authority or any political party and no such objections, suggestions and recommendations was forwarded by anybody or authority to the election commission claiming elimination of Constituency No. 98 (Bagerhat-4) and increasing of Constituency No. 198 (Gazipur-6). Not only that even after publishing the draft list of the gazette, and upon invitation of objection under section 6(3), no one came forward with proposal and suggestions to sustain the same, rather the petitioners from the very beginning of publication of the draft gazetted list made so many objections for sustaining the previous 4(four) constituency including Constituency 98(Bagerhat-4).

He further pointed out that section 6(1) of the Delimitation Act, 2021 authorizes the election commission to divide all the 300 (three hundred) electoral constituencies in all over the country into single territorial constituency provided article 65(2) of the Constitution that

directs to consider administrative conveniences geographical integrity and population in each constituency as per the latest Census. Section 6(3) provides that for the purpose of section 6(1) and 6(2), the commission shall, after making such inquiries and examining such records as it may deem necessary, publish in the official gazette a preliminary list of territorial constituencies specifying the areas proposed to be included in each such constituency together with a notice inviting objections and suggestions.

Mr. Shaikh Mohammad Zakir Hossain on this count submits that since the election commission during the delimitation process under section 6(1)(2) of the Act, 2021 admittedly, did not receive any objections, suggestions and recommendations from any corner, person, institution or political party and obviously when did not find such objections, suggestions and recommendations should have followed the criterion No. ২(ঘ) of the notification dated 30.07.2025 (Annexure-B) as committed to be followed but the election commission totally being deviated from their commitment and proposal made in notification dated 30.07.2025, had published the draft gazette list of the Constituencies in non compliance of clause (3) of the said circular. Since, admittedly nobody came up with objections and suggestions in the delimitation process under section 6(2) for the purpose of section 6(1) of the Act, the draft gazette should have been published sustaining all the existing 4(four) constituencies under Bagerhat District. When admittedly no objections or suggestions were

raised during the delimitation proceedings under Section 6(2), the elimination of Constituency No. 98 (Bagerhat-4) merely on the plea of low population was not only irrational but also wholly contrary to the factual position. Bagerhat was not the lowest-populated district; rather, several other districts had significantly lower populations. Similarly, Gazipur was not the only highest-populated district, as there were several districts such as Narayanganj with much higher population density and number of voters.

Mr. Shaikh Mohammad Zakir Hossain further submits that against the said draft gazette list of the electoral constituencies eliminating constituency 98(Bagerhat-4) and including constituency 198 (Gazipur-6) all classes of people including the petitioners from their own platform raised serious objections by presenting formal representations and even demonstrating procession and other democratic protest. The election commission having received such objections/application did not change their decision rather, invited the petitioners to participate in the open hearing against their draft decision, if any. Accordingly the petitioners on the fixed date of hearing appeared before the election commission and raised their grievances participating in hearing before the election commission, then also, nobody came forward from any corner of this country to oppose the petitioners grievances and agitation to sustain the draft gazette. The election commission as already having followed criterion No. ২(ক)-২(গ) of the notification dated 30.07.2025, prepared draft

parliamentary constituency list of which the criterion No. ২ (খ) barred the election commission to eliminate and change any constituency without any formal application of any person for delimitation.

Mr. Shaikh Mohammad Hossain further strongly submits the proposal of the notification dated 30.07.2025 in regard to section 8(1)(kha) of Delimitation Act, 2021 was not followed on its own spirit because the Act proposes to delimit a parliamentary constituency afresh subject to the provision of section 8(2) of the Act, after completion of census and, unless and otherwise directed by the commission for reasons to be recorded in writing, before each general election of parliament but the case facts reveals that the election commission admittedly, after the last census was prepared in 2022 and last delimitation of parliamentary constituency was held in 2023, when the election commission desires and think fit to make a delimitation of a parliamentary constituency afresh, that of course be done after preparation of census and recording the reasons in writing deems appropriate to the commission. The facts remains that after preparation of census in 2022 and delimitation of Constituency in 2023 an election was held in 2024 upon the said census list and delimitation 2023. So if there was no specific reasons recorded by the election commission as per provision of section 8(1)(kha) and as the census yet not been made afresh for holding election for the purpose of section 8(1), it was totally redundant to the election commission to make a new parliamentary constituency and in that case, the election

commission should have followed the provision of section 8(2) of the Act, 2021 that is to say, to maintain the present existing four constituencies under Bagerhat District.

Mr. Shaikh Mohammad Zakir Hossain further very strongly submits that in comparison of many constituencies it appears that there are high density of population and high difference of voters and its average in so many constituencies of the country of which the constituency No. 34 (Joypurhat-1), Constituency No. 149 (Mymensingh-4) and Constituency No. 207 (Narayangonj-4) have exceeded more than 100% average voters. The features of the said constituencies are as follows;

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
34	Joypurhat-1	431594	2,15,797	100% excess
149	Mymensingh-4	950394	412153	130.59% excess
207	Narayangonj-4	1,102,159	5,43,042	102.96% excess

The constituency No. 21 (Rangpur-3), Constituency No. 192 (Dhaka-19), Constituency No. 229 (Sylhet-1) have exceeded more than 90% average voters which are as follows;

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
21	Rangpur-3	9,16,854	4,65,925	96.78% excess
192	Dhaka-19	8,07,394	404,268	99.72% excess
229	Sylhet-1	9,30,008	4,75,590	95.55% excess

The constituency No. 123(Barishal-5) has exceeded more than 80% average voters which is as follows;



Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
123	Barishal-5	7,19,883	3,82,488	88.21% excess

The constituency No. 35(Joypurhat-2), constituency Nos. 53 (Rajshahi-2), constituency No. 87 (Jashore-3), constituency No. 195 (Gazipur-2), constituency No. 245 (Brahmanbaria-3), constituency No. 258 (Comilla-10), constituency No. 271 (Noakhali-4) have exceeded more than 50% average voters which are as follows;

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
35	Joypurhat-2	3,28,681	2,15,797	52.31% excess
53	Rajshahi-2	5,53,287	3,55,868	55.48% excess
87	Jashore-3	5,99,444	3,79,419	57.99% excess
195	Gazipur-2	7,59,269	5,01,834	51.30% excess
245	Brahmanbaria-3	5,98,496	3,72,516	60.66% excess
258	Comilla-10	6,49,497	4,16,361	55.99% excess
271	Noakhali-4	6,23,087	4,06,057	53.45% excess

The constituency No. 3(Thakurgaon-1), constituency No. 40(Bogura-5), constituency No. 111(Patuakhali-1), constituency No. 142(Jamalpur-5), constituency No. 148(Mymensingh-3), constituency No. 175(Dhaka-2), constituency No. 191(Dhaka-18), constituency No. 194 (Gazipur-1), constituency No. 199(Narsingdi-1), constituency No. 254(Comilla-6), constituency No. 285(Chattogram-8), constituency No. 288(Chattogram-11) have exceeded more than 30% average votes which are as follows

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
3	Thakurgaon-1	470,264	339,380	38.57% excess
40	Bogura-5	520,939	394,704	31.98% excess

111	Patuakhali-1	445,789	336,895	32.32% excess
142	Jamalpur-5	528,092	382,804	37.95% excess
148	Mymensingh-3	257,300	412,153	37.57% excess
175	Dhaka-2	579,032	404,268	43.23% excess
191	Dhaka-18	536,454	404,268	32.70% excess
194	Gazipur-1	682,517	501,834	36.00% excess
199	Narsingdi-1	470,032	346,212	35.76% excess
254	Cumilla-6	616,586	416,361	48.09% excess
285	Chattogram-8	523,816	379,814	37.91% excess
288	Chattogram-11	506,329	379,814	33.31% excess

The differences of voterst the above mentioned constituencies are so high but the election commission without taking into account the same and without amalgamating and equal distributing of population in all the 300 constituencies and without following the proposition and proposal of section 8(1)(ka)(kha) of the Act, 2021 but by way of pick and choose policy has taken the impugned decision that are completely colorable exercise of powers. Section 8(1) of the Delimitation Ordinance, 1976 had directed to complete delimitation afresh with the word “shall” that is “the territorial constituencies shall be delimited afresh after every census and recording reasons in writing deems appropriate when the proposition of section 8(1) of the Act 2021 is thus “উপধারা ২ এর বিধান সা-প-ক্ষ নিম্নবর্ণিত কোন কার-ন করি-ত পারি-ব। i.e. it is totally the prerogative of the commission, they may do or may not do. It is directory not mandatory. So for complying the section 8(1), if any delimitation of parliamentary constituency is made afresh there must be a prior census and even if it is not done or not required to be done, there must be reasons to be recorded in writing for such

delimitation afresh. As admittedly the census has been prepared in 2022 and thereafter parliamentary election 2024 was held with the said census and as the election commission thinks the census 2022 was alright, in that case, for such delimitation of regional constituency, there must be reasons to be recorded in writing for such delimitation afresh. The record does not disclose such reasons was recorded before taking impugned decision as a precondition of delimitation of constituency afresh and then the application of the provision of section 8(2) of the Ain, 2021 has to be imperative to be fallowed i.e., the election commission has to follow the gazette list of immediate previous constituencies.

