Bench:

Mr. Justice Bhishmadev Chakrabortty
And
Mr. JusticeMurad-A-Mowla Sohel

Writ Petition No.3712 of 2014

Most. Taslima Akter ...… petitioner

-Vs-

The Government of Bangladesh and others

...... respondents

Mr. Md. Montasir Shaheen with Mollah Zahur Ahmed Khaled Siddiky, Advocates

.... for the petitioner

Mr. Md. Imam Hasan, Senior Advocate with Mr. Md. Shahinul Islam, Advocate ...... for respondent 3

Judgment on 02.03.2026.

Bhishmadev Chakrabortty, J:

The Rule in the aforequoted writ petition was issued in the following terms:

"Let a Rule *Nisi* be issued calling upon the respondents to show cause as to why the decision contained in memo No. রাজউক/এষ্টেট-২/১৬ সাঃ dated 07.01.2014 issued under the signature of Assistant Director (estate-2), RAJUK, Uttara (annexure-I), Dhaka refusing to allot plot to the petitioner as affected person and Clause ৩(ণ) as contained in memo No. রাজউক/প্রঃ শাঃ/ বোর্ড/ ০৬/ ১২/ ৩৩/ ১৯৬/ ২০০৯/ ৩৩ (১)-১৫ dated 05.07.2012 issued under the signature of the Chairman of RAJUK (annexure I-1) should not be declared to have been made without lawful authority and is of no legal effect and why the respondents should not be directed to allot a plot of 3 katha to the petitioner as affected

person on the basis of her application bearing No.28349 in the সম্প্রসারিত উত্তরা (৩য় পর্ব) প্রকল্প as per clause ৫০.০৩। সিদ্ধান্তঃ (খ) ১ of minutes as contained in memo No. রাজউক/ প্রঃ শাঃ/ বোর্ড/ ০৯/ ১০/ ৩৩/ ১৯৬/ ২০০৯/ ৪২ (২৭) স্থাঃ dated 30.09.2010 issued under the signature of the Chairman RAJUK (vide annexure-F) and/or pass such other or further order or orders to this Court may seem fit and proper."

The material facts as stated in the writ petition, in brief, are that the petitioner was owner and possessor of some lands of Baunia and Deul mouzas within Savar police station of district Dhaka. During possession and enjoyment of the same the Government acquired petitioner's land measuring .0996 acres of Baunia mouza and .0960 acres of Deul mouza through LA Case 06/2001-2002 for RAJUK. The petitioner got award in respect of the land of Baunia mouza on 07.02.2004 and for the land of Deul mouza on 07.03.2005. The RAJUK published a notification in the "Daily Ittefaq" on 01.01.2004 to allot plots of 3 kathas and 5 kathas in the 3rd phase of the extended project. In clause 6 of the advertisement respondent 3 invited applications from the affected persons for allotment of plots whose lands were acquired for the project. The petitioner depositing Taka 75,000/- filed application for a 3 kathas plot in compliance of the requirements of RAJUK. But she found her name absent as successful allottees in her category in the list published on 06.10.2006. She then made representation to respondent 3 to include the award in respect of .0960 acres of land of Deul mouza under the same project because she received it after last date of filing the application for getting allotment. She prayed for attaching her award certificate for the land of Deul mouza with her application.

She was then expecting that her application would be considered but without getting any response she further made representations on 01.10.2008 and 18.05.2009 to respondents 3 and 4 respectively. In the Board meeting held on 23.09.2010 and 26.09.2010 respondent 3 decided that the persons who had lost their lands would be considered to have a plot considering quantum of land. The persons who at the time of filing application had submitted award of less land but subsequently added award certificate for land of .1650 acres and above would be considered as qualified in getting a plot allotted. The petitioner was awaiting for response from the respondents but they neither refused her application nor allowed it. Lastly she made a representation on 18.02.2013 but without having any reply filed Writ Petition 6979 of 2013 in this Court seeking direction upon the respondents to allot a plot of 3 kathas to her as an affected person. A Division Bench of this Court after hearing disposed of the petition directing respondents 2 and 3 to dispose of petitioner's application dated 18.02.2013 within specified time. But respondent 6 through a letter annexure-I to the writ petition informed the petitioner that there is no scope to consider the applications who added award subsequently for more lands. The RAJUK in LA Case 06 of 2001-2002 acquired in total .1956 acres of petitioner's land in two mouzas but award certificate in respect of the land of Deul mouza was given to the petitioner after filing the application for a plot, so she had no scope to add the land of Deul mouza with the application. She filed application for addition which was under consideration of the respondents, but the respondents without considering the order passed in Writ Petition 6976 of 2013 and the decision of the Board Meeting rejected the petitioner's application through annexure-I and thus violated the provisions of law which is liable to be declared to have been

made without lawful authority and is of no legal effect. Respondents 5 and 6 passed the order by violating the provisions of Article 27 and 31 of the Constitution, and as such the same is required to be set aside and the respondents be directed to allot a plot of 3 kathas to the petitioner.

