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

WRIT PETITION NO. 4668 OF 2026.

IN THE MATTER OF

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

AND

IN THE MATTER OF

Asadujjaman Asad,
..... Petitioner.
-Versus-
Bangladesh and others.
..... Respondents.
Mr. Md. Zahangir Kabir, Advocate
..... For the petitioner.
Mr. Md. Anwarul Islam, Advocate
..... For the Respondent No.3

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: 05.11.2026, 11.11.2026 and

Judgment Delivered On: 12.11.2026.

Md. Toufiq Inam, J:

On an application under Article 102of the Constitution of the People's Republic of Bangladesh, the present Rule Nisi was issued calling upon the respondents to show cause as to why the letter dated 04.05.2026

issued by respondent No. 3, the Chief Executive Officer, Dhaka Zila Parishad, informing the petitioner of the decision taken in its 16th General Meeting to retender the land measuring 70,000 square feet, as well as the decision dated 07.04.2026 taken in the said meeting to that effect (Annexure-D), should not be declared to have been issued and taken without lawful authority and to be of no legal effect.

Subsequently, a Supplementary Rule was issued calling upon the respondents to show cause as to why a direction should not be given upon respondent No. 3 to issue an offer letter/award notice in favour of the petitioner, claiming to be the highest bidder, in respect of the tender relating to 70,000 square feet of land situated at Plot No. 641, Mirpur Mouja, Dhaka, upon deposit of Tk. 3,99,000/- as 15% VAT and Tk. 2,66,000/- as 10% income tax on the quoted tender price, and/or pass such other or further order or orders as to this Court may seem fit and proper.

The petitioner's case, in brief, is that he is a businessman engaged in the business of bricks, stones, coal and sand and has been regularly paying Government taxes. His father, Mr. Md. Borkot Ahmed, was previously a leaseholder of the Dhaka Zila Parishad in respect of the land in question during the period 2005–2007. According to the petitioner, although his father had applied for renewal of the lease for the subsequent year, he was deprived of possession of the leased property through the influence of certain politically powerful persons. The petitioner further claims that an inquiry was conducted regarding possession of the land, and a report dated 21.06.2007 was submitted in that regard.

The petitioner states that, following the change in the political circumstances, he submitted an application dated 31.10.2024 seeking

lease of 1,00,000 square feet of land. As the said application was not disposed of by the concerned authority, he approached this Court by filing Writ Petition No. 13936 of 2024 and obtained a direction upon the respondents to dispose of his application in accordance with law. Alleging non-compliance with the said direction, Contempt Petition No. 01 of 2026 was subsequently filed.

The petitioner contends that, despite his repeated efforts, the respondents did not take any effective steps to resolve his claim. Eventually, a tender notice was published on 05.02.2026 inviting tenders in respect of the land measuring 70,000 square feet situated at Plot No. 641, Mirpur Mouja, Dhaka. The petitioner participated in the tender process by submitting his tender on 10.02.2026. The tender was opened on 31.03.2026, and according to the petitioner, he emerged as the highest bidder, having quoted Tk. 26,60,000/- as the tender price.

The petitioner further states that, following the opening of the tender, he was verbally instructed by the concerned authority to deposit the applicable VAT and income tax. Accordingly, he deposited Tk. 3,99,000/- as 15% VAT and Tk. 2,66,000/- as 10% income tax, calculated on the quoted tender price of Tk. 26,60,000/-. Thereafter, he waited for the issuance of an offer letter so that he could deposit the lease money and execute the necessary agreement. However, instead of issuing an offer letter in his favour, respondent No. 3 informed him, by the impugned letter dated 04.05.2026, that the Dhaka Zila Parishad had decided in its 16th General Meeting held on 07.04.2026 to retender the property.

Being aggrieved by the said decision and the consequential communication, the petitioner approached this Court and obtained the present Rule Nisi and, subsequently, the Supplementary Rule.

Mr. Md. Zahangir Kabir, learned Advocate appearing for the petitioner, submits that the petitioner participated in the tender process in accordance with the prescribed procedure and emerged as the highest bidder. He further submits that the petitioner, upon being verbally instructed by the concerned authority, deposited Tk. 3,99,000/- as VAT and Tk. 2,66,000/- as income tax, totalling Tk. 6,65,000/-, on his quoted tender price of Tk. 26,60,000/-, and was awaiting issuance of the formal offer letter. However, instead of issuing an offer letter in his favour, the authority arbitrarily decided to retender the property without disclosing any lawful reason.