The constituency No. 19 (Rangpur-1), 90 (Jashore-6), 101 (Khulna-3), 129 (Pirojpur-3), 139 (Jamalpur-2), 148 (Mymensingh-3), 176 (Dhaka-3), 177 (Dhaka-4), 179 (Dhaka-6), 181 (Dhaka-8), 197 (Gazipur-4), 198 (Gazipur-5), 200 (Narsingdi-2), 204 (Narayanganj-1), 205 (Narayanganj-2), 206 (Narayanganj-3), 230 (Sylhet-2), 243 (Brahmanbaria-1), 248 (Brahmanbaria-6), 255 (Cumilla-7), 280 (Chattogram-3) and 291 (Chattogram-14) have been found to contain less than 30% of the average number of voters. The features and demographic characteristics of these constituencies, which hold significantly lower average voters, are presented below;

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
19	Rangpur-1	3,23919	4,65,925	-30.48% less
90	Jashore-6	2,11,696	3,79,419	-44.21% less

101	Khulna-3	2,14,135	3,13,575	-31.71% less
129	Pirojpur-3	2,12,720	3,12,573	31.95% less
139	Jamalpur-2	2,44,099	3,82,804	-36.23% less
148	Mymensingh-3	2,57,300	4,12,153	-37.57% less
176	Dhaka-3	2,79,261	404268	-30.92% less
177	Dhaka-4	2,58,323	404268	-36.10% less
179	Dhaka-6	2,79,523	404268	-30.86% less
181	Dhaka-8	2,75,023	404268	-31.97% less
197	Gazipur-4	3,01,867	5,01,834	-39.85% less
198	Gazipur-5	3,10,036	5,01,834	-38.22% less
200	Narsingdi-2	2,07,522	3,46,212	-40.06% less
204	Narayangonj-1	3,71,061	5,43,042	-31.67% less
205	Narayangonj-2	3,25,037	5,43,042	-40.15% less
206	Narayangonj-3	3,31,642	5,43,042	-38.93% less
230	Sylhet-2	3,21,998	4,75,590	-32.30% less
243	Brahmanbaria-1	2,50,069	3,72,516	-32.87% less
248	Brahmanbaria-6	2,43,189	3,72,516	-34.78% less
255	Cumilla-7	2,78,632	4,16,361	-33.08% less
280	Chattogram-3	2,36,029	3,79,814	-37.86% less
291	Chattogram-14	2,55,105	3,79,814	-32.83% less

He further submits that if section 7 of the delimitation Act, 2021 is examined mindfully, be deemed that the election commission has authority to form a regional constituency afresh and for such act will not be questionable by any court of law but there is no such express provision with the same to eliminate a constituency, so if a new one is formed with the authority of section 7, there must be express provision thereto that also has authority to eliminate another one, otherwise there would be a serious conflict to the Article 65(2) of the Constitution. If the law is in its own character remains such ambiguities that does not make the clear sense of its real functions, especially in the matters deals with the constitutionality, certainly

creates big conflict between the constitutional provisions and constitutional Act. For better understanding section 7 of the Ordinance is quoted below; এই আইনের অধীন কৃত সীমানা নির্ধারণ বা কোন আঞ্চলিক নির্বাচনি এলাকার গঠন, বা কমিশন কর্তৃক বা কমিশন-র কর্তৃত্বাধীনে গৃহীত কোন কার্যধারা বা কৃত কোন কাজকর্মের বৈধতা সম্পর্কে কোন আদলতে বা অন্য কোন কর্তৃপক্ষের নিকট প্রশ্ন উত্থাপন করা যাই-ব না। pointing out from this section 7 of the Act, 2021. Mr. Zakir strongly submits that the proposition of this section is totally against the spirit of article 65(2) of the constitution because if the election commission is allowed to form a new constituency without specifying the provision of excluding one, then it ultimately will highly conflict the article 65(2) of the constitution with regard to its integrity.

Mr. Shaikh Mohammad Zakir Hossain lastly submits that the election commission only considering the population of the respective constituencies has taken the impugned decision excluding the constituency No. 98 ( Bagerhat-4) and included Constituency No. 198 (Gazipur-6) but the Census list of 2022 (up to date) a comparative description with the 2018 constituency limit (Annexure-1) to the affidavit-in-opposition being compared reveals that constituency No. 3 (Thakugaon-1) the difference of average voters is 38.57% excess; Constituency No. 21 (Rangpur-3) the difference of average voters is 96.78 excess; Constituency-34 (Joypurhat-1) the difference of average voters is 100% excess; Constituency-35 (Joypurhat-2) the difference of average voters is 52.31% excess; Constituency-53 (Rajshahi-2) the difference of average voters is 55.48% excess;

Constituency-87 (Jashore-3) the difference of average voters is 57.99% excess; Constituency-111 (Patuakhali-1) the difference of average voters is 32.32% excess; Constituency-123 (Barishal-5) the difference of average voters is 88.21% excess; Constituency-142 (Jamalpur-5) the difference of average voters is 37.95% excess; Constituency-149 (Mymensingh-4) the difference of average voters is 130.59% excess; Constituency-175( Dhaka-2) the difference of average voters is 43.23% excess; Constituency-178 (Dhaka-5) the difference of average voters is 30.92% excess; Constituency-191 (Dhaka-18) the difference of average voters is 32.70% excess. Constituency-192 (Dhaka-19) the difference of average voters is 99.72% excess. Constituency-194 (Gazipur-1) the difference of average voters is 36.00% excess. Constituency-195 (Gazipur-2) the difference of average voters is 51.30% excess; Constituency-199 (Narshingdi-1) the difference of average voters is 35.76% excess; Constituency-207 (Narayangonj-4) the difference of average voters is 102.96% excess. Constituency-229 (Sylhet-1) the difference of average voters is 95.55% excess; Constituency-245 (Bhrahmanbaria-3) the difference of average voters is 60.66% excess; Constituency-254 (Cumilla-6) the difference of average voters is 48.09% excess; Constituency-258 (Cumilla-10) the difference of average voters is 55.99% excess; Constituency-271 (Noakhali-4) the difference of average voters is 53.45% excess; Constituency-285 (Chattogram-8) the difference of average voters is 37.91% excess; Constituency-288

(Chattogram-11) the difference of average voters is 33.31% excess. All the above mentioned constituencies showing the latest Census and comparative excess difference and average population and voters is a significant disparities in the percentage of voters.

Mr. Shaikh Mohammad Zakir further submits that the decision to disqualify and abolish the previous Constituency-98 (Bagerhat-4) which holds 3,41674 voters under Bagerhat District was not only illegal but also amounted to be gross discrimination. Several other constituencies having lower populations remain unchanged. For instance, Constituency-90 Jashore-6, consisted by only Keshobpur Upazila holds only 2,11,696 votes, constituency-101 Khulna-3 holds 2,14,135 votes, Constituency-193 Pirojpur-3 holds 211,720 votes, Constituency 200 Narshingdi-2 holds 2,07,522 votes. These examples demonstrate that the petitioners’ constituency No. 95 Bagerhat-1 holds 334168 votes, Constituency No. 96 Bagerhat-2 holds 315290 votes, Constituency No. 97 Bagerhat-3 holds 244813 votes and Constituency No. 98 Bagerhat-4 holds 341674 voters are more populated than those which keeping untouched only abolished Bagerhat 98 constituency by coulourable exercise of law.

Mr. Shaikh Mohammad Zakir Hossain further submits that Gazipur District having five hold constituency as present holds the following voters as per Census 2022;

Number of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
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194	Gazipur-1	682517	501838	36.00
185	Gazipur-2	759269	561834	51.30
196	Gazipur-3	455483	501834	-9.24
197	Gazipur-4	301867	561834	-38.85
198	Gazipur-5	310036	501834	-38.22

Bagerhat District holds the following voters as per Census 2022  
which is as follows;

No. of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters%
95	Bagerhat-1	334168	308986	8.15% excess
96	Bagerhat-2	315290	308986	2.08% excess
97	Bagerhat-3	244813	308986	-20.77% excess
98	Bagerhat-4	341674	308986	10.58% excess

Mr. Shaikh Mohammad Zakir Hossain further submits that the Election Commission undertook the impugned delimitation based on a selective or “pick-and-choose” policy, as there exist numerous single parliamentary constituencies with a high population density that significantly exceed the population of Gazipur District and Gazipur City Corporation, namely:

No. of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters%
21	Rangpur-3	916854	465925	96.78%
149	Moymensingh-4	950394	412153	130.59%
192	Dhaka-19	807394	404268	99.72%
207	Narayangonj-4	1102151	543042	102.96%
229	Sylhet-1	930008	475590	95.55%



Above features reflects that the above constituencies are at present holding highest total average of voters but the same were not taken into consideration of delimitation process and the election commission mere upon pick and chose policy has made the impugned reconstitution of parliamentary constituency No. 198 (Gazipur-6).

He further submits that Gazipur District is neither the most populated district in Bangladesh nor the one with the highest average number of voters. Narayanganj District has been recognized as the district with the highest voter count and population density, yet this fact was entirely not taken into consideration. This clearly demonstrates that the impugned delimitation was made on a selective or “pick-and-choose” basis. The features of the voters in Narayanganj District are as follows:

No. of constituency	name of the constituency	total voters of the constituency	Total average voters	Difference of voters
204	Narayangonj-1	371061	543042	-31.67
205	Narayangonj-2	325037	543042	-40.15
206	Narayangonj-3	331642	543042	-38.93
207	Narayangonj-4	1102159	543042	102.96
208	Narayangonj-5	585313	543042	7.78

Mr. Shaikh Mohammad Zakir Hossain lastly submits that the reformed 3(three) constituencies of Bagerhat District have been demarcated in a manner that disrupts both administrative convenience

and geographical coherence. The geographical position of the constituencies falls entirely beyond the permissible scope of Section 6(2) of the delimitation Act, 2021, disregarding established administrative boundaries and creating practical difficulties for governance and representation. The Election Commission is a constitutional body entrusted with authority under the Constitution. However, its actions, though under constitutional powers, are not beyond judicial scrutiny. Where a law is made or any action is taken under the Constitutions and is exercised in a colourable manner, mala fide, or arbitrarily, it attracts judicial review. The High Court Division, in the exercise of its powers of judicial review, is obliged to intervene to ensure that constitutional principles and statutory mandates upheld. The formation of the new constituency, by ignoring administrative convenience and geographical integrity, and by acting in a colourable and arbitrary manner, constitutes in violation of the constitutional and statutory provisions under Section 6(2). He finally submits that such action undermines the principle of fair representation and equitable administration and as such this writ petition is maintainable as already settled in the case of Col. Md. Hashmat Ali (retired) of Bangladesh Army –Vs- Govt. of Bangladesh and also in the case of Kishor Chandra Chhanganlal Rathod –Vs – Union of India and others reported 2024 INSC-5979 and he prayed for making the rule absolute with the prayed relief.

### **Submissions of the Respondents**

On the other hand, Mr. Kamal Hossain Miazi, appearing for the respondent No. 1 argued that delimitation is both a constitutional duty and a statutory responsibility of the Election Commission, and in the exercise of such functions, the Commission enjoys preliminary powers. He submits that the Election Commission possesses all necessary authority to delimit constituencies prior to parliamentary elections, subject to the limitations laid down under Article 65(2) of the Constitution. While exercising this power, the Commission cannot increase or decrease the total number of constituencies in contravention of Article 65(2) of the Constitution. However, within its lawful mandate, the Commission is competent to increase or decrease the number of constituencies in a particular division or district as may be warranted by administrative or demographic considerations.