Respondent 3 RAJUK filed affidavit-in-opposition and contests the Rule. There it controverted the facts stated in the writ petition further contending that the petitioner got award of land measuring .0996 acres of Baunia mouza acquired through LA Case and she prayed for getting allotment as an affected person through it. Subsequently she prayed for adding award of more .0960 acres of land with the application. It was decided in the Board meeting that who have lost their nal land of .1650 acres and above through acquisition their applications for getting 3 kathas plot as affected person would be considered. But at the beginning the petitioner filed application with award of .0996 acres of land which was less than the requirements of RAJUK of having a plot. In a meeting the RAJUK decided that there is no room to consider the applications who got requisite qualification afterwards by adding award of more lands, because of fact that applications of the affected person who became qualified by adding more land subsequently, are many times higher than allocable plots. It is not possible to allot plots to the petitioner due to scarcity of plots as number of plots are fewer than that the applicants. In the supplementary affidavit to the affidavit-in-opposition respondent 3 stated that as per the Rules of allocation of plots in Uttara 3rd Phase, the authority decided to allot 2,199 plots among the affected persons out of which RAJUK has already allotted 2,104 plots and in a meeting dated 13.07.2023 it was decided

to allot remaining 95 plots among the affected persons by publishing an advertisement. In response to the aforesaid notification the petitioner filed application to the RAJUK on 23.11.2023 (Annexures-2/2) which is still pending and under consideration, and as such the cause of action for filing the instant writ petition no longer exists. In the premise above, the Rule would be discharged.

Mr. Md. Montasir Shaheen, learned Advocate for the petitioner taking us through the materials on record submits that in fact total .1956 acres of nal land of the petitioner was acquired by the government through LA Case for 3rd phase of extended project of residential area at Uttara. The petitioner got award for .0996 acres land of Baunia mouza on 07.02.2004 and for the land of Deul mouza measuring .0960 acres on 07.03.2005. But respondent RAJUK published an advertisement calling for applications from the affected persons on 01.01.2004 and the petitioner filed application on 30.03.2004. At the time of filing application, the award certificate in respect of the land of Deul mouza was not given to the petitioner and as such she correctly filed application subsequently to add the award certificate issued later on in respect of the land of Deul mouza with his original application which was accepted by the RAJUK as it appears from annexure-J at serial 34. The respondents also took decision to allot 3 kathas plot to the affected persons whose land measuring minimum .165 acres was acquired by the Government. For inaction of the respondents the petitioner earlier invoked writ jurisdiction of this Court wherein this Division directed them to dispose of her application within 30 days but respondent 5 under the signature of respondent 6 issued the impugned order

annexure-I to the writ petition rejecting the petitioner's application to get allotment as an affected person by violating their own decision taken on 28.06.2012. He then refers to the cases of Rajdhani Unnayan Kartipaksha (RAJUK) vs. Mrs. Jahanara Begum and others, 57 DLR (AD) 80 = 25 BLD (AD) 149 = 12 BLT (AD) 222; Rabiul Husain vs. Government of the Bangladesh, 12 ALR (HCD) 50 and Firoza Khatun alias Firoza and others vs. Government of Bangladesh and others, 30 BLC 362 and submits that in the aforesaid first 3 cases our Appellate Division directed the concerned authority to scrutinize the application filed by the writ petitioner seeking allotment of land in the Rehabilitation Zone as affected person and that if the writ petitioner satisfies the conditions and criteria set down by the RAJUK entitling a person to have the allotment of land as affected person then the RAJUK would make allotment to him, otherwise not. Mr. Shaheen relied on the principle in the case reported 30 BLC 362 that it should be the prime duty of the RAJUK to rehabilitate the displaced people first and then accommodate the strangers which they are not doing. In view of the above position, the Rule would be made absolute and the respondents be directed to allot a 3 kathas plot to the petitioner as affected person on the basis of her application.