He further submits that, under the previous practice followed by the Dhaka Zila Parishad, upon completion of the tender process and identification of the highest bidder, the authority would first issue a letter communicating its decision to accept the bid and thereafter require the successful bidder to deposit the lease money together with the applicable VAT and income tax. In the present case, however, the authority departed from that established practice by requiring the petitioner to deposit the entire quoted lease money, in addition to VAT and income tax, at the initial stage of the tender process, notwithstanding the absence of any such requirement in the published tender notice or its terms and conditions. He contends that such departure was arbitrary and unreasonable. He further submits that, having deposited the applicable VAT and income tax pursuant to the verbal instruction of the authority, the petitioner had a legitimate expectation that his bid would be duly considered and that the formal letter communicating acceptance of his bid would be issued in accordance with the established practice.

He also submits that the conduct of respondent No. 3 is not free from mala fide, particularly in view of the previous litigation initiated by the petitioner and his father concerning the same property and the alleged failure of the authority to comply with the direction passed by this Court in Writ Petition No. 13936 of 2024.He further submits that certain politically influential persons had been enjoying possession of the property for a considerable period without making the requisite payments to the Government, whereas the petitioner, despite participating in the tender and depositing the applicable taxes as the highest bidder, has been deprived of the opportunity to obtain the lease. He also refers to an earlier tender process in 2025 in which, according to him, the petitioner was the only participant but was not awarded the lease, while the persons already occupying the property continued to enjoy its benefits. He, therefore, submits that the decision to retender the property is arbitrary, discriminatory and without lawful authority and that the respondents should be directed to issue an offer letter in favour of the petitioner, being the highest bidder.

Mr. Md. Anwarul Islam, learned Advocate appearing for respondent No. 3, upon filing an Affidavit-in-Opposition, opposes the Rule and submits that the petitioner participated in the tender process by submitting the prescribed tender form, as evident from Annexure-B to the writ petition. He, however, contends that although the petitioner quoted Tk. 26,60,000/- as the tender price, he failed to submit the requisite pay order along with his tender bid, as required under the prescribed terms and conditions. Consequently, the petitioner's bid was rendered non-responsive and was not liable to be considered by the authority.

He further submits that the requirement of submitting the pay order was an essential condition of the tender and that compliance with such

condition was mandatory for a valid and responsive bid. Since the petitioner failed to fulfil the said requirement, his bid could not be treated as a valid and complete bid, notwithstanding his claim to have quoted the highest amount.He further submits that the petitioner's subsequent deposit of VAT and income tax cannot cure the fundamental defect in his tender or confer upon him any enforceable right to obtain the lease. He contends that, in the interest of proper management of the property and protection of public revenue, the authority lawfully decided to invite fresh tenders. The petitioner, according to him, remains at liberty to participate in the fresh tender process by complying with the prescribed requirements. He, therefore, submits that the impugned decision suffers from neither any illegality nor any jurisdictional defect and that both the Rules are liable to be discharged. In support of his submissions, he refers to the decisions in Civil Appeal No. 195 of 2011 and Writ Petition No. 1298 of 2020.

We have heard the learned Advocates for the respective parties, perused the writ petition, the supplementary affidavit, the affidavits-in-opposition, the documents annexed thereto and the relevant provisions of law.The principal question that falls for our consideration is whether the decision of the Dhaka Zila Parishad to retender the property in question is legally sustainable, particularly when the petitioner claims to have emerged as the highest bidder and the respondents seek to justify the decision on the ground that he did not submit a pay order representing the quoted tender price along with his bid.

At the outset, it is necessary to observe that a public authority, while disposing of its property or granting a lease through a public tender, is required to act fairly, transparently and in accordance with the terms and conditions notified to the prospective bidders. The tender conditions constitute the governing framework of the process, and the

authority is not at liberty to introduce additional requirements after publication of the tender notice or to apply requirements inconsistently to different participants.