He further submitted that Article 124 of the Constitution empowers the Parliament to enact laws relating to elections to the Jatiya Sangsad, including the office of the President, and Article 125(a) bars any action in any court questioning the validity of such laws, particularly those pertaining to delimitation, constituencies, or the allotment of seats. In this regard, he emphasized that Section 7 of the Act, 2021 itself has reaffirmed and provided statutory protection to the actions of the Election Commission with respect to delimitation, stating explicitly that the validity of any delimitation, the formation of any constituency, or any proceedings undertaken in exercise of the

Commission's authority shall not be called into question before any court.

He further submits that a combined reading of Articles 119, 124 and 125 of the Constitution makes it abundantly clear that the Election Commission shall regulate its own procedure subject to the provisions of the Delimitation Act, 2021. Since the authority, conferred under Article 124 of the Constitution has already been merged into section 6(2) of the Act of 2021, the Commission is empowered to delimit constituencies considering administrative convenience, geographical compactness and the population of the respective constituencies.

He strongly submits that Article 125 of the Constitution is identical to Article 329 of the Indian Constitution, and it is already well-settled that the actions of the Delimitation Commission taken under the Delimitation Commission Act, 1962 cannot be questioned before any court. In support of his submission, he cited the decisions of the cases of *Meghraj Kothari vs. Delimitation Commission and others* reported in 1967 AIR 669; 1967 SCR( 1)400, *Abdul Mannan vs. Bangladesh and others* reported in 55 DLR (AD) 143, *Mufti Latif Hossain Khasru and others vs. Bangladesh* reported in 53 DLR (AD) 25, *Abdul Wahab Chowdhury vs. Md. Abu Taher and others* reported in 6 BLC (AD) 151, and *Abul Hasim vs. Election Commission and others* reported in 48 DLR (HCD) 490. In support of submission he also relied upon the decision of an unreported judgment passed in writ

petitions No. 5912 of 2008, 3575 of 2008, 6275 of 2008, 3653 of 2008, 7357 of 2023 and 7491 of 2023.

Relying on the above decisions, Mr. Miazi emphasizes that the authority and functions of the Election Commission, as guaranteed by constitutional provisions, are beyond judicial interference under judicial review. Therefore, he submits that the Rule, having no merits for consideration, is liable to be discharged.

Mr. Abdullah Al Mamun, the learned Senior Advocate, along with Mr. Khandaker Maruf Hossain, the learned Advocate appearing for the added respondent No. 6, submits that the petitioner is an inhabitant of Gazipur district and a prospective candidate of the newly formed constituency. Since he is politically affiliated and intends to contest the forthcoming election under the banner of a political party, having already worked for the welfare and betterment of the local people, he has the locus standi to contest the Rule. As the Rule was issued questioning propriety of newly created constituency-198 (Gazipur-6), respondent No. 6 objects to the claim of the petitioners and concurs with the submissions made by the Election Commission, respondent No. 1, and accordingly prays that the Rule be discharged.

We have, with due patience and attention, heard at length the detailed submissions of the learned Advocates appearing for all the respective parties, carefully considered the points and arguments advanced by each side. In course of hearing, we have meticulously examined and scrutinized every annexure, document, and material

submitted by the contesting parties, giving due regard to their evidentiary value and relevance. Furthermore, we have taken into account the applicable statutory provisions, relevant rules, and established legal principles, ensuring that our appreciation of the matter is informed, comprehensive, and in strict conformity with the law. In doing so, we have endeavored to maintain a balanced and impartial approach, fully cognizant of the rights and interests of all parties concerned, and with the view to arrive at a reasoned and just conclusion in accordance with the law.

On the above marathon discussions and submissions of all the parties it needs to scrutinize the submitted documents contained in annexures-A to G such as gazette notification of delimitation list held on 1<sup>st</sup> June 2023 as annexure-A, a sketch map of readjustment of the electoral seat as annexure-A1, a notification dated 30.07.2025, the proposal and making a draft parliamentary constituency list as annexures- B, representations of the petitioners to the different authorities including the election commission for reconsidering the draft gazette dated 30.07.2025 as annexure- C-C2, a notification inviting the objectors to remain present for giving hearing of their objections regarding the draft gazette of the constituency as annexure- C-3, a notification of the final gazette of the constituency including the petitioners' delimited constituencies as annexure-D, the Delimitation Act, 2021 as annexure-E, the reports of local and

international papers regarding agitation of the petitioners as annexure-F, the letter of authority of filing the writ petition as annexure-G.

On the other hand, respondent No. 1 appended the census list 2022 prepared following the delimitation held in 2018. The decision of election commission that finally made the impugned decision as annexure-2, a map of the constituency Bagerhat Districts as annexure-3.

Annexure-A is the official gazette of immediate previous delimited constituencies in 2023, Annexure-B is the latest draft of the parliamentary constituency and the annexure-D is the final gazette of the parliamentary constituency. The official gazette of parliamentary constituency dated 01.06.2023 shows that the Bagerhat district parliamentary constituency area were comprising of Fakirhat, Mollarhat and Chitalmari upazila under Bagerhat-1; Bagerhat Sadar and Kachua under Bagerhat-2; Rampal and Mongla under Bagerhat-3; and Morolgonj and Sarankhola under Bagerhat-4. These were the Constituencies existed since 1972 in Bagerhat District before the preceding of delimitation remained undisputed until the draft re-delimitation was prepared.

By notification dated 30.07.2025, after two years, the Election Commission published a draft gazette wherein, Bagerhat-1 included Fakirhat, Mollarhat and Chitalmari; Bagerhat-2 included Bagerhat Sadar, Kachua and Rampal; and Bagerhat-3 included Mongla, Morolgonj and Sarankhola. Through this draft gazette the

Constituency No. 98 (Bagerhat-4) was eliminated from Bagerhat district altogether.

The petitioners submitted numerous representations seeking review of this decision, pointing out the administrative imbalance, loss of rights and other disadvantages that would arise if one parliamentary constituency was taken away from Bagerhat district. It further appears that no individual, group or stakeholder from any part of the country including from Gazipur district had submitted any objection and suggestion claiming elimination of a constituency from Bagerhat and forming a new one in Gazipur District. It is therefore evident that the draft gazette dated 30.07.2025, so far as it relates to the petitioners' area, was strongly objected to only by the petitioners.

Upon receiving these objections, the Election Commission invited the petitioners for a hearing. However, only two and a half hours—from 10:00 a.m. to 12:30 p.m. was allocated for hearing objections relating to seven parliamentary constituencies, which was plainly insufficient for a fair and meaningful hearing. After the hearing, the Election Commission reached certain conclusions, which have been placed before this Court in the affidavit-in-opposition filed by respondent No. 1 as annexure-2.

For convenience of reference, the entire observation, findings and decisions of the Commission is quoted below:

**৩.২ শুনানী-ত উপস্থিত খসড়ার বিপক্ষের বক্তব্যঃ**



(১) ৯৫ বাগেরহাট-১, ৯৬ বাগেরহাট-২, ৯৭ বাগেরহাট-৩: ৩০ জুলাই ২০২৫ তারিখে নির্বাচন কমিশন কর্তৃক প্রকাশিত সীমানা নির্ধারণের খসড়া তালিকায় বাগেরহাটের ০১টি আসন কমিয়ে ০৩টি আসন করার বিষয়ে আপত্তি করা হয়।

(২) পূর্বের ন্যায় বাগেরহাটের ০১টি আসন বাড়িয়ে মোট চারটি করার দাবি জানান হয়। শুধুমাত্র জনসংখ্যা দিয়ে বিবেচনা না করে ভৌগলিক অখণ্ডতা, প্রশানিনিক সুবিধাকেও বিবেচনায় নেয়ার দাবি জানান হয়, যা আইনসিদ্ধ।

(৩) ১৯৭০ সাল থেকে বাগেরহাট জেলায় ৪টি আসন ছিল। বিগত সময়ে কোন নির্বাচন কমিশন বাগেরহাটের আসন কমানোর যৌক্তিকতা পাননি, কিন্তু বর্তমান কমিশন কি কারণে গাজীপুরের ১টি আসন বাড়িয়ে বাগেরহাটের ১টি আসন কমিয়েছেন তা বোধগম্য নয়।

(৪) ৩০ জুলাই ২০২৫ তারিখে নির্বাচন কমিশন কর্তৃক প্রকাশিত সীমানা নির্ধারণের অনুসরণীয় পদ্ধতির অনুচ্ছেদ ২(ঘ) অনুযায়ী যেসকল আসনে সীমানা পুনঃনির্ধারণের জন্য কোন আবেদন দাখিল করা হয়নি, সেসকল আসনগুলো অপরিবর্তিত রাখার কথা বলা হয়েছে। বাগেরহাট জেলার আসন কমানো বা পরিবর্তনের বিষয়ে কোন আবেদন দাখিল না করায়, এ ক্ষেত্রে নির্বাচন কমিশন নিজেদের আরোপ করা শর্ত নিজেরাই ভঙ্গ করেছে।

(৫) সংবিধানের ৭ অনুচ্ছেদ অনুযায়ী জনগণই সকল ক্ষমতার উৎস, অথচ নির্বাচন কমিশন কোনরূপ গণশুনানী ও মাঠ জরিপ ছাড়াই বাগেরহাটের জনগনের বিরুদ্ধে গিয়ে আসন কমিয়েছেন, যা সাংবিধানিক প্রতিষ্ঠান হিসেবে নির্বাচন কমিশনের কাছে কাম্য নয়।

(৬) বাগেরহাটের সকল জনগন এবং রাজনৈতিক ও সামাজিক সংস্থা বাগেরহাটের আসন ২০২৩ সনের ন্যায় বহাল রাখার বিষয়ে ঐক্যবদ্ধ।

(৭) বাগেরহাটের আয়তন প্রায় ৪ হাজার বর্গ কিলোমিটার যা আয়তনের দিক দিয়ে বাংলাদেশের ষষ্ঠ বৃহত্তম জেলা। এ সংক্রান্ত আইন অনুযায়ী ভোটার সংখ্যার পাশাপাশি আয়তনকে বিবেচনায় নিতে হয়, যা কমিশন বিবেচনায় নেয়নি।

