

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

SUO-MOTO RULE NO. 08 OF 2018

IN THE MATTER OF:

The State

-Versus-

Secretary, Ministry of Education,
Government of the People's Republic of
Bangladesh and others

... Respondents

Ms. Jesmin Sultana with

Mr. Aneek R. Haque

Ms. Aynunahar Siddiqua

Mr. Jyotirmoy Barua, Advocates

.....Interveners

Mr. Kazi Mynul Hassan, DAG with

Ms. Farhana Parveen Bithi, AAG

Mr. Kalipada Mridha, AAG

Mr. Apurbo Kumar Biswas, AAG

..For the Respondents

WITH

WRIT PETITION NO. 6366 OF 2021

IN THE MATTER OF:

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

IN THE MATTER OF:

Md. Tanvir Ahmed

... Petitioner

-Versus-

Bangladesh and others

... Respondents

Mr. Md. Tanvir Ahmed, Advocate

(in person)

Mr. Kazi Mynul Hassan, DAG with

Ms. Farhana Parveen Bithi, AAG

Mr. Kalipada Mridha, AAG

Mr. Apurbo Kumar Biswas, AAG

..For the Respondents

The 14th day of August, 2023

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan, J:

At the instance of four learned members of the Supreme Court Bar Association, namely, Ms. Jesmin Sultana, Ms. Aynnunahar Siddiqua, Mr. Aneek R. Haque and Mr. Jyotitirmoy Barua, this Court issued a Suo-Moto Rule Nisi on 04.12.2028 in the following terms:

“Let a Suo-Moto Rule nisi be issued calling upon the respondents No. 1, Secretary, Ministry of Education, Government of the People’s Republic of Bangladesh, 2. Inspector General of Police, Police Head Quarter, Dhaka, 3. Commissioner of Police, Ramna Zone Dhaka South, 4. Officer-in-Charge, Ramna Police Station, Dhaka, 5. President, Managing Committee of the Viqarunnisa Noon School and College, Siddeswari, Dhaka 6. Principal, Viqarunnisa Noon School and College, Siddeswari, Dhaka and 7. Vice-Principal, Viqarunnisa Noon School and College, Siddeswari, Dhaka to show cause as to why the inaction of the respondents to take necessary step in preventing the incident of suicide of the student of Viqarunnisa Noon School and College, and failing to provide proper counseling to the educational institution should not be declared, illegal, without lawful authority and is of no legal effect and as to why the respondent No. 1 should not be directed to form a committee for formulating a national policy for preventing of suicide / any other injury among students as well as to provide counseling of the teachers and students of the educational institutions in

the country and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Subsequently, another learned member of the Supreme Court Bar Association, namely, Md. Tanvir Ahmed also obtained a similar Rule on 22.08.2021 from a different Bench in the following terms:

“Let a Rule be issued calling upon the respondents to show cause as to why the inaction and Apathy of the concerned authorities in regards failing to take preventive action to safe the students from the bullying in and around the educational institutions should not be declared illegal and unlawful and also as to why the respondents should not be directed to enact a regulation /Police (sic)/ Guideline to prevent bullying in and around the schools and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Both the Rules Nisi appear to be identical and hence we have disposed of the same by this common judgment.

At the time of issuance of the Rules Nisi this Court directed the respondents to form a national committee consisting of one Additional Secretary, Ministry of Education and other relevant persons of the relevant field for formulating a national policy for preventing of suicide/bullying and any other injury among students of the educational institutions as well as to provide counseling to the teachers and students of the educational institutions.

Today, the Intervener, Mr. Aneek R. Haque, by filing Supplementary Affidavit has annexed a Nitimala, namely, “শিক্ষা

প্রতিষ্ঠানে বুলিং ও র্যাগিং প্রতিরোধ সংক্রান্ত নীতিমালা-২০২৩” shortly, (“**the Nitimala, 2023**”) framed and gazetted on 29.06.2023.

We have gone through the said Nitimala and the learned Advocates jointly submit that since a Nitimala has already been framed, the Rules Nisi may be disposed of.

We have gone through the said Nitimala from which it is apparent that details rules have been incorporated regarding bullying and ragging in the educational institutions including to take measures in order to prevent the bullying and ragging in the educational institutions.

In Clause 6 and 7 of the Nitimala, 2023 we find that upon allegations the authority shall take punitive action including to refer to the matter under criminal law. The authority has also laid down the procedure for inquiry of the allegations regarding ragging and bullying.

But the Nitimala does not reflect any punitive measure against the perpetrators except for refer to them for taking actions under prevailing criminal laws which may create more complications on certain allegations regarding the students.

We also observed that except some universities, many educational institutions do not have any Rules to impose punishment upon the perpetrators, in particular, schools and colleges. Therefore, the respondents should look into it

incorporating punitive measures in order to effect the Nitimala appropriately.

With these observations, both the Rules Nisi are disposed of.

At the end, both the learned Advocates jointly submit that it has to be monitored as to whether the educational institutions are following the Nitimala properly.

In view of the above, let both the Rules Nisi be treated as continuous mandamus.

Although the Nitimala has been gazetted for public notice, yet the respondent No.1, Secretary, Ministry of Education is directed to communicate it to all educational institutions over the country within 3(three) months from the date of receipt of the judgment and order.

Let this judgment and order be communicated to the respondent No. 1, Secretary, Ministry of Education for his information and necessary action.

Razik-Al-Jalil, J:

I agree.