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

WRIT PETITION NO. 2440 OF 2025.

IN THE MATTER OF

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

AND

IN THE MATTER OF

Md. Shahajahan Sarder and another.

..... Petitioners.

-Versus-

The Government of the People's Republic of Bangladesh and others.

..... Respondents.

Mr. A.H.M. Mushfiqur Rahman Tuhin, Senior Advocate,
..... For the petitioners.

Mr.Akhtar Hossain Md. Abdul Wahab, D.A.G. with
Mr. Al Faishal Shiddique, DAG
Mr. Rakib Hossain, AAG
Mr. Golam Rajib, AAG and
Md. Fuad Hasan, AAG

..... For the Respondents.

Present:
Mr. Justice Md. Toufiq Inam
And
Mr. Justice Mahmud Hasan

Heard on: 28.10.2026 and

Judgment delivered on: 04.11.2026.

Md. Toufiq Inam, J:

Following the initial hearing of the application under Article 102 of the Constitution, this Rule Nisi was issued on 25.02.2025 at the instance of the petitioners, calling upon the respondents to show cause as to:

> "Why the inaction in not disposing of the petitioners' representation dated 19.01.2025 (Annexure-G), relating to their prayer for permission to fill up the unused pond, being their personal property, by pouring sand and carrying out earthwork, should not be declared to have been done without lawful authority and to be 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 the disposal of the Rule, in brief, are that the petitioners claim to be the owners of the pond situated on the land described in the schedule to the writ petition. According to the petitioners, the pond is their personal property and is no longer being used for its intended purpose. They, therefore, intended to fill up the same with sand and earth. In order to undertake such work, the petitioners submitted a representation dated 19.01.2025 (Annexure-G) to the Deputy Commissioner, the respondent No. 3, seeking the necessary permission in this regard. However, despite submission of the said representation, the concerned authority did not communicate any decision thereon.

Being aggrieved by such inaction and finding no effective alternative remedy, the petitioners invoked the constitutional jurisdiction of this Court under Article 102 of the Constitution.

Mr. A.H.M. Mushfiqur Rahman Tuhin, learned Senior Advocate appearing for the petitioners, at the very outset, submits that the petitioners submitted the aforesaid representation before the competent authority seeking permission to fill up the pond, which is claimed to be their personal property. He further submits that, despite the lapse of a considerable period since the submission of the representation, the concerned authority has neither considered nor disposed of the same.

Such inaction, according to him, has left the petitioners in uncertainty and deprived them of an effective decision from the competent authority. He, therefore, prays for a direction upon the respondent No. 3, the Deputy Commissioner, to consider and dispose of the representation in accordance with law within a specified period.

The learned Deputy Attorney General appearing for the respondents opposes the Rule.

We have heard the learned Advocates for the respective parties and perused the writ petition, the materials available on record and the relevant provisions of law.

Upon consideration of the nature of the grievance raised in the writ petition and the relief sought therein, we find that the principal issue requiring consideration by this Court is not whether the petitioners are entitled to fill up the pond in question, but whether their representation seeking permission in that regard should remain unattended by the competent authority.

It is a fundamental requirement of fair and accountable administration that when a person approaches a competent public authority with a representation seeking a decision on a matter falling within its jurisdiction, the authority is expected to consider the same and communicate its decision within a reasonable period. The authority concerned, having the requisite jurisdiction and being entrusted with the responsibility of dealing with such matters, cannot simply leave a representation unattended without assigning any reason. Such inaction, if allowed to continue indefinitely, may give rise to unnecessary uncertainty and undermine the legitimate expectation of a person to receive a decision from the competent authority.

We are of the view that a public authority, while discharging its statutory and administrative responsibilities, is under an obligation to act fairly, reasonably and in accordance with law. Where a representation has been duly submitted before the competent authority, the authority concerned is required to apply its independent mind to the issues raised therein and arrive at a decision by considering the relevant facts, applicable laws and Rules. The decision may be either in favour of or against the person making the representation; however, the authority must communicate its decision through a reasoned order. Keeping such a representation pending without any decision or communication, particularly for an indefinite period, cannot be regarded as a fair or satisfactory discharge of public duty.

In the present case, the petitioners have approached this Court primarily seeking disposal of their representation dated 19.01.2025. We make it clear that we are not expressing any opinion as to the petitioners' entitlement to fill up the pond in question or the permissibility of the proposed earthwork under the applicable laws and Rules. Those are matters which fall within the domain of the competent authority and must be determined by it upon proper consideration of the relevant facts and applicable legal provisions.

In the facts and circumstances of the case, we are of the considered view that the ends of justice would be best served if the respondent No. 3, the Deputy Commissioner, is directed to dispose of the petitioners' representation within a specified period by passing a reasoned order in accordance with law.

Accordingly, the Rule is disposed of with a direction.

The respondent No. 3, the Deputy Commissioner, is directed to consider and dispose of the petitioners' representation dated 19.01.2025 (Annexure-G to the writ petition) by passing a reasoned order, in accordance with the applicable laws and Rules, within 60 (sixty) days from the date of receipt of a copy of this judgment.

In doing so, the respondent No. 3 shall consider the representation independently, upon examining the relevant facts and applicable legal provisions, without being influenced by any extraneous consideration or by any observation made in this judgment touching upon the merits of the petitioners' claim. The decision so taken shall be communicated to the petitioners without delay.

The office is directed to communicate a copy of this judgment to the respondent No. 3 forthwith for information and necessary compliance.

(Justice Md. Toufiq Inam)

Mahmud Hasan, J:

I agree.

(Justice Mahmud Hasan)

Ashraf/ABO.