(৮) বাগেরহাট জেলার আসনসমূহের গড় ভোটার সংখ্যার চেয়েও দেশের প্রায় ৩৮ টির বেশি আসনে ভোটার সংখ্যা কম রয়েছে। সেক্ষেত্রে বাগেরহাটের ক্ষেত্রে বৈষম্য করা হয়েছে। রামপাল, মংলা, সুন্দরবন ও বহু কলকারখানা-বেষ্টিত বাগেরহাট জেলা। বিগত সময় অগণতান্ত্রিক সরকার থাকায় এখানে উন্নয়ন হয়নি। এখন যদি আসন কমানো হয় তাহলে উন্নয়ন আরও ব্যাহত হবে।

(৯) সুন্দরবন বিশ্ব ঐতিহ্যের অংশ, একে বিভক্ত করা আইনসিদ্ধ নয়। শরণখোলা এবং মংলার মধ্যে যাতায়াতের কোন সড়ক নেই এবং দূরত্ব প্রায় ৭০ কিলোমিটার। এই দুই উপজেলা মিলে আসন বণ্টন যৌক্তিক নয়। শুনানীতে কমিশনের প্রস্তাবিত সীমানার পক্ষেও কেউ উপস্থিত হননি। এতে বোঝা যায়, বাগেরহাটের সর্বস্তরের জনগন ঐক্যবদ্ধ হয়ে জেলায় ৪টি আসন বহালের দাবী করছেন।

**খসড়ার পক্ষের বক্তব্য: শুনানীতে পক্ষে কেউ বক্তব্য রাখেননি।**

### **৩.৩ পর্যালোচনা:**

৯৫ বাগেরহাট-১, ৯৬ বাগেরহাট-২ ও ৯৭ বাগেরহাট-৩ আসনের বিপক্ষে মোট ৪৪টি আবেদন দাখিল করে। শুনানিতে মোট উপস্থিত ছিলেন ২৩ জন। শুনানিতে পক্ষে কেউ বক্তব্য রাখেননি বিপক্ষে ০৭ জন আবেদনকারী বক্তব্য পেশ করেন।

জনশুমারি ও গৃহগণনা ২০২২ এর চূড়ান্ত প্রতিবেদন ও সর্বশেষ হালনাগাদকৃত ভোটার সংখ্যা অনুসারে ৪টি আসন বিশিষ্ট জেলাসমূহের মধ্যে সবচেয়ে কম গড় ভোটার সংখ্যা বাগেরহাট জেলায় যা ৩৩৫৭২১ জন এবং গড় জনসংখ্যা ৪০৩২৬৯ জন। ৪টি নির্বাচনী এলাকার গড় ভোটার সংখ্যা National Mean Voter (৪২০৫১৭ জন) এর চেয়ে অনেক কম। এমতাবস্থায় বাগেরহাট জেলায় ১ টি আসন কমালে গড় ভোটার সংখ্যা দাঁড়ায় ৪৪৭৬২৮ যা অনেক জেলার চেয়ে কম ও জাতীয় গড়ের কাছাকাছি বটে।

শুনানীকালীন বক্তব্য এবং আবেদনসমূহ পর্যালোচনায় দেখা যায়, ভৌগলিক অবস্থান, প্রশাসনিক অখণ্ডতা, জনসংখ্যা, ভোটার সংখ্যা, নদী ও যোগাযোগ ব্যবস্থা বিবেচনায় বাগেরহাট জেলার জাতীয় ভোটা-র গড় সর্বনিম্ন হওয়ায় ৪ টি আসন থেকে ০১ টি আসন হাস হয়েছে। উল্লেখ্য যে, বাগেরহাট জেলায় ০৩টি আসনের পরিবর্তে, পূর্বের ন্যায় ০৪টি আসনের দাবী বিবেচনা করলে উক্ত জেলায় ০১টি আসন বৃদ্ধি করতে হবে।।

দাখিলকৃত অভিযোগ/আপত্তি পর্যালোচনা, বিভিন্ন তথ্য উপাত্ত বিশ্লেষণ, ভৌগলিক অখন্ডতা, প্রশাসনিক সুবিধা, যোগাযোগ ব্যবস্থা, যাতায়াত ব্যবস্থা, কৃষ্টি-কালচার এলাকার নৈকট্য বিবেচনায় বাগেরহাট সদর উপজেলা, মোল্লাহাট উপজেলা নিয়ে ৯৫ বাগেরহাট-১ আসন পুনর্বিন্যাস করলে ভোটার সংখ্যা হবে ৪৮৪৮৭০ জন যা জেলার গড় ভোটার সংখ্যা তুলনায় ৮.৩২% এবং জনসংখ্যা হবে ৫৮৬২৯৫ জন যা জেলার গড় জনসংখ্যা তুলনায় ৯.০৪% বেশী হবে।

ফকিরহাট উপজেলা, রামপাল উপজেলা এবং মংলা উপজেলা নিয়ে ৯৬ বাগেরহাট-২ আসন পুনর্বিন্যাস করলে ভোটার সংখ্যা হবে ৪৬৬৩৬০ জন যা জেলার গড় ভোটার সংখ্যা তুলনায় ৪.১৮% বেশী এবং জনসংখ্যা হবে ৫৩৩১৮৯ জন যা জেলার গড় জনসংখ্যা তুলনায় ০.৮৩% কম হবে।

কচুয়া উপজেলা, মোড়েলগঞ্জ উপজেলা এবং শরণখোলা উপজেলা নিয়ে ৯৭ বাগেরহাট-৩ আসন পুনর্বিন্যাস করলে ভোটার সংখ্যা হবে ৩৯১৬৯১ জন যা জেলার গড় ভোটার সংখ্যা তুলনায় ১২.৫% কম এবং জনসংখ্যা হবে ৪৯৩৫২১ জন যা ফলে জেলার গড় জনসংখ্যা তুলনায় ৮.২১% কম হবে। জাতীয় জনসংখ্যা গড় ও ভোটার সংখ্যার গুড় এর সাথে জেলার জনসংখ্যা গড় ও ভোটার সংখ্যার গড়ের ব্যবধান তুলনামূলক পর্যালোচনায় বাগেরহাট জেলা সর্বনিম্ন অবস্থানে থাকায় একটি আসন বৃদ্ধি করা সম্ভব হবেনা। দাখিলকৃত অভিযোগ/আপত্তি পর্যালোচনা, বিভিন্ন তথ্য উপাত্ত বিশ্লেষণ, ভৌগলিক অখন্ডতা, প্রশাসনিক সুবিধা, যোগাযোগ ব্যবস্থা, যাতায়াত ব্যবস্থা, কৃষ্টি-কালচার ও এলাকার নৈকট্য বিবেচনায় ৯৫ বাগেরহাট-১ (বাগেরহাট সদর উপজেলা, মোল্লাহাট উপজেলা ও চিতলমারী উপজেলা), ৯৬ বাগেরহাট-২ (ফকিরহাট উপজেলা, রামপাল উপজেলা এবং মোংলা উপজেলা) এবং ৯৭ বাগেরহাট-৩ (কচুয়া উপজেলা, মোড়েলগঞ্জ উপজেলা এবং শরণখোলা উপজেলা) নিয়ে পুনর্বিন্যাস করা অধিকতর যুক্তিযুক্ত। তাছাড়া এইভাবে বিন্যাস করা গেলে জেলার দক্ষিণে অবস্থিত সুন্দরবন এলাকাটি মূল নদী দ্বারা দুধারে দুটি সংসদীয় আসনের মাঝে ভাগ হবে যা এলাকার অনেকের দাবীর সাথে সামঞ্জস্যপূর্ণ হবে।

৩.৪ সিদ্ধান্ত:

৯৫ বাগেরহাট-১, ৯৬ বাগেরহাট-২ ও ৯৭ বাগেরহাট-৩ সংসদীয় আসনের সীমানার বিষয়ে পক্ষে বিপক্ষে আবেদনকারীগণের শুনানী গ্রহণ, ইতোপূর্বে দাখিলকৃত অভিযোগ/আপত্তি পর্যালোচনা, বিভিন্ন তথ্য উপাত্ত বিশ্লেষণ, ভৌগলিক অখন্ডতা, প্রশাসনিক সুবিধা, যোগাযোগ ব্যবস্থা, যাতায়াত ব্যবস্থা, কৃষ্টি-কালচার এলাকার নৈকট্য বিবেচনায় জুলাই ৩০. ২০২৫ তারিখের ১৭,০০,০০০০.০২৫.২২.০৯০.২৪-৩৪১ স্মারকে প্রকাশিত প্রাথমিক সীমানা তালিকায় ৯৫ বাগেরহাট-১ (বাগেরহাট সদর উপজেলা, মোল্লাহাট উপজেলা এবং চিতলমারী উপজেলা), ৯৬ বাগেরহাট-২ (ফকিরহাট উপজেলা, রামপাল উপজেলা এবং মোংলা উপজেলা) ও ৯৭ বাগেরহাট-৩ (কচুয়া উপজেলা, মোড়েলগঞ্জ উপজেলা এবং শরণখোলা উপজেলা) সংসদীয় আসন ০৩টির সীমানা পুনর্গঠন করতঃ সীমানার চূড়ান্ত গেজেট প্রকাশ করা হোক।

৪.০ উপরোল্লিখিত ৩.৪ দফার সিদ্ধান্ত গ্রহণ করা হলো।

From a plain reading of the above observations, findings and decision of the Election Commission made on hearing of the objectors i.e. the petitioners relating to the delimitation of Thirteenth National Election, it appears that no one appeared in support of the draft gazette issued by respondent No. 1, whereas the petitioners vehemently objected to and opposed the same. The Election Commission further observed that, according to the latest Census-2022, the average number of voters in the Bagerhat four-seat constituency stands at 3,35,721. In that view of the matter, if any one of the four constituencies is excluded or reduced, the average number of voters in each remaining constituency would rise to 4,47,628. The observation also stated that “শুনানীকালীন বক্তব্য এবং আবেদনসমূহ পর্যালোচনায় দেখা যায়, ভৌগলিক অবস্থান, প্রশাসনিক অখন্ডতা, জনসংখ্যা, ভোটার সংখ্যা, নদী ও যোগা-যোগ ব্যবস্থা বিবেচনায় বা-গেরহাট জেলার জাতীয় ভোটা-রর গড় সর্বনিম্ন হওয়ায় ৪টি আসন থে-ক ০১

টি আসন হ্রাস হ-য়-ছ। উল্লেখ্য যে, বা-গরহাট জেলায় ০৩টি আস-নর পরিব-র্ত পূ-র্বর ন্যায় ০৪টি আসনের দাবী বিবেচনা করলে উক্ত জেলায় ০১ টি আসন বৃদ্ধি কর-ত হ-ব। Such observations and findings suggest as if the petitioner had claimed to create a new constituency in the Bagerhat district. While issuing the draft gazette, the Election Commission's wording reflected a position as if the draft list had already been finalized. In this context, the Election Commission ought to have considered that the petitioner appeared at the hearing with objections solely for retaining the previous delimitation, not for increasing or creating any new constituency.