In the present case, from Annexure-B to the writ petition, being the tender bid submitted by the petitioner, it appears that he quoted Tk. 26,60,000/- as the tender price for the land measuring 70,000 square feet. The last part of the said document states that "দরপত্রটি গ্রহণ করা হলে আমি/আমরা এর মর্মে অঙ্গীকার করছি যে, এতদ্সংগে সংযুক্ত মিরপুর মৌজার সি,এস ১১০৬, এস, এ ০৪নং খতিয়ানে ৬৪১ দাগ হতে ৭০,০০০.০০ বর্গফুট জমির প্রয়োজ্য সকল শর্ত্যবলী পালনকরব। অন্যথায় জেলাপরিষদ কর্তৃপক্ষের চুক্তি সাথে আরোপ যোগ্য শাস্তি সংক্রান্ত সকল সিদ্ধান্ত মেনে চলব। দরপত্রে দাখিলকৃত উদ্ভূত মূল্য, ভ্যাট ও আয়করসহ সর্বমোট ৩৩,২৫,০০০/- টাকা (কথায়ঃ তেত্রিশ লক্ষ পঁচিশ হাজার টাকা মাত্র) টাকা।" Therefore it contains an undertaking by the petitioner to the effect that, if his tender is accepted, he would comply with all applicable terms and conditions relating to the lease of the property and abide by the decisions of the Zila Parishad concerning any penalty imposed for breach of the contractual conditions. The document also records the total amount, inclusive of the quoted tender price, VAT and income tax, as Tk. 33,25,000/-.

It is an admitted position that the petitioner did not submit a pay order representing the quoted tender price of Tk. 26,60,000/- along with his tender bid. However, he subsequently deposited Tk. 3,99,000/- as 15% VAT and Tk. 2,66,000/- as 10% income tax, calculated on the quoted tender price.The learned Advocate for the respondents has sought to justify the decision to retender the property on the ground that the petitioner failed to deposit the entire quoted tender price by way of a pay order and, therefore, his bid was incomplete and incompetent.

We have carefully examined the tender notice and the terms and conditions accompanying the same. Upon such examination, we do not

find any express stipulation requiring a bidder to submit a pay order representing the entire quoted tender price along with the tender bid as a mandatory condition for participation in the tender process.

In the absence of any such express condition, the respondents cannot subsequently introduce such a requirement and treat the petitioner's failure to comply with it as a ground for declaring his bid incomplete or incompetent. The authority conducting a public tender is bound by the conditions published in the tender notice and cannot impose an additional financial obligation upon a bidder after submission of the tender. Any such action would be contrary to the principles of fairness, transparency and equal treatment which must govern a public tender process.

We have also considered the petitioner's submission that, according to the previous practice followed by the Dhaka Zila Parishad, after opening the tender and identifying the highest bidder, the authority would issue an offer letter communicating its decision to accept the bid and thereafter require the successful bidder to deposit the lease money together with the applicable VAT and income tax. The petitioner contends that, in the present case, the authority departed from such practice by requiring the entire lease money, together with VAT and income tax, to be deposited at the initial stage.

In this regard, we find that the last part of Annexure-B itself contains the expression "দরপত্রটিগ্রহণকরাহলে", which signifies that the petitioner's undertaking to comply with the applicable terms and conditions would operate upon acceptance of his tender. The acknowledgement of the total amount of Tk. 33,25,000/- in the tender document does not, by itself, establish that the entire amount was required to be deposited along with the tender bid. Rather, the requirement of payment must be

determined with reference to the specific terms and conditions of the tender notice.

It is well settled that the highest bidder does not acquire an indefeasible right to obtain a public contract or lease merely by quoting the highest amount. The competent authority retains the power to reject a bid or cancel a tender for legitimate reasons, provided such decision is taken in accordance with law, the published tender conditions and the principles of fairness and non-arbitrariness. However, such discretion cannot be exercised arbitrarily or on the basis of requirements which were never communicated to the bidders.

In the present case, the respondents have not been able to demonstrate that submission of a pay order representing the entire quoted tender price was an express mandatory condition of the tender. Therefore, the ground subsequently advanced by the respondents that the petitioner's bid was incomplete and incompetent for failure to submit such pay order cannot be sustained.

We are also mindful of the fact that the petitioner deposited Tk. 3,99,000/- towards VAT and Tk. 2,66,000/- towards income tax on the basis of his quoted tender price. Although such deposits, by themselves, neither establish final acceptance of the petitioner's bid nor confer upon him an automatic right to obtain the lease, they are nevertheless relevant circumstances which cannot be altogether disregarded. Considered together with the petitioner's participation in the tender process and his claim of having quoted the highest rate, such payments warranted due consideration by the competent authority in determining the petitioner's claim strictly in accordance with the published tender notice and the terms and conditions thereof.We have also considered the decisions cited by the learned Advocate for the respondent No.3.

