

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

WRIT PETITION NO. 4230 OF 2024

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Tuhin Mahmud

.....Petitioner

-VERSUS-

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

..... Respondents

Mr. Md. Yousuf Ali, Advocate with

Mr. Md. Faizullah, Advocate

Mr. Gobinda Biswas, Advocate,

Mr. Md. Shyful Islam, Advocate and

..... For the Petitioner

Mr. Md. Sherajul Alam, Advocate

.....For the Respondent No. 3

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard on 17.06.2026, 12.07.2026 and 19.07.2026

Judgment on 21.07.2026

Urmee Rahman, J:

In the instant matter a Rule Nisi was issued on an application under Article 102 with Article 44 of the Constitution of the People's Republic of Bangladesh in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the illegal suspension of the petitioner issued vide letter under Memo No. বাশেমুর বিগ্রবি/র/জ.প্র-১১৬/৩৪৭ dated 27.03.2024 (Annexure-B) issued by the respondent No. 3 temporarily suspending the petitioner from his service and Memo No. বাশেমুর বিগ্রবি/র/জ.প্র/৪/৬-১১৬/৩৪৮ dated 27.03.2024 (Annexure-B-1) issuing show cause and thereby initiating proceeding as per the Government Servant Discipline and Appeal Rule, 2018 which is not applicable for the public universities should not be declared illegal and without lawful authority and of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

At the time of issuance of the Rule it was further ordered that,

“Pending hearing of the Rule, let the operation of the impugned suspension of the petitioner issued vide letter under Memo No. বাশেমুর বিগ্রবি/র/জ.প্র-১১৬/৩৪৭ dated 27.03.2024 (Annexure-B) issued by the respondent no. 3 be stayed for a period of 6 (six) month from date. “

Relevant facts for disposal of the instant Rule, in short, are that, the petitioner joined in Bangabandhu Sheikh Mujibur Rahman Science & Technology University, Gopalganj, at present known as ‘Gopalganj Science and Technology University, (hereinafter referred as ‘the University’) as an Assistant Director on 14.02.2019. Thereafter he was appointed as Deputy Director of the said University on 12.07.2023 and was handed over the duty of Project Director. On 27.03.2024 by issuing a memo the University authority suspended the petitioner temporarily on

the basis of some allegations made therein. Following the suspension order, on the same day a show cause notice was issued upon him to reply within ten working days as to why disciplinary action shall not be taken against him since his alleged activities are violative of the Public Servant (Discipline and Appeal) Rules, 2018 (সরকারী কর্মচারী (শৃঙ্খলা ও আপীল) বিধিমালা, ২০১৮)”.

Being aggrieved by the suspension order as well as the show cause notice and finding no other appropriate and efficacious remedy available, the petitioner has filed the instant writ petition and obtained the present Rule and as order of stay of the suspension order.

Learned Advocates Mr. Md. Yousuf Ali with Mr. Md. Faizullah appeared on behalf of the petitioner. At the very outset Mr. Ali submitted that, the departmental proceeding initiated against the petitioner under the Public Servant (Discipline and Appeal) Rules, 2018 is illegal inasmuch as the said Rules are not applicable for the University teachers. This University is established and governed by the BSMRSTU Act, 2001. The Public Servant Rules are not applicable for the teachers and employees of an autonomous public university. As such the suspension letter is liable to be declared to have been issued without any lawful authority.

He further argued that, the respondents are trying to keep the petitioner out of his duty without any lawful basis only out of enmity and mala fide intention. The suspension has been given without issuing any show cause notice and without following the statute of the University. As

such the impugned memo is liable to be declared to have been issued without any lawful authority and is of no legal effect.

Learned Advocate finally submitted that the respondents have acted without any lawful jurisdiction as the action has been taken by referring a wrong provision of law, which is therefore liable to be set aside.

On the other hand, learned Advocate Mr. Md. Sherajul Alam, entered appearance on behalf the respondent No. 3 i.e. the Registrar of the University and contested the Rule, however, without filing any affidavit in opposition.