It appears that in existence of Gazette on delimitation of entire 300 constituencies, just prepared on 1<sup>st</sup> June 2023, only after 2(two) years, depending upon the immediate previous census 2022, made the draft publication of Gazette for delimitation without receiving any formal claims, objections, recommendations and suggestions of any person that despite having had objected, the election commission further kept the draft Gazette of the constituencies intact by changing the previous position of four constituencies. The section 8(1) of the Act is only in respect to formation constituencies afresh and its delimitation subject to amalgamation of all the 300 constituencies and distributing the populations equally and for doing so the census should have been prepared again. Though in the case of Abdul Mannan and others vs. Election Commission, Bangladesh and others in writ petition No. 5912 of 2008, 3575 of 2008, 6275 of 2008, 6353 of 2008

a notification of the election commission under section 8(1) had been challenged but was not considered by the High Court Division because the proposal of said Notification under section 8(1) of “Delimitation of constitutions ordinance 1976 (Ordinance No. 15 of 1976) was as follows;—“এর ধারা ৮ এর উপধারা ১ অনুযায়ী সর্ব-শেষ ২০০১ সা-লর আদমশুমারী রি-পোর্ট প্রকাশিত হইবার -প্রক্ষি-ত ৯ম জাতীয় সংসদ নির্বাচন অনুষ্ঠা-নর ল-ক্ষ্য এলাকাভিত্তিক নির্বাচনী এলাকা সমূ-হর সীমানা যতদূর সম্ভব জনসংখ্যা বিভাজন অনুযায়ী পুনঃনির্ধারন পূর্বক প্রতিটি নির্বাচনী এলাকার জন্য প্রস্তাবিত এলাকা সমূহ চিহ্নিত করিয়া পূর্বোক্ত অধ্যা-দ-শর ধারা ৬ এর উপধারা ৩ অনুযায়ী একটি প্রাথমিক তালিকা এতদসংঙ্গে সংযুক্ত তপসিল মোতা-বক প্রকাশিত করি-ত-ছ। It further stated that: সীমানা নির্ধার-নর কাজ দুইপর্যা-য় সমাপ্ত করা হইয়া-ছ। প্রথম পর্যা-য় প্রতিটি -জেলায় আসন বন্টন এবং ২য় পর্যা-য় জেলা সমূ-হর বন্টনকৃত আসনসমূ-হর সীমানা নির্ধারন।”

It further stated that: নিম্নোক্ত পদ্ধতি অনুসরণ করিয়া আসন-বন্ট-নর কাজ সমাপ্ত করা হইয়া-ছ।

ক) প্রতিটি জেলায় আসন বন্ট-নর জন্য সর্ব-শেষ ২০০১ সা-লর আদমশুমারী রি-পোর্ট প্রাপ্ত সর্ব-মাট জনসংখ্যার ৩০০ টি থানার সংখ্যা দ্বারা ভাগ করিয়া জনসংখ্যা কোটা নির্ধারন করা হইয়া-ছ।

খ) প্রতিটি জেলার সমুদয় জনসংখ্যা-ক জনসংখ্যা কোটা দ্বারা ভাগ করিয়া ঐ জেলার প্রতিনিধিত্ব কারী-দর ভাগ ফল (Representational quotient) নির্ণয় করা হইয়া-ছ যাহা প্রায় সকল ক্ষেত্রে একটি পূর্ণসংখ্যার ভগ্নাংশ।

গ) প্রতিনিধিকারীদের ভাগফলে প্রাপ্ত পূর্ণ সংখ্যা অনুযায়ী আসনসমূহ সংশ্লিষ্ট জেলায় বরাদ্দ করা হইয়াছে। অবশিষ্ট ভগ্নাংশসমূহকে বৃহত্তম হইতে ক্ষুদ্রতম মানে সাজাইয়া উচ্চতর মানের ক্রম অনুসারে অবশিষ্ট আসনসমূহের বরাদ্দ সম্পন্ন করা হইয়াছে। তবে পার্বত্য জেলাসমূহ ও ক্ষুদ্রাকার জেলাসমূহের স্বার্থ রক্ষার্থে ঐ সমস্ত জেলার জন্য যথাক্রমে ন্যূনপক্ষে ১টি ও ২টি আসন জনসংখ্যা কোটা অনুযায়ী প্রাপ্য না হইলেও বরাদ্দ করা হইয়াছে।

(ঘ) জেলাভিত্তিক আসন বণ্টনের পর, জেলার অন্তর্ভুক্ত আসনসমূহের সীমানানির্ধারণের ক্ষেত্রে সর্বশেষ ২০০১ সালের আদম শুমারী রিপোর্ট অনুযায়ী জেলার সমুদয় জনসংখ্যাকে জেলার জন্য প্রাপ্ত আসন সংখ্যা দ্বারা ভাগ করিয়া ঐ জেলার প্রতিটি নির্বাচনী এলাকার গড় জনসংখ্যা নির্ধারণ করা হইয়াছে। তবে বাস্তবতার নিরিখে এই জনসংখ্যার পরিমাণ জনসংখ্যার গড় হইতে ২৫ ভাগ কম বেশী পর্যন্ত গ্রহণযোগ্য নির্ধারণ করা হইয়াছে।

৪।(ক) সীমানা নির্ধারণের ক্ষেত্রে নিম্নোক্ত নীতিমালা অনুসরণ করা হইয়াছেঃ

অ) সীমানা পুনঃ নির্ধারণকালে, যতদূর সম্ভব, সংশ্লিষ্ট জনগণের সুবিধা/অসুবিধার বিষয়,

(আ) সংসদীয় আসন জেলাভিত্তিক বণ্টন এবং এক জেলায় অবস্থিত সংসদীয় আসনের এলাকা অন্য জেলায় সম্প্রসারণ না করা, এবং

(ই) ইউনিয়ন/সিটি ওয়ার্ড একাধিক সংসদীয় আসনের মধ্যে বিভাজন না করা।

(খ) ইহা ছাড়াও গুরুত্বের মান অনুযায়ী নিম্নোক্ত ৩টি নীতিও অনুসরণ করা হইয়াছেঃ

(অ) নির্বাচনী এলাকাসমূহের বর্তমান সীমানা যতদূর সম্ভব বহাল রাখা,

(আ) যেখানেই সম্ভব, সীমানা পুনঃনির্ধারণকালে উপজেলা অবিভাজিত রাখা, এবং

(ই) যেখানেই সম্ভব, ভৌগলিক বৈশিষ্ট্য (যথা-নদী) ও যোগাযোগ ব্যবস্থা (যথা-রাস্তাঘাট) বিবেচনা করা।

৫। সংশ্লিষ্ট জেলার যে কোন অধিবাসী আগামী ০১ জুন ২০০৮/১৮ জ্যৈষ্ঠ ১৪১৫ তারিখের মধ্যে পুনঃনির্ধারিত নির্বাচনী এলাকা বিষয়ে নির্বাচন কমিশন বরাবর তাহার লিখিত আপত্তি পেশ করিতে পারিবেন। তবে আপত্তিসমূহ এই বিজ্ঞপ্তির অনুচ্ছেদ ২ হইতে ৪-এ বিধৃত পদ্ধতি ও নীতিমালার প্রয়োগে কোন ব্যত্যয় সংক্রান্ত হইতে হইবে এবং আবেদনপত্রে ব্যত্যয়ের বিষয়টি সুস্পষ্টভাবে উল্লেখ করিয়া ৫ প্রস্থ আবেদনপত্র দাখিল করিতে হইবে।

৬। আপত্তি দাখিলের সময়সীমা অতিক্রান্ত হইবার পর কিংবা উত্থাপিত আপত্তিসমূহের উপর শুনানী অনুষ্ঠানের পর, নির্বাচন কমিশন উত্থাপিত বিষয়সমূহ বিবেচনান্তে প্রয়োজনীয় সংশোধনীর পর পুনঃসীমানা নির্ধারিত নির্বাচনী এলাকাসমূহের একটি চূড়ান্ত তালিকা প্রকাশ করিবেন।

By the above notification issued in 2008 the Election Commission practically had completed the process of readjustment/delimitation of all over the country under section 8(1) of the Ordinance, 1976, have been reflected from the said notification. When particular territorial constituencies required to be formed afresh by delimiting another one, section 8 of the Act has to be exhausted in full compliance i.e. all the 300 seats has to be amalgamated and delimited with the provision provided under section 6 (2) of the act 2021. The judgment passed in writ petition No. 7353 of 2023 and writ petition No. 4791 of 2023 are not at all applicable in this particular case concerned because the facts remains that the then Election Commission giving the ample opportunity of effective representation to the concerned aggrieved persons made the delimitation, which in this case matter was not done. The judgment so cited by the respondent No. 1 passed in the case Meghraj Kothari vs. Delimitation Commission and others, where the delimitation commission published the proposed delimitation with dissenting proposal which in this particular case is totally absent.

Referring annexure-1 of affidavit-in-opposition, Mr. Miazi pointed out that the election commission properly followed the latest census 2022 that the score of Bagerhat with regard to population is lowest and that is why the election commission considering the lowest populations of this particular District has taken the decision of curtailing a constituency from Bagerhat District and also pointed out



by showing annexure-2 that the petitioner was given ample opportunity to represent their objections and the election commission after giving them ample opportunity of being heard took decision, so the election commission has complied with all the legal procedure in making the draft delimitation Gazette.