Mr. Md. Imam Hasan, learned Senior Advocate for respondent 3 on the other hand submits that although earlier the application of the petitioner for getting a plot in the 3rd phase of extended Uttara project was rejected by the RAJUK through the impugned order annexure-I to the writ petition in pursuance of the Board meeting as contained in annexure-I-1 but subsequently in responce to a fresh advertisement to that effect, the petitioner filed an

application to RAJUK on 30.10.2023 for allotment of a plot in her name. The aforesaid application is still pending and as such the cause of action for filing the instant writ petition no longer exists. He then refers to the case of Rajdhani Unnayan Kartipaksha and another vs. Dr. Tofail Hoque and another 27 BLC (AD) 91 and relaying on the principle laid therein submits that when a legal and vested right has not been created to a person, the question of legitimate expectation of such person cannot be claimed and no *mandamus* can be issued. In the present case, the petitioner has just filed an application to the RAJUK for a plot as an affected person and through which no legal and vested right has been accrued in her favour, and as such she cannot get any relief in this writ petition in the form of *mandamus*. The Rule, therefore, would be discharged.

We have considered the submissions of both the sides, gone through the statements made in the writ petition, the annexures appended thereto, the affidavit-in-opposition and *ratio* of the cases cited by the parties.

It is admitted fact that the Government acquired petitioner's land for extended 3rd phase of Uttara Residential Area project. It is also admitted by respondent RAJUK that petitioner's land measuring .0996 acres of RS plot 21 of mouza Bounia and .0960 acres of RS plot 1482 of mouza Deul were acquired by the Government through LA case. It is also admitted that compensation in respect of .0996 acres land of Bounia mouza was given to the petitioner on 07.02.2004 and compensation for land measuring .0960 acres of Deul mouza was given to the petitioner on 07.03.2005. It is also admitted by respondent RAJUK that the petitioner filed application for getting allotment of a 3 kathas plot on depositing Taka 75,000/- on 30.03.2004 bearing application

number 28349. The respondent RAJUK did not deny that subsequently the petitioner filed application adding award certificate for land measuring .0960 acres of Deul mouza with his original application.

It is found that the respondent RAJUK in its Board Meeting dated 23.09.2010 and 26.09.2010 as contained in annexure-F to the writ petition decided to allocate plots to those persons from whom .1650 acres or more nal land were acquired for the said project. The RAJUK did not make any response to the petitioner's application for getting a plot allotted and then she invoked writ jurisdiction of this Court in Writ Petition 6976 of 2013 and a Bench of this Division by order passed on 18.02.2013 disposed of the petition and directed the respondent RAJUK to dispose of petitioner's application for allotment within 30 days. But mysteriously RAJUK without considering the spirit of the order passed in the writ petition by the impugned letter annexure-I rejected the petitioner's application stating reason that the petitioner subsequently added the award showing more than .1650 acres and as such her application could not be considered as per the decision of the Board meeting dated 28.06.2012. It is found in annexure-I-1 that RAJUK took decision as "যে সকল ক্ষতিগ্রস্ত আবেদনকারী সাময়িকভাবে নির্বাচিত হননি পরবর্তীতে এওয়ার্ড সংযোজন করতঃ অধিগ্রহণকৃত জমির পরিমান ০.১৬৫০ একর ও তদুর্ধ হওয়ায় প্লট প্রাপ্তির জন্য আবেদন করেছেন এমন আবেদনকারীদের আবেদন বিবেচনা করার কোন অবকাশ নেই মর্মে সিদ্ধান্ত নেয়া যেতে পারে।" The aforesaid decision of respondent RAJUK is contrary to its earlier decision taken in the Board meeting dated 23.09.2010 and 26.09.2010 annexure-F and violative to the advertisement of RAJUK for getting a plot by the petitioner as an affected person because clause 8(Chha) of the decision taken in the meeting as aforesaid was- "দরখাস্তকালীন সময়ে কম জমির

ক্ষতি সংক্রান্ত প্রমাণ ছিলো কিন্তু পরবর্তীতে .১৬৫০ একর বা তদুর্দ্ধ জমি ক্ষতিগ্রস্ত হওয়ার এওযার্ড দাখিলকারী ৫৪ জন আবেদনকারীর অনুকূলে (এওয়ার্ড ডিগ্রি অফিস হতে যাচাই সাপেক্ষে) প্লট বরাদ্দের বিষয়টি রাজউক বিবেচনা করতে পারে।" The petitioner cannot be deprived of having a plot for the fault of respondents in payment of compensation and issuing award certificate in delay, *i.e.*, after filing of application for getting allotment.

