

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

Writ Petition No. 6287 of 2022

IN THE MATTER OF:

An application under Article 102 of the
 Constitution of the People's Republic of
 Bangladesh.

-AND-

IN THE MATTER OF:

Md. Selimuzzaman Bhuiyan and others
Petitioners

-Versus-

Government of the People's Republic of
 Bangladesh, represented by the Secretary,
 Secondary and Higher Secondary
 Education Division, Ministry of
 Education, Bangladesh Secretariat,
 Ramna, Dhaka and others.

..... Respondents

Ms. Sufia Ahamad and Ms. Helena Begum
 Advocates for

Ms. Naharin Begum, Advocate

...For the Petitioners

Mr. Mohammad Waliul Islam Oli, D.A.G with

Mr. Md. Ershadul Bari Khandakar, D.A.G,

Ms. Nilufar Yesmin, A.A.G,

Mr. Md. Moshiur Rahman (Rahat), A.A.G,

Mr. Md. Motasin Billah Parvez, A.A.G and

Mr. Md. Faridul Islam, A.A.G

....For the respondents

Present:

**Mr. Justice Sashanka Shekhar Sarkar
 And
 Justice Urmee Rahman**

**Heard on 13.01.2026 and
 Judgment on 14.01.2026.**

Urmee Rahman, J:

This *Rule Nisi* at the instance of the petitioners was issued on an application under Article 102 of the Constitution in the following terms;

Let a Rule Nisi be issued calling upon respondents to show cause as to why a declaration should not be made that discrimination in the absorption process amongst the existing staffs of Chandina Government Pilot Model High School by not processing the papers of the petitioners by the Ministry of Education in the process of nationalization of the said school is discriminatory, arbitrary and without any lawful authority and is of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.

The facts relevant for disposal of the Rule, in brief, are that Chandina Government Model Pilot High School, Chandina, Cumilla (hereinafter referred to as “the School”) was established on 01.01.1916 as a private school. The School was first accorded recognition on 31.12.1984 and was brought under the Monthly Payment Order (MPO) scheme on the same date, by virtue of which this School obtained registration from the Directorate of Secondary and Higher Education.

In 2017 Government took initiative for establishing at least one Government Secondary School and College in each Upazilla of the country whereupon the School received academic recognition from the Secondary and Higher Secondary Education Division, Ministry of Education, Bangladesh and was selected for nationalization vide Memo dated 13.09.2018.

Case of the petitioners are that, following the advertisement/notice dated 01.01.2018 issued by the respondent No.6, the Headmaster of the School, the petitioner Nos.1 and 2 applied for the post of Lower Assistant Cum-Computer Operator and following the advertisement/notice dated 05.12.2017 the petitioner No.3 applied for the post of Assistant Librarian. They were appointed vide appointment letters dated 09.01.2018. Their services were confirmed by the Managing Committee of the School by the resolution dated 09.01.2018 and they joined on 10.01.2018. The petitioner No. 4 , 5 and 6 got appointment in the post of 4th Grade Worker vide appointment letters dated 25.11.2003, 14.11.2014 and 30.04.2015 respectively and they joined their posts on 27.11.2003 , 01.12.2014 and 01.05.2015 respectively. By the resolution of the School Managing Committee dated 09.01.2018 their salary was increased and it was decided that their entitlements to the school given facilities would be similar to the M.P.O. listed teachers/staffs.

From their respective dates of appointments the Writ petitioners have been continuing their services with sincerity and to the satisfaction of all concerned. However, the petitioners were not included in the Monthly Pay Order (M.P.O.), they received their salary, bonus and other facilities from the school fund directly.

Though the nationalization process includes process of absorbing all existing teacher and employees of the school, the respondents most discriminatorily did not process the papers of the

petitioners for absorption of their service in the revenue budget as they are not M.P.O. listed.

Having been aggrieved thereby, the petitioners have filed the instant writ petition and obtained a Rule Nisi.