Upon the above submissions and cited decision and the counter submissions and cited decisions of the contesting parties it is incumbent upon the court to decide which one is justifiable in accordance with law.

Mr. Shaikh Mohammad Zakir Hossain, the learned Advocate relied upon two decision, one is of our jurisdiction and another is of Indian jurisdiction on the question of maintainability. In the case of Kishorchandra Chhanganlal Rathod- Vs- Union of India and others where, the High Court of Gujrat outright rejected the writ of *certiorari* which on appeal, was held that “*while the courts shall always be guided by the settled principles regarding scope, ambit and limitations on the exercise of judicial review in delimitation matters, there is nothing that precludes them to check the validity of orders passed by Delimitation Commission on the touchstone of the Constitution. If the order is found to be manifestly arbitrary and irreconcilable to the constitutional values, the Court can grant the appropriate remedy to rectify the situation*”. It was further held that “A constitutional court can undertake the exercise of judicial review within the limited sphere at an appropriate stage”.

In the case of Col Md. Hashmat Ali it was held that “*a member of the disciplined force can be aggrieved person and can also move the High Court Division invoking Article 102 of the Constitution, subject to the provision of article 45 of the constitution for enforcement of fundamental right. There are however, certain constitutional limitations of the judicial review of an order passed or action taken against a member of disciplined force in this country. Reading clause 5 of article 102, article 134 and 45 of the constitution together I am of the view that the member of any disciplined force of Bangladesh will be entitled to any remedy under article 102 of the Constitution if he is aggrieved (I) by decision of Court or tribunal established under a law relating to the defence services unless that decision is coram non judice or malafide; or (II) by an order affecting his terms and conditions of service, passed by or by order of the Precedent; or (III) by any of fundamental right resulting from application of the disciplinary law for the purpose of ensuring the proper discharge of his duties or the maintenance of discipline in the disciplined force.*”. He also submitting and citing so many other decisions of our jurisdiction has taken strong position with regards to the question of maintainability of this Rule.

Under above mentioned premises and contentions of the parties, it is incumbent on us to justify (1) whether the petitioners could seek relief under article 102 of the constitution against the respondent No. 1, a constitutional body, having its own entity and being guided by its

own law, challenging its acts questionable? (2) whether the petitioners have been prejudiced with the act of the respondent No. 1 amounting to be arbitrary, malafide and pick and choose policy? and; (3) whether the act done was within the ambit or jurisdiction of the Election Commission as the law provides to be done?.

Upon the above contentions of the contesting parties and for justifying the above issues, our deliberations proceed as follows;-

The facts remains that the law on delimitation was first introduced by the Ordinance, 1976 which subsequently was amended and replaced by the statute titled জাতীয় সংসদের নির্বাচনী এলাকার সীমান নির্ধারণ আইন, ২০২১. The fact remains undisputed that since independence, Bagerhat District has been maintaining four constituencies. The facts also remains that Bagerhat District is the sixth largest district of the country and its territorial area is considerably larger than that of Gazipur District. It is adjacent to the Sundarbans—the world’s largest mangrove forest—and is surrounded by numerous rivers and natural features.

Section 8(1) of the Delimitation of constituencies ordinances, 1976 conferred to the election commission power and authority to mandatorily make delimitation after every census and before general election. In 2008, the then election commission for the purpose of delimitation of all the constituencies of the country, issued a notification dated 29 April, 2008 under section 8(1) of the delimitation of constituencies Ordinance, 1976 and the Election

Commission after holding a comprehensive inquiry in all the 300 parliamentary Constituencies and examining the concerned records found 167 constituencies were not required to be delimited and conducted delimitation in respect of 133 constituencies of which 68 were finalized. This act of the election commission demonstrates that section 8(1) was intended for a comprehensive re-delimitation of all constituencies of the country not for altering any single constituency in isolation. The High Court Division, in relation to that exercise in writ petition Nos. 5912, 3575, 6275 and 3653 of 2008 held that the constitutional mandate under the Delimitation Ordinance, 1976, was not violated, and thus the Court did not interfere. However, the present case differs significantly from that of 2008.

The Election Commission issued a gazette notification dated 30.07.2025 with specific proposal of delimitation following the procedure mentioned and provided under article 119(1)(c) and section 8(1)(kha), 6(2) and 6(3) of the জাতীয় সংসদ-দর নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১.

For convenience of reference the said notification is quoted below;

নম্বর-১৭.০০.০০০০.০২৫.২২.০৯০.২৪-৩৪১।—গণপ্রজাতন্ত্রী বাংলা-দ-শর সংবিধানের অনুচ্ছেদ ১১৯ এর দফা (১) এর উপ- দফা (গ) এবং জাতীয় সংসদের নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ এর ধারা ৮ এর উপ-ধারা (১)(খ) অনুযায়ী জাতীয় সংসদ-সদস্যের নির্বাচন অনুষ্ঠানের এলাকা ভিত্তিক নির্বাচনি এলাকাসমূহের সীমানা উপরোক্ত আইনের ধারা ৬ এর উপ-ধারা (২) অনুসারে প্রশাসনিক সুবিধা আঞ্চলিক অখন্ডতা এবং জনসংখ্যার বাস্তব বিভাজনকে যতদূর সম্ভব বিবেচনায় রাখিয়া প্রত্যেক নির্বাচনি এলাকার সীমানা পুনঃ নির্ধারণ করিয়া ধারা ৬ এর উপ-ধারা (৩) অনুযায়ী নির্বাচন কমিশন এতদসঙ্গে একটি প্রাথমিক তালিকা প্রকাশ

করিতেছে এবং তালিকাটি সম্পর্কে সংশ্লিষ্ট নির্বাচনি এলাকার বাসিন্দাদের নিকট হইতে লিখিত দাবী/ আপত্তি/সুপারিশ/মতামত আহবান করিতেছে।

২। সীমানা পুনঃনির্ধারণে নিম্নোক্ত পদ্ধতি অনুসরণ করা হইয়াছেঃ

ক. পার্বত্য এলাকার ৩ (তিন) জেলার ৩টি আসন অপরিবর্তনীয় রাখা,

খ. ২ (দুই) আসন বিশিষ্ট জেলার আসন সংখ্যা অপরিবর্তিত রাখা; কারণ ভোটার/জনসংখ্যার অনুপাতে-আসন বৃদ্ধি করলে অস্বাভাবিকভাবে হ্রাস (জেলাভিত্তিক ভোটারের জাতীয় গড়ের তুলনায়) পার। আবার ২টি আসন-কে ১টি আসন-এ হ্রাস করলে ভোটার সংখ্যা গড়ের তুলনায় অনেক বেড়ে যায়;

গ। ৩ (তিন) আসন বিশিষ্ট জেলার আসন সংখ্যা অপরিবর্তিত রাখা। আসন হ্রাস/বৃদ্ধিতে ভোটার/জনসংখ্যার অনুপাত অসামঞ্জস্যপূর্ণ হয়ে পড়ে;

ঘ.-যেকোন আসনের সীমানা পুনঃনির্ধারণের জন্য কোন আবেদন দাখিল হয়নি সে আসনগুলো অপরিবর্তিত রাখা;

ঙ. প্রশাসনিক ব্যবস্থাকে অগ্রাধিকার গণ্যে উপজেলা/থানা ইউনিটকে যতদূর সম্ভব অখন্ড রাখা;

চ.জেলার মধ্যকার আসনের ভোটার সংখ্যা সর্বোচ্চ ৩০% ব্যবধানের মধ্যে সীমাবদ্ধ রাখা;

ছ. যতদূর সম্ভব, প্রশাসনিক ও নির্বাচনি সুব্যবস্থার বিষয় বিবেচনায় রেখে উপজেলা, সিটি কর্পোরেশনের ওয়ার্ডের অখন্ডতা বজায় রাখা;

জ. ইউনিয়ন, সিটি কর্পোরেশনের ওয়ার্ড ও পৌরসভার একাধিক সংসদীয় আসনের মধ্যে বিভাজন না করা;

ঝ. সিটি কর্পোরেশন এলাকার জনসংখ্যা, ভোটার সংখ্যা, প্রশাসনিক পরিধি বিবেচনায় নির্বাচনি এলাকা পুনঃবিন্যাস করা।

ঞ. যতদূর সম্ভব, সীমানা পুনঃনির্ধারণকালে সংশ্লিষ্ট জনগণের সেবা বিষয়ক সুবিধা/অসুবিধার বিষয় বিবেচনা করা;

ট. যতদূর সম্ভব, ভৌগোলিক বৈশিষ্ট্য (যথা-নদী) ও যোগাযোগ ব্যবস্থা (যথা-রাস্তাঘাট) তথা জনগণের যাতায়াত ব্যবস্থা সুবিধা ও অসুবিধা বিবেচনা করা, এবং

ঠ. যেসকল প্রশাসনিক এলাকা নতুন সৃষ্টি হয়েছে বা সম্প্রসারণ হয়েছে বা বিলুপ্ত হয়েছে তা অন্তর্ভুক্ত/কর্তন করা এবং পরিবর্তিত নাম সংশোধন করা।

০৩। কোন সংক্ষুদ বা স্বার্থ সংশ্লিষ্ট ব্যক্তি আগামী ২৬ শ্রাবণ ১৪৩২/ ১০ আগস্ট ২০২৫ তারিখের মধ্যে কোন আসনের পুনঃনির্ধারিত নির্বাচনি এলাকার বিষয়ে নির্বাচন কমিশন বরাবর তাঁহার লিখিত দাবী/আপত্তি/সুপারিশ/মতামত পেশ করিতে পারবে। তবে দাবী/আপত্তি/সুপারিশ/মতামত এই বিজ্ঞপ্তিতে উল্লিখিত কোন আসনের

সীমানা সংক্রান্ত হইতে হইবে এবং দাবী/আপত্তি/সুপারিশ/মতামত সংক্রান্ত দরখাস্ত ৫ (পাঁচ) প্রস্থ দাখিল করিতে হইবে। নির্ধারিত তারিখের পর কোন দাবী/আপত্তি/ সুপারিশ/মতামত সংক্রান্ত দরখাস্ত গ্রহণ করা হইবে না।  
৪. নির্বাচন কমিশন সকল দাবী/আপত্তি সুপারিশ/মতামত প্রকাশ্য শুনানীর মাধ্যমে নিষ্পত্তি করিবে। শুনানীর বিস্তারিত কর্মসূচি বিজ্ঞপ্তির মাধ্যমে যথা সম-য় জানা-না হই-ব।