Mr Hasan, learned Advocate for respondent 3 has argued that the petitioner has filed a fresh application for allotment in 2023 which is still pending and as such in cause of action of filing this writ petition does not exist. Yes, it is found in annexure-2/2 in the supplementary affidavit-in-opposition filed by RAJUK that in response to an advertisement published by RAJUK on 16.10.2023 in pursuance of the Board meeting held on 13.07.2023 the petitioner filed an application afresh on 23.11.2023 for getting allotment as an affected person on earlier deposit. But it is found that the petitioner filed application for getting allotment in the year 2004. She waited for years together and made several representations to the authority for getting allotment. Lastly she invoked writ jurisdiction of this Court in 2013 and this division passed an order directing the respondent RAJUK to dispose of her application to that effect. But RAJUK rejected her application through annexure-I on the ground of adding award certificate in respect of a part of acquired land in her application subsequently. Thereafter, she again invoked writ jurisdiction of this Court and obtained this Rule in the present form. Now RAJUK again published notice in 2023 for the same purpose. In the meantime, 22 years have passed but the respondent RAJUK is taking dilatory tactics and hide a sick policy in dealing with the matter. It may be that after passing of another 20 years

respondent RAJUK will again reject petitioner's application showing different reason. Such activities of RAJUK cannot be allowed to proceed on.

The case reported in 27 BLC (AD) 91 as referred to by the learned Advocate for respondent 3 shall not apply here because in that case the petitioner's name was published in the newspaper that he got a plot allotted but subsequently it was cancelled on the ground of irregularity and illegality and for that reason the writ of *mandamus* was disapproved. In that case, writ was purely in the nature of *mandamus* but in this writ petition the Rule was issued in the mixed form of *certiorari* and *mandamus*. The present writ petitioner applied to the concerned authority for getting allotment of a 3 kathas plot as an affected person which was rejected on flimsy ground. Therefore, the *ratio* laid in the aforesaid case shall not apply here. This writ petition in the present form is found well maintainable.

Section 42 of the Town Improvement Act provides for re housing of the persons displaced by an improvement scheme. It has been provided therein further that the Kartripaksha may frame schemes for the construction, maintenance and management of such so many dwellings and shops as they may consider or to be provided for the purpose of poorer and working class who have been displaced by the execution of any improvement scheme sanctioned under this Act. It would be the prime duty of the RAJUK to rehabilitate the displaced people first who had lost their lands for the development project and thereafter to accommodate the others. Acquisition of land for residential purpose by making some people homeless and landless without providing affected persons with plots cannot be for public interest.

Here, respondent RAJUK is not submitting any data as to how many plots are in the extended project but they are saying that certain number of plots were/has been kept for the affected persons. It is found from the statements made in paragraph 3 of the supplementary affidavit-in-opposition that they decided to allot 2199 plots among the affected persons, out of which they have already allotted 2104 plots and its meeting dated 13.07.2023 decided to allot the remaining 95 plots in the category by publishing advertisement. So it is clear that as per their own admission still there are 95 plots remain vacant to be allotted to the affected persons.

In the present case it is found that the petitioner has been waiting for last 22 years for a plot to be allotted in her name as an affected person. Despite a direction passed by this Court in Writ Petition 6976 of 2013, RAJUK rejected her application through annexure-I showing the reason which is self contradictory to its earlier decision and arbitrary. As per the implied direction of this Court passed in the earlier writ petition it was incumbent upon the respondent RAJUK to allot a 3 kathas plot to the petitioner. But without doing so it rejected her prayer. Therefore, we are of the view that this Rule is to be made absolute in the form and manner of Rule issuing order. In taking such decision the *ratio* laid in the case of Firoza Khatun vs. Government of Bangladesh and others 30 DLR 362 can be relied upon.

Therefore, the Rule is made absolute. No order as to costs. The decision contained in memo No. রাজউক/এষ্টেট-২/১৬ সাঃ dated 07.01.2014 issued under the signature of Assistant Director (estate-2), RAJUK, Uttara (annexure-I), Dhaka refusing to allot plot to the petitioner as affected person and Clause ৩(গ) as

contained in memo No. রাজউক/প্রঃ শাঃ/ বোর্ড/ ০৬/ ১২/ ৩৩/ ১৯৬/ ২০০৯/ ৩৩ (১)-১৫ dated 05.07.2012 issued under the signature of the Chairman of RAJUK (annexure I-1) are hereby declared to have been made without lawful authority and are of no legal effect. The respondent RAJUK is directed to allot a plot to the petitioner as an affected person measuring 3 kathas in accordance with law on the basis of her application dated 30.03.2004 bearing number 28349 in the extended 3rd phase of Uttara Residential project within 03(three) months from the date of receipt of this judgment and order, failing which the law will take its own course.

Communicate this judgment and order to the concerned.

Murad-A-Mowla Sohel, J.

I agree

Sumon-B.O.