His main contention is that, a suspension order not being a final order, cannot be challenged in writ jurisdiction and it cannot be said to have been issued without lawful authority merely because it has been issued giving reference to a wrong provision of law. Hence, he prayed for the Rule to be discharged.

We have heard the learned Advocates for the respective parties and perused the writ petition, supplementary affidavit and all the documents annexed as annexures therewith.

Admittedly, the petitioner was placed on suspension by the impugned memo dated 27.03.2024 with some allegations made therein and also served with a show cause notice on the same day. It is evident from the impugned memo (Annexures-B and B-1) that the suspension order as well as the show cause notice were issued upon referring the “সরকারী কর্মচারী (শৃঙ্খলা ও আপীল) বিধিমালা, ২০১৮।”

It has been submitted by the learned Advocate for the petitioner that, this University has been established in 2001 under the BSMRSTU Act of 2001 (বঙ্গবন্ধু শেখ মুজিবুর রহমান বিজ্ঞান ও প্রযুক্তি বিশ্ববিদ্যালয় আইন, ২০০১) and after promulgation of the Act a Regulation has been enacted on 12.12.2013 namely, ‘বঙ্গবন্ধু শেখ মুজিবুর রহমান বিজ্ঞান ও প্রযুক্তি বিশ্ববিদ্যালয় আইন, গোপালগঞ্জ- এর শিক্ষক, কর্মকর্তা ও কর্মচারী সাধারণ আচরণ, শৃঙ্খলা ও আপীল বিধি’। So when the suspension order was issued against the petitioner, the Regulation of the University was very much in force and in case any departmental proceeding is to be initiated, it ought to have been done under this specific law. There is no relevance of ‘সরকারী কর্মচারী (শৃঙ্খলা ও আপীল) বিধিমালা, ২০১৮’ so far as the teachers and employees of this University are concerned.

Upon placing the supplementary affidavit dated 19.07.2026 learned Advocate for the petitioner submitted that, following the political change over in August, 2024, the interim government renamed the university from ‘বঙ্গবন্ধু শেখ মুজিবুর রহমান বিজ্ঞান ও প্রযুক্তি বিশ্ববিদ্যালয়’ to ‘গোপালগঞ্জ বিজ্ঞান ও প্রযুক্তি বিশ্ববিদ্যালয়’ and in furtherance to said change in the name of the University, the authority adopted the ‘সাধারণ আচরণ, শৃঙ্খলা ও আপীল বিধি-২০২৫’ in an amending form replacing the previous Rules, which was adopted on 12.12.2013.

Now it is incumbent upon us to determine whether issuance of a suspension order and a show cause notice by referring a wrong statutory provision will render initiation of the departmental proceeding invalid.

It is not denied by the learned Advocate for the petitioner that the University authority has absolute jurisdiction to take any departmental action against any teachers or employees of the University on the basis of any allegation. Since the University possesses the requisite jurisdiction and the action taken is otherwise sanctioned by law, a wrong reference to a statutory provision does not, by itself, will vitiate an order of suspension. No prejudice has been caused to the petitioner by referring a wrong statutory provision in the suspension order as well as in the show cause notice.

Therefore, we find that the issuance of the suspension order as well as the show cause notice are not without any lawfully jurisdiction. However, since at present the relevant law applicable for the University teachers and employees is “গোপালগঞ্জ বিজ্ঞান ও প্রযুক্তি বিশ্ববিদ্যালয় সাধারণ আচরন শৃঙ্খলা ও আপীল বিধি, ২০২৫”, the departmental proceeding should be initiated under this specific law not under the Act of 2018.

In view of the above facts and circumstances, we find that the departmental proceeding initiated by the respondent University authority can proceed in accordance with law by rectifying/replacing the two memos containing in Annexure-B and B(1) by referring the appropriate provision, which is currently applicable.

With the discussion and observation made hereinabove, we are therefore inclined to dispose of the present Rule with a direction upon the University authority to proceed in accordance with law upon referring the appropriate provision of law.

Accordingly, the Rule is disposed of.

However, without any order as to costs.

Let a copy of this judgment and order be communicated to the concerned authorities at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.

Helal/ABO