To highlight the difference, reference must be made to the circular dated 30 July 2025, which specifically mentions that section 8(1)(Kha) must be followed. The circular further provided that, in following section 6(2), a draft list under section 6(3) of জাতীয় সংসদ-দর নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ for constituencies was published. By publishing the draft Gazette, the respondent No. 1 sought to demonstrate that, under section 8(1)(Kha) of Ain, 2021 each parliamentary constituency had been reshuffled and reconsidered with regard to administrative advantage, geographical compactness, and population but the Annexure-1 to the affidavit in opposition reflects that the parliamentary Constituency No. 34(Joypurhat-1), Constituency No.149(Mymensingh-4) and Constituency No.207 (Narayansingh-4) have exceeded more than 100% average vote difference. The parliamentary constituency No. 21(Rangpur-3), 192(Dhaka-19) and Constituency No. 229(Sylhet-1) have exceeded more than 90% average vote difference. The parliamentary constituency No. 123 (Barishal-5) has exceeded more than 80% average votes. The Constituencies 35(Joypurhat-2), Constituency No.53(Rajshahi-2), Constituency No.87(Jashore-3), Constituency No.195(Gazipur-2), Constituency No. 245(Brahmanbaria-3),

Constituency No.258(Comilla-10) and Constituency No.271(Noakhali-4), have exceeded more than 50% average votes. The parliamentary constituency No. 3(Thakurgaon-1), Constituency No.40(Bogura-5), Constituency No.121(Patuakhali-1), Constituency No.142(Jamalpur-5), Constituency No.148(Mymensingh-3), 175(Dhaka-2), Constituency No.191(Dhaka-18), Constituency No.194(Gazipur-1), Constituency No.199(Narsingdi-1), Constituency No.254(Cumilla-6), Constituency No.285(Chattogram-8), Constituency No.288(Chattogram-11), have exceeded more than 30% average votes.

The constituency Nos. 19, 90, 101, 129, 139, 148, 176, 177, 179, 181, 197, 198, 200, 2004, 205, 206, 230, 243, 248, 255, 280 and 291 are 30% less average votes from other constituencies.

The parliamentary constituency No. 21(Rangpur-3) holds 916,864 votes; constituency-123 (Barisal-5) holds 919,883 votes; Constituency-149 (Mymensingh-4) City Corporation holds 950,394 votes; Constituency-192 (Dhaka-19) holds 807,394 votes; Constituency-204 (Narayanganj-4) holds 1,102,159 votes; and Constituency-229 (Sylhet-1) holds 930,008 votes. These figures indicate that the populations of the above constituencies are far higher than most other single-territory parliamentary constituencies and obviously for higher than Gazipur District.

Now the question is if under above mentioned feature of the constituencies regarding population and voters, the Election

Commission had followed the strict compliance of section 8(1) of the delimitation Act, 2021 in the process of delimitation the impugned decision only readjusting/curtailing a constituency and including another one should not have been made. Since there is no record before us for specifically showing that the Election Commission had exhaustively complied with the proposal of section 8 of the Act 2021 in forming constituencies afresh, it must be presumed that compliance of section 8(1) was not properly carried out. The absence of such compliance raises the further question whether the Election Commission had the authority to pick and choose, and whether the law empowers the Election Commission to exercise such discretion in forming new constituencies.

Section 6 of the Act, 2021 prescribes the procedure by which delimitation of territorial constituencies is to be completed. Section 6(2) of the Act very specifically requires that the Election Commission, in delimiting constituencies, must consider three specific criteria: first, administrative advantage; second, territorial integrity; and third, population. These criteria are fundamental to ensuring that delimitation is fair, lawful, and consistent with the statutory scheme.

Furthermore, the circular dated 30.07.2005 clarified that any person aggrieved or interested must submit objections, suggestions, recommendations, or opinions within a specified time limit against any delimitation carried out in pursuance of section 6(2) and



following the prescribed criteria. This procedural safeguard ensures that all stakeholders have a meaningful opportunity to participate in the delimitation process and that the Election Commission cannot act unilaterally or arbitrarily.

The record shows that prior to the draft delimitation prepared under section 6(2), no person including the present petitioners made any claim, objection, recommendation, or suggestions. However, after the communication of the draft Gazette, when it appeared to the petitioners that Constituency-98 (Bagerhat-4) of Bagerhat District was curtailed, they for the first time submitted their objection. Upon such objection they were duly heard, and even at that stage no one except the petitioners raised any objection or offered any suggestions in support of sustaining the draft Gazette. Thus, it is evident that the proposed draft Gazette prepared by the Election Commission under section 6(2) was not supported by any stakeholder other than the Commission itself i.e. the proposed draft Gazette which was made by the election commission following provision 6(2) and some criterion made in clause “2(Ka) to 2(Tha)” specifically the criteria (Gha) “যে সকল আসনের সীমানা পূর্ণনির্ধারনের জন্য কোন আবেদন দাখিল হয় নাই সে আসন গুলো অপরিবর্তিত রাখা।” So who is the person interested highly or the election commission itself to curtail a long maintained constituencies from Bagerhat District?. As it has been admitted in the circular that “যে সকল আসনের সীমানা পূর্ণনির্ধারনের ক্ষেত্রে কোন আবেদন দাখিল হয় নাই” is the stipulations to have been followed but under what authority and what

unseen causes and whose instruction and instances the parliamentary Constituency-98 (Bagerhat-4) was curtailed is a million dollars questions.

Section 6(3) of the Act, 2021 provides that, after holding inquiry and upon examining the relevant documents, the Election Commission shall prepare a list of single-territorial constituencies. In the present case, the respondent No. 1 on its own motion and without receiving any objection or suggestions from any person or authority, or political party prepared and published a draft Gazette and invited objections. When such written objections or suggestions were invited and upon this any written objection or suggestions were submitted must be given due and high importance, because section 6(4) expressly provides that after hearing such objections and conducting necessary consultations, the Election Commission shall amend the list prepared under section 6(3) if any unwilling mistake and deviation is found therein and shall publish a final list in the official gazette.

Accordingly, the proposition of section 6(4) of the Act, 2021 must be applied in this matter strictly, as the proposed draft Gazette was issued solely at the instance and discretion of the Election Commission, not pursuant to any claim, objections, suggestions or recommendation of any stakeholders. In such circumstances, the Election Commission becomes the opposing party to the petitioners. The question then arises: when objections and suggestions were invited and the petitioners filed such written objections, who stands in

opposition to those objections? Logically, it is those who seek to sustain the draft Gazette. If the Election Commission itself seeks to defend and sustain its own draft decision, then section 6(4) becomes entirely redundant and loses its practical application.

Therefore, the impugned decision, purportedly taken under sections 6(3) and 6(4) of the Act, 2021 becomes questionable—particularly when the decision/Resolution clearly states that no one appeared to sustain the draft publication. Furthermore, the resolution of the election commission show that the Commission was required to consider the population of constituencies, administrative convenience, geographical integrity, and population distribution. Yet the Commission made certain observations in the decision/resolution which for appreciation is quoted below in this case to ascertain the true objectives and intention behind its decision.

“শুনানীকালে বক্তব্য এবং আবেদন সমূহ পর্যালোচনায় দেখা যায় ভৌগলিক অবস্থান, প্রশাসনিক অখণ্ডতা, জনসংখ্যা, ভোটার সংখ্যা, নদী ও যোগাযোগ ব্যবস্থা বিবেচনায় বাগের হাট জেলার জাতীয় ভোটারের গড় সমান না হওয়ায় ৪টি আসন থেকে একটি আসন হ্রাস হয়েছে। উল্লেখ্য যে বাগেরহাট জেলায় ৩টি আসনের পরিবর্তে পূর্বের ন্যায় ৪টি আসনের দাবী বি-বচনা করলে উক্ত জেলার ১টি আসন বৃদ্ধি করতে হবে। It is very untenable observation in the decision because the Election Commission was not dealing with any objection seeking to raise or increase a parliamentary constituency afresh. Rather, the objection that raised specifically against the eliminating of an existing constituency. The word herein used that “বাগেরহাট জেলার ৩টি আসনের

পরিবর্তে পূর্বের ন্যায় ৪টি আসনের দাবী বিবেচনা করলে উক্ত জেলার একটি আসন বৃদ্ধি করতে হ-ব”। The Bagerhat District still maintains (before the impugned gazette) 4(four) constituencies, and if the claim for sustaining the same constituency was to be considered, the question of increasing a constituency was illogical and absurd. The Election Commission, until and unless fully hears all allegations, objections, suggestions, opinions, and recommendations, cannot assert that the proposed list has attained finality. The languages that have been inducted in the impugned decision as if election commission after taking final decision invited the stakeholders to make their objections, suggestions and recommendation etc. The resolution indicates that the draft list is not final; therefore, any objection, suggestion, or recommendation, whatever its nature, should have been duly considered. Consequently, if all such objections, suggestions and recommendations does not support to increase of a new constituency, the same must be properly absorbed and reflected in the final delimitation order.

As already observed, the draft census list of all the 300 constituencies held in 2022(Annexure-1 to the affidavit-in-opposition) reveals that 3 (three) parliamentary constituencies No. 34, 149 and 207 have average voter populations much more than 100% excess to the statutory benchmark of 30%, 3 (three) constituencies Nos. 21, 192 and 229 have average voter population more than 90% excess to the statutory benchmark 30%. The parliamentary constituency No. 123 has voter population more than 80% excess to the statutory

benchmark 30%, the constituencies No. 35, 53, 87, 195, 245, 258, 271 have average voter population more than 50% excess to the statutory benchmark 30% and the constituencies No. 3, 40, 111, 142, 148, 175, 191, 194, 199, 254, 285, 288 have average voters population more than 30% to the statutory benchmark 30%. The election commission without undertaking any corrective measures to the above high difference of voters, kept those intact which all stands substantially above the required average threshold. In contrast, the Commission's action with regard to Bagerhat District appears to be nothing but a pick-and-choose exercise. The central question, therefore, is whether the law sanctions such selective treatment in the process of delimitation. The comparative feature of difference of voters of the above constituencies have already been recorded.