Ms. Sufia Ahmad, learned Advocate with Ms. Naharin Begum appeared on behalf of the Petitioners. At the very outset of her submission she said that the steps for nationalization process of any school also includes the process of absorbing all existing teachers and employees of the school, which has been clearly described in the Rules published in the official Gazette dated April 20, 1983 known as “Teachers and Non-Teaching Staff of Nationalized High Schools (Directorate of Secondary and Higher Education) Absorption Rules, 1983”. However, the Headmaster of the school informed the petitioners that respondent Nos.1-3 refused to absorb the petitioners or process their papers for absorption of their service in the revenue budget as they are not M.P.O. listed, which is in complete violation of the said Rules.

She then argued that, the Rules do not make any distinction between M.P.O. or non-M.P.O. teachers and staffs. In other words, the respondents, jointly and severally, are purporting to terminate the services of the petitioners in a discriminatory manner and through the back door which they are not entitled to do. Ms. Ahmad submitted that subsequently the school authority stopped paying salary to the petitioners and they were prevented from signing in the attendance register.

She strongly submitted that it is the petitioners' rightful and legitimate expectation to be so absorbed but the respondents without giving any heed to the petitioners are trying to exclude the services of the petitioners from absorption in the revenue after nationalization of the school in a discriminatory and mala fide manner.

Learned Advocate for the petitioners argued that when the government took over the ownership of the said school by way of nationalization, the government has basically stepped into the shoes of the trust as a 'successor' and took over the control of every asset after the said nationalization. The takeover of asset includes taking teachers, staffs, and physical infrastructures. The government cannot pick and choose and terminate any existing teacher or non-teaching staff nor it can show any discriminatory distinction as M.P.O. or non-M.P.O. between the existing teachers or Non-teaching staffs regarding absorption of their services in the revenue budget after nationalization of any school and this distinction tantamount to violation of the existing law and Articles 27, 29 and 31 of the Constitution and is liable to be declared to have been done without any lawful authority and without any effect.

In support of her contention, learned Advocate for the petitioners referred to two unreported judgments passed on 10.12.2014 in ***Writ Petition No. 928 of 2021, the case of Mahfuza Akter and others vs. Bangladesh and others*** and judgment dated 04.09.2025 passed in ***Writ Petition No. 10618 of 2023 in the case***

of Rupa Akter versus Government of Bangladesh and others; by virtue of which the non-M.P.O. listed teachers of the petitioners' school have already been absorbed/regularized in their respective posts and as such, she prayed that the instant petitioners cannot be discriminated in this regard being in the equal footing as of those petitioners.

Mr. Md. Ershadul Bari Khandakar, the learned Deputy Attorney General, appearing for the respondents opposed the Rule; however without filing any affidavit in opposition. He submitted that the nationalization process is a government policy matter and there is no mala fide intention or discriminatory motive.

We have heard the submissions of the learned Advocate for the petitioners and the learned Deputy Attorney General for the respondents and perused the writ petition and all the annexures therewith and gone through the earlier judgments delivered by this Division.

It transpires from Annexure-G to the writ petition that, pursuant to the government decision to nationalize the private higher secondary schools, a memo was issued on 28.12.2017 imposing embargo on the appointment, promotion, transfer of movable or immovable property and financial expenditures to 37 private schools mentioned in the list. In that list the school, where the present petitioners are working, is in serial no. 06. Subsequently by the memo dated 13.09.2018, the school was finally nationalized as appeared from Annexure G-1.

Under the Teachers and Non-Teaching Staff of Nationalized High Schools (Directorate of Secondary and Higher Education) Absorption Rules, 1983 (hereinafter referred to as “the Absorption Rules, 1983”), the nationalization of any high school includes the absorption of all existing teachers, employees, students, as well as the assets, physical infrastructure, funds, and other resources of the said school. Nationalization entails the ownership and management of the school are transferred to and taken over by the Government.