On examination, we find that the factual and legal contexts in which those decisions were rendered are materially distinguishable from the facts and circumstances of the present case. Consequently, the principles laid down therein do not govern the issue falling for consideration in this Rule.

The next question is whether the decision to retender the property was arbitrary, discriminatory or otherwise without lawful authority.

A public authority cannot cancel a tender or decide to retender a property merely on its subjective satisfaction or by assigning a ground which is inconsistent with the published tender conditions. The decision must be supported by relevant and lawful reasons and must reflect proper application of mind to the circumstances of the tender process.In the present case, the principal justification advanced by the respondents for treating the petitioner's bid as incomplete is the failure to submit a pay order representing the entire quoted tender price. Since no such express mandatory condition is found in the tender notice or its accompanying terms and conditions, we are unable to accept the said justification.

We, however, make it clear that the petitioner cannot claim an automatic right to obtain the lease merely because he claims to be the highest bidder. It remains within the authority of the competent body of the Dhaka Zila Parishad to examine the bids, determine their validity in accordance with the published tender conditions and take an appropriate decision on the question of acceptance, subject to the requirements of law. What the authority cannot do is to reject the petitioner's bid on the basis of a financial condition which was not stipulated in the tender notice.

We have also considered the allegation of mala fide raised by the petitioner, particularly in relation to the previous litigation and contempt proceedings concerning the same property. Although the petitioner has referred to previous proceedings before this Court, the mere existence of such litigation is not sufficient to establish that the impugned decision was taken as a measure of retaliation. Allegations of mala fide must be supported by cogent materials demonstrating an ulterior purpose or the influence of extraneous considerations. In the absence of sufficient materials establishing such a connection, we refrain from recording a finding of personal mala fide against respondent No. 3.

We are also unable to accept the contention that the petitioner's father's previous possession or leasehold interest in the property creates any preferential or vested right in favour of the petitioner to obtain the present lease. A previous lease, having expired, does not automatically confer upon the former leaseholder or his legal representatives any right to obtain a subsequent lease, unless such preferential entitlement is recognised by law or the applicable terms and conditions.

Nevertheless, the authority concerned is under a continuing obligation to ensure that the property belonging to the Zila Parishad is properly managed and that no person is permitted to enjoy its benefits without lawful authority or payment of the prescribed consideration. The public interest requires that the property be dealt with through a fair, transparent and competitive process so that the public authority does not suffer any financial loss.

In view of the foregoing discussion, we find that the respondents have failed to justify the decision to retender the property on the ground that the petitioner's bid was incomplete or incompetent for failure to submit

a pay order representing the entire quoted tender price, since no such express mandatory requirement was stipulated in the tender notice or its accompanying conditions.

However, having regard to the fact that the petitioner quoted the highest rate, we consider it appropriate to direct the competent authority of the Dhaka Zila Parishad to reconsider the petitioner's bid, strictly in accordance with the published tender notice and the terms and conditions stipulated therein. In doing so, the authority shall not impose any additional requirement which was not prescribed in the tender notice or its terms and conditions and shall communicate its decision to the petitioner by a reasoned order.

In the result, the Rule Nisi is made absolute in part, and the Supplementary Rule is disposed of with the following directions:

(i) The decision taken on 07.04.2026, as communicated by letter dated 04.05.2026, is declared to have been made without lawful authority and to be of no legal effect, insofar as it treats the petitioner's bid as incomplete or incompetent solely on the ground of non-submission of a pay order covering the entire quoted tender price, such a requirement not having been stipulated in the published tender notice or the terms and conditions thereof.

(ii) The Dhaka Zila Parishad is directed to reconsider the petitioner's bid strictly in accordance with the published tender notice and the terms and conditions thereof, without insisting upon any additional requirement not stipulated therein, and to communicate its reasoned

decision to the petitioner within 30 (thirty) days from the date of receipt of a certified copy of this judgment.

(iii) In undertaking such reconsideration, the competent authority shall duly take into account the petitioner's quoted price, the payments made towards VAT and income tax, and all other relevant materials on record.

There shall be no order as to costs.

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

(Md. Toufiq Inam, J.)

Mahmud Hasan, J:

I agree.

(Mahmud Hasan, J.)