We have elaborated that the statute before us is a constitutional enactment deriving its force from Articles 119, 124, and 125 of the Constitution. While the Constitution mandates the Parliament to enact laws relating to delimitation and protects such laws from judicial interference, it does not shield the application of the law from judicial scrutiny when illegality, arbitrariness, or non-compliance is committed by those entrusted to implement it. In the present case, this Court is not concerned with disturbing the legislative mandate or the constitutional framework; rather, the sole question is whether the application of the law has been carried out lawfully and in conformity with its statutory requirements. The record shows that no claim,

objection, suggestions, recommendation, or opinion were received from any person or authority regarding elimination the Constituency No. 98 (Bagerhat-4) and increase one from Gazipur district yet the Election Commission has eliminated the said constituency purportedly in not complying with criteria 2(Gha), of the notification dated 30.07.2025. This raises the pivotal question under what authority and with what legality could the Election Commission undertake such unilateral action?

In this case, the Commission's justification was that Bagerhat District has one of the lowest populations and, therefore, one of its constituencies ought to be deleted and replaced elsewhere. But, as demonstrated, numerous constituencies including those within major City Corporations hold far higher voter populations, sometimes exceeding 8 lac to 11.5 lac, yet no delimitation was applied to them. If population was indeed the decisive criterion, the reconstitution should have concerned those constituencies rather than Bagerhat. It is thus evident that section 8(1) was not complied with. Had it been followed, the Commission would then have proceeded to the second statutory step. As the 2008 notification demonstrates, delimitation if required must be undertaken only after amalgamating all the 300 constituencies and conducting a comprehensive reshuffling, which previously resulted in the identification of 68 constituencies for delimitation in 2008. Therefore, when seeking to curtail one constituency and create another anywhere in the country, the Election Commission ought to

have carried out a similarly structured and nationwide process, which it failed to do in this instance.

Upon perusal of the voter statistics of Gazipur District and the latest census data, it appears that the present number of voters in the respective constituencies are as follows: Gazipur-1: **6,82,517**; Gazipur-2: **7,59,269**; Gazipur-3: **4,55,883**; Gazipur-4: **3,01,067**; Gazipur-5: **3,10,036**. These figures demonstrate that the average deviation of voters in these constituencies stands at approximately excess **36% for Gazipur-1**, excess **51.30% for Gazipur-2**, less - **9.24% for Gazipur-3**, less **39.85% for Gazipur-4**, and less **38.22% for Gazipur-5**. Despite such variations, Gazipur has been selected for the creation of an additional constituency.

However, a comparative analysis shows that several other constituencies across the country possess significantly higher populations. For instance, Constituency-123 Barishal-5 holds **7,19,883** voters; Constituency-149 Mymensingh-4 holds **9,50,394** voters; Constituency-192 Dhaka-19 holds **8,07,394** voters with an average difference of **99.92%**; Constituency-207 Narayanganj-4 holds **11,02,159** voters; and Constituency-229 Sylhet-1 holds **9,30,008** voters. The populations of all the above constituencies are much higher than that of the Gazipur City Corporation. The average population of Gazipur District is 501834 while the average population of Narayanganj district is 543042. So the election commission without considering high density of population in Narayanganj district has

chosen Gazipur is obviously a pick and chose policy which however be considered was done not in accordance with law.

Therefore, it appears that, even if delimitation of Gazipur District was deemed necessary within its districts, such delimitation was possible and could have been done within the existing five constituencies, considering the total number of voters—Gazipur-1 holds 682,517 voters, Gazipur-2 holds 7,59,269 voters , Gazipur-3 holds 4,55,883 holds voters, Gazipur-4 holds 3,01,067 voters, and Gazipur-5 holds 3,10,036 average 501834 voters are comparatively much less than Narayangonj District which hold average 543042 voters.

This factual aspect and elements clearly demonstrates that the Election Commission in the name of delimitation has adopted a **pick-and-choose policy**, whereby it arbitrarily targeted Bagerhat District only considering its lower population and deleted a long-standing constituency existed since 1972, while creating a new one without satisfying the statutory criteria for delimitation and without any genuine necessity to do so at this stage.

As already observed, the Election Commission did not adhere to the proposal and proposition of Section 8(1)(kha) of the Ain, 2021 and has also violated Sections 6(2) and 6(3). Consequently, it was not legally entitled to reach the conclusion and decision it purported to take. Any decision claimed to be within its authority in such circumstances is wholly illegal. The Election Commission departed



from its own declared commitment, as the notification dated 30.07.2025 stated that it had complied with Section 6(2) and had published a draft list under Section 6(3) in accordance with the prescribed criteria. Since no one had raised any objection or gave any suggestion, to eliminate constituency 98(Bagerhat-4) and form afresh one in Gazipur District constituency 198(Gazipur-6), at that stage, the Commission ought to have remained strictly compliant with the statutory criteria. Instead, it deviated from its commitment and prepared the draft list merely to demonstrate formal compliance with Section 6(3). This raises a legitimate question: what necessity existed to invite objections from interested persons when no such objections had been raised earlier?

Section 6(3) clearly provides that the Election Commission, upon inquiry and consideration of relevant documents and materials, may prepare a draft list. If the Commission itself initiated the process and no individual from any quarter submitted any claim or objection and suggestion, the subsequent invitation for objections under Section 6(3) appears merely procedural. However, when the proposed delimitation gazette faced substantial objections—amounting to nearly 44 persons of the locality, including the elected representatives of the area—it was incumbent upon the Commission, applying the statutory criteria, particularly Clause 2(gha) of the notification dated 30.07.2025 to consider such overwhelming objections as sufficient to restore the earlier Constituency No. 98(Bagerhat-4).

Although Section 6(4) empowers the Election Commission to take the final decision, that authority must be exercised strictly in accordance with law. The Commission cannot act whimsically or arbitrarily. When the earlier decision is demonstrably illegal and when no counter-objection exists, the Commission was under a legal obligation to rectify the draft notification and maintain the previous constituency structure.

It is also pertinent that the last census was admittedly conducted in 2022. Based on that census, a delimitation list was duly prepared and gazetted on 01.06.2023. Two years later, even if the government considers it appropriate to proceed with the election, the Election Commission must conduct the process on the basis of the 2022 census. Without preparing a fresh census list, any new delimitation of constituencies stands contrary to law and renders the impugned delimitation untenable.

This court is not concerned with the decisions of the Government regarding matters that exclusively within the domain of the Election Commission for ensuring a smooth, credible, and impartial election. Rather, this court is only concerned that the Election Commission, being a constitutional body and a separate entity, has the authority and responsibility to deal with such matters judiciously. If the functions entrusted to the Election Commission are not performed in accordance with the propositions of law, the hands

of this Court are not tied from interfering against such functions and decisions.

Although there are series of judicial decisions in our jurisdiction and in the subcontinent i.e. home and abroad developing principles that the law enacted for the Election Commission as a constitutional authority cannot be questioned, we are refrained from calling into question the legality and validity of the said laws. However, we are concerned when those laws are not properly applied, or when the executors and bearers of the law fail to discharge their duties in accordance with law and when such failure amounts to arbitrariness, colourable exercise of power, or malafide intention, this Court is fully competent to interfere.

The crux of case is that the petitioners' constituency was eliminated without any claim, or objection or suggestions from any authority or stakeholders but merely on the initiative of the Election Commission, purporting for the purpose of adjusting population. Yet the fact remains that several other constituencies already recorded contain significantly higher populations than that of Gazipur District.

We have found the calculated figure of voters of Gazipur Districts are; Constituency No. 194(Gazipur-1) holds a voters of 6,82,517; constituency No. 195(Gazipur-2) holds a voters of 7,59,269; constituency No. 196 (Gazipur-3) holds a voters of 4,55,483; constituency No. 197(Gazipur-4) holds a voters of 3,01,867 and constituency No. 198( Gazipur-5) holds a voters of 3,10,036. Thus,

constituency No. 196(Gazipur-3), constituency No. 197(Gazipur-4) and constituency No. 198(Gazipur-5) are significantly less in voters compared to constituency No. 194 (Gazipur-1) and constituency No. 195 (Gazipur-2). If the Election Commission genuinely felt that a reshuffling was required for ensuring a proper, transparent, and smooth election, such restructuring ought to have been carried out within the existing voters of the said district. It should not have been done by eliminating a long-standing constituency No. 98 (Bagerhat-4) that has been in existence since 1972 and creating a new one in its place constituency No. 198 (Gazipur-6).

We have, therefore in a considered view and come to the conclusion that the Election Commission, in making the impugned delimitation by eliminating constituency No. 98 of the Bagerhat District (Bagerhat-4) and forming a new Constituency No. 198 (Gazipur-6) acted beyond its jurisdiction, in an arbitrary, malafide manner and colourable exercise of power. Accordingly, we have got sufficient substance to consider the rule which deserves to be made absolute.

In the result, the rule is made absolute.

The impugned Gazette Notification bearing memo No. 17.00.0000.025.22.090.24-654 dated 04.09.2025 (Annexure-D) to the writ petition so far as it relates to constituting Parliamentary Constituencies No. 95(Bagerhat-1), Constituency No. 96(Bagerhat-2), Constituency No. 97(Bagerhat-3) and Constituency No. 198(Gazipur-

6) is hereby declared to have been made illegal, without lawful authority and is of no legal effect.

The respondent No. 1 is directed to publish gazette notification restoring the previous constituencies Nos. 95(Bagerhat-1) consisting Fakirhat, Mollahat and Chitalmari upazila, 96(Bagerhat-2) consisting Bagerhat Sadar and Kachua upazila, 97 (Bagerhat-3) consisting Rampal and Mognla upazila and 98(Bagerhat-4) Morelgonj and Shorankhala upazila of Bagerhat District as was gazetted earlier dated 01.06.2023 (Annexure-A) as per the latest Census 2022(Annexure-A2) within 24(twenty four) hours from the date of receipt of this judgment and order.

However, there shall be no order as to costs.

Communicate the judgment and order, at once.

Faysal Hasan Arif, J:

I agree.