Rule 2 (g) of the Absorption Rules, 1983 provides as under:

“ ‘staff’ means a full-time employee of a nationalized High School other than a teacher, appointed before the imposition of embargo on appointment by the Director-general or appointed, after such embargo, with the approval of the Director-General.”

Rule 7 of the Rules 1983 provides:

“Appointment of staff.- The members of staff shall be appointed on ad hoc basis to the analogous posts provided that they have requisite qualifications prescribed for appointment to such posts. Their appointment shall, subject to the fulfillment of the conditions specified in rule 5, be regularized by the appointing authority in consultation with the Commission or the Board, as the case may be.”

As per these Rules, the staffs appointed before the imposition of embargo are entitled to be regularized subject to the fulfillment of the conditions, no matter they are M.P.O. listed or not.

The government has framed "সরকারীকৃত মাধ্যমিক ও উচ্চ মাধ্যমিক বিদ্যালয় শিক্ষক ও কর্মচারী বিধিমালা, ২০২৪" by repealing the earlier Absorption Rules, 1983, with effect from 15 May 2021, though the steps or process to be taken by the Rules, 1983 are deemed to be taken under the new rule. Rule 5 of Rules, 2024, is quoted below:

"শিক্ষক ও কর্মচারীর এডহক নিয়োগ। (১) এই বিধিমালার অন্যান্য বিধানে যাহা কিছুই থাকুক না কেন, বিধি ৬ এর বিধান এবং প্রয়োজনীয় শিক্ষাগত যোগ্যতা পূরণ সাপেক্ষে, কোনো শিক্ষক ও কর্মচারী সরকারিকরণের পূর্বে যেই পদে নিয়োগপ্রাপ্ত রহিয়াছেন, সেই পদে যা সমমানের পদে সরকারিকরণ ঘোষণার তারিখ হইতে তাহাকে এডহক ভিত্তিতে নিয়োগ প্রদান করা যাইবে।

(২) নিয়োগপ্রাপ্ত কোনো শিক্ষক ও কর্মচারীর কোনো পদে নিয়োগের জন্য প্রয়োজনীয় শিক্ষাগত যোগ্যতা না থাকিলে তাহাকে তাহার নিয়োগকৃত পদে বিধি ৬ এর পর্ত পূরণ সাপেক্ষে এডহক ভিত্তিতে প্রতিষ্ঠান সরকারিকরণের তারিখে নিয়োগ প্রদান করা যাইবে: তবে শর্ত থাকে যে, উক্তরূপ নিয়োগের পর অবসর, চাকরিচ্যুতি, মৃত্যু বা অন্য যে কোনো কারণে পদটি শূন্য তাহা স্বয়ংক্রিয়ভাবে বিলুপ্তি বলিয়া গণ্য হইবে। "

From the judgment dated 10.12.2024 in Writ Petition No. 928 of 2021, as has been referred to by the learned Advocate of the petitioners it appears that, the School was formally nationalized on 13.09.2018; however the respondents most discriminatorily did not process the petitioners' papers for nationalization. Only the names of the MPO enlisted teachers and school employees were included in that process. Being aggrieved, as many as 09 petitioners filed the

writ petition and obtained Rule. Upon hearing the Rule a Division Bench of the High Court Division was pleased to dispose of the Rule with the finding and direction that, the Absorption Rules 1983 as well as the government policy do not discriminate between MPO and non-MPO teachers and non-teaching staffs regarding the absorption of their service in the revenue budget hence the inaction of the respondents is a clear discrimination amongst the existing teachers of the said school and therefore is a violation of their fundamental rights guaranteed under Articles 27, 29 and 31 of the Constitution. After a thorough discussion on the relevant provisions of law in this regard this Division arrived at the finding that,

“From a combined reading of Rules 4, 5 and 6, it transpires that the government did not distinguish between MPO and non-MPO teachers and non-teaching staffs. Rather, the affairs of the nationalized institutions contemplate the absorption of the teachers and non-teaching staffs.”

