

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

Writ Petition No. 7723 of 2014

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Md. Shahinur Islam and others

....Petitioners

Versus

People's Republic of Bangladesh, represented by
the Secretary, Ministry of Education, Bangladesh
Secretariat, Ramna, Dhaka and others

....Respondents

Mr. Md. Asaduzzaman Ansari, Advocate with

Mr. Md. Abdul Malek, Advocate

....For the Petitioners

Mr. Md. Abid Chowdhury, DAG with

Mr. M Mohiuddin Yousuf, DAG,

Mr. Monjur Elahi Porag, AAG,

Mr. Ariful Alam, AAG,

Mr. Nazmul Hasan Chowdhury, AAG and

Mr. Md. Shahidul Islam, AAG

.... For the respondents

No one appears

.....For the Respondent Nos. 3 and 5

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 14.06.2026.

Md. Iqbal Kabir, J:

On an application under Article 102 of the Constitution of the People's
Republic of Bangladesh, this Rule Nisi was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show
cause as to why the impugned letter Memo No. ওএম-৪৮-ম/ ১৪/ ৮৪৪৭/
০৮ তারিখঃ- ০৭/০৮/২০১৪ খ্রিঃ jointly issued by the respondent Nos. 3 & 5
(Annexure-"Z") for stop payment of the salary and allowance in
the portion of the Government of the Petitioners should not be
declared illegal and to have been passed without lawful authority
and is 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, this Court also passed an interim order in the following terms:

“Pending hearing of the Rule, let the operation of the impugned letter Memo No. ওএম-৪৮-ম/ ১৪/ ৮৪৪৭/ ০৮ তারিখঃ ০৭/০৮/২০১৪ খ্রিঃ (Annexure-"Z") jointly issued by the respondent Nos. 3 & 5 be stayed for a period of 6(six) months from date.”

Facts, in brief, are that petitioner Nos. 1-5 were appointed as Assistant Teachers in different educational institutions in Kurigram pursuant to the published recruitment notifications and upon completion of the prescribed selection process. Thereafter, the respective Managing Committees issued appointment letters in their favour, and they joined their respective posts. According to them, subsequently, the Head of the concerned institutions forwarded their necessary papers to the education authorities for inclusion of their names in the Monthly Payment Order (MPO) scheme. The District Education Officer duly countersigned and forwarded the applications through the online system to the competent authority. Upon scrutiny of the relevant records, the names of all the petitioners were duly included in the MPO scheme (Annexures–E, J, O, T, and Y) respectively. However, all of a sudden, without issuing any notice, the respondent Nos. 3 and 5 with a joint signature issued a letter Memo dated 07.08.2014, thereby stopping payment of their Monthly Payment Order (MPO).

Being aggrieved by and dissatisfied with the impugned order, the petitioners filed this writ petition and obtained the instant Rule Nisi.

Mr. Md. Abdul Malek, the learned Advocate for the petitioners, submits that the respondent Nos. 3 and 5 arbitrarily stop payments of the salary and allowance portion of the Government of the petitioners without giving them any show cause notice. According to the petitioners, the impugned order is the result of a mala fide exercise of power and executive high-handedness at the instance of a vested quarter. The natural justice and law unequivocally require that, before cancelling or stopping payment, the authority must issue a show-cause notice and allow the concerned party to be heard. Admittedly, no such notice was served upon the petitioners, nor was any opportunity of hearing provided, before the issuance of the impugned order. According to him, it has been made in violation of natural justice as well as their legal rights.

He submits that all the petitioners are serving as Assistant Teachers in their respective schools. If the payment of their salaries and allowances is

suddenly stopped, they will suffer irreparable loss and injury and face severe financial hardship, adversely affecting the livelihood of their families. He further submits that the impugned letter (Annexure-"Z"), being unlawful and unauthorized, is liable to be declared to have been issued without lawful authority and to be of no legal effect.

No one appears on behalf of the respondent Nos. 3 and 5, who issued the impugned memo to contest the Rule. However, the record shows respondent No. 18-26 filed an affidavit-in-opposition, but did not turn to appear to oppose the Rule.

On perusal, it appears that the petitioners are the teachers of the school, duly appointed, and the Head of the concerned institutions forwarded their necessary papers to the education authorities for inclusion of their names in the Monthly Payment Order (MPO) scheme. The District Education Officer duly countersigned and forwarded the applications through the online system to the competent authority. Respondent Nos. 3 and 5 requested to stop the MPO by issuing an impugned memo alleging certain inconsistencies in the online MPO inclusion process, the authority issued the impugned Memo suspending the petitioners' salary payments. However, an affidavit in opposition has been filed by the respondent Nos. 18 to 26, which shows there was a dispute, and based on the allegation, the authority took such initiative.

However, Regulation 18 of the relevant Regulations empowers the authority to withhold MPO benefits only in specified circumstances, particularly where the conditions stipulated in Regulation 5 are not fulfilled. Therefore, the power to suspend MPO benefits under Regulation 18 can be exercised only upon the existence of grounds contemplated by Regulation 5. Upon a careful examination of the impugned Memo, it appears that the reasons assigned therein do not attract or fall within any of the contingencies envisaged under Regulation 5. As such, mere discrepancies between the online information and the records, without establishing any violation contemplated by the Regulations, do not appear to confer lawful authority upon the respondents to withhold or suspend the petitioners' MPO benefits and allowances. Before cancelling or suspending the payment, the authority was legally required to issue a show-cause notice and provide an opportunity for a hearing. But the conduct of the respondents states that no such notice or opportunity was given to the petitioners before the issuance of the impugned order. The impugned memo has been passed in violation of the principles of natural justice.

Accordingly, the Rule is made absolute.

The impugned letter Memo No. ওএম-৪৮-ম/ ১৪/ ৮৪৪৭/ ০৮ তারিখঃ- ০৭/০৮/২০১৪ খ্রিঃ jointly issued by the respondent Nos. 3 and 5 (Annexure-"Z") is hereby set aside.

The order of stay granted at the time of issuance of the Rule is hereby recalled and vacated.

There will be no order as to cost.

Communicate the order.

S M Saiful Islam, J:
I agree.