As a result it was directed that,

“The respondents are accordingly directed to absorb/regularize the petitioners in their respective posts in Chandina Government Pilot High School, Chandina, Cumilla following the Absorption Rules, 1983 and “সরকারীকৃত মাধ্যমিক ও উচ্চ মাধ্যমিক বিদ্যালয় শিক্ষক ও কর্মচারী বিধিমালা ২০২৪” in accordance with law within 2 (two) months from the date of the receipt of a copy of this judgment and order.”

The similar view was taken by another Division Bench in **Writ Petition No. 10618 of 2023** regarding the same institution.

It has been stated by the present petitioners that the respondents have already complied with those judgments. Hence, the present petitioners are also lawfully entitled to be absorbed in the revenue budget as they are in the similar footing as that of the petitioners of those writ petitions.

It is admitted fact that the instant petitioners are all non-teaching staffs of the School and they are not enlisted in the M.P.O. We will only have to determine whether they are lawfully entitled to be considered in the regularization process or not. It transpires from the Annexures A, B and C series that Petitioner Nos. 1, 2 and 3 have joined the School on 10.01.2018, which is after the imposition of embargo by the Government on 24.12.2017 (Annexure-G). It has been categorically stated in that memo that,

“উপর্যুক্ত বিষয় ও সূত্রের পরিপ্রেক্ষিতে বেসরকারি মাধ্যমিক বিদ্যালয় জাতীয়করণের লক্ষ্যে নিম্নেবর্ণিত ৩৭টি শিক্ষা প্রতিষ্ঠানের নিয়োগ, পদোন্নতি, স্থাবর-অস্থাবর সম্পদ হস্তান্তর এবং নগদ ও ব্যাংকে সংরক্ষিত অর্থ ব্যয়ের উপর (প্রাতিষ্ঠানিক দৈনন্দিন কার্য সম্পাদনের ব্যয় ব্যতীত) নির্দেশক্রমে এতদ্বারা নিষেধাজ্ঞা আরোপ করা হলো।”

Therefore it is evident that petitioner nos. 1, 2 and 3 were appointed in the school despite the prevailing embargo and no subsequent approval of the Director General has been obtained as per Rule 2(g) of the Absorption Rules of 1983. We, therefore hold that, the petitioner nos. 1, 2 and 3 are not entitled to be considered in the regularization process.

Petitioner nos. 4, 5 and 6 joined their services on 27.11.2003, 01.12.2014 and 01.05.2015 respectively, which means that they

were in regular service at the time of imposition of the embargo. Hence, they are very much entitled to be considered in the regularization process in the light of the discussion made hereinabove subject to the fulfillment of the conditions made in the Rules.

In view of the facts and circumstances the petitioner nos. 4, 5 and 6 having been discriminated, we are of the view that justice would be best served if the matter is disposed of by the concerned respondents upon the above findings and observation in dealing with absorption of the petitioners in their service at Chandina Government Pilot High School, Chandina, Cumilla in accordance with law.

As we have already noted that the petitioners no. 1-3 do not qualify to be considered, the Rule is discharged so far as the petitioner nos. 1-3 are concerned.

In respect of petitioner nos. 4, 5 and 6 the Rule is disposed of with direction.

The respondents are accordingly directed to absorb/regularize the petitioner nos. 4, 5 and 6 in their respective posts in Chandina Government Pilot High School, Chandina, Cumilla following the Absorption Rules, 1983 and "সরকারীকৃত মাধ্যমিক ও উচ্চ মাধ্যমিক বিদ্যালয় শিক্ষক ও কর্মচারী বিধিমালা, ২০২৪" within 2 (two) months from the date of the receipt of a copy of this judgment and order.

With the above observations and findings, this Rule is disposed of with direction.

However, there is no order as to cost.

Communicate the judgment and order at once.

Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO