

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

WRIT PETITION NO.11760 OF 2015

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Mohd. Akhtaruzzaman

..... Petitioner

- Versus -

Government of Bangladesh and others.

.....Respondents

Mr. Md. Kamruzzaman, Advocate

.....For the Petitioner

Mr. Jahirul Islam, Advocate

.....For the Respondent No.7

Mr. Md. Anichur Rahman Khan, D.A.G with

Mr. Sultan Mahmood Banna, D. A. G with

Mr. Mir Moniruzzaman, A.A.G and

Mr. Md. Sarwar Alam Khan, A.A.G

.....For the Respondents-Government

**Heard on 28.10.2025, 02.11.2025 and
11.11.2025 & Judgment on 09.07.2026**

Present :

Mr. Justice Md. Shohrowardi

And

Mr. Justice Dihider Masum Kabir

Dihider Masum Kabir, J

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondents have been called upon to show cause as to why the impugned refusal vide memo Nos. ৩৫১/ক/বী/৯৩(অংশ-১)/১৭৪ এবং ৩৫১/ক/বী/৯৩(অংশ-১)/৫০২ dated 28.05.2015 and 02.11.2015 respectively issued under the signature of the respondent

No.4 to approve the decision of the Managing Committee of Gochihata College and direction to reinstate respondent No.7 in his respective post in the college with all arrears (Annexure-G and H) shall not be declared as illegal, to have been made without any lawful authority and is of no legal effect and also as to why a direction shall not be given upon the respondent No. 2 to take necessary steps to approve the decision of the Managing Committee of Gochihata College in accordance with law and or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance the Rule, further operation of the impugned memo Nos. ৩৫১/ক/স্বী/৯৩(অংশ-১)/১৭৪ এবং ৩৫১/ক/স্বী/৯৩(অংশ-১)/৫০২ dated 28.05.2015 and 02.11.2015 respectively were stayed by this Court for a prescribed period.

Facts, relevant for the disposal of the Rule, in short, are that the petitioner is the founder of Gochihata College, Kishorganj and also serves as the President of its Governing Body. On 09.11.2014, Ms. Zakia Begum, the Headmistress of Gochihata Rural Academy, filed a complaint against respondent No.7, Md. Abul Mansur, an Assistant Professor of Mathematics at Gochihata College.

According to the complaint, on 09.11.2014, at approximately 10.30 a.m. respondent No.7 visited her house under the pretext of returning a book to her daughter, Tanha in the presence of her younger daughter, Sauda and one Selina Akter, a class-eight student, while no guardian, was present. After initially leaving, respondent No. 7 allegedly returned with bad intentions. Upon entering the room, he lay

down on the bed, sat up shortly after, asked Sauda to sit beside him, and touched her head and hand. He also reportedly attempted to enter the house a third time.

Mrs. Salma Zaman, Chairperson of the Managing Committee of Gochihata Palli Academy forwarded the complaint to the Principal, Gochihata College for taking necessary action regarding the facts on 09.11.2014 and the Principal issued show cause notice on 17.11.2014 to respondent No.7 stating the only allegation that you entered into the quarter of Ms. Zakia Begum (Headmistress) on 07.11.2014 at 10.00 a.m. in absence of the guardian which is not expected from you as a teacher. He was directed to reply within three days explaining why necessary action should not be taken against him.

Respondent No.7 replied on 18.11.2014, admitting that he has visited the neighboring quarters of Ms. Zakia Begum on 07.11.2014, to return a book to her elder daughter Tanha (a class-nine student) in presence of Sauda (a class-seven student), Selina Akter (a class-eight student), and his own wife, who remained outside. He noted that he had lived in the area for approximately six years, maintained that he had no bad intentions, and denied that anything inappropriate had occurred. Finding his reply unsatisfactory, the Governing Body, during its meeting on 29.11.2014, decided to issue a second show-cause notice containing five specific questions. In his reply on 06.12.2014, respondent No. 7 denied all material allegations against him.

Subsequently, acting on verbal (telephonic) instructions from the President of the Governing Body, the Principal formed a three-member

Inquiry Committee on 07.12.2014. The Inquiry Committee submitted its report on 17.12.2014, explicitly noting the date of the occurrence as 05.12.2014. Based on this report, the Governing Body unanimously resolved on 31.01.2015, to dismiss respondent No. 7 from service, with effect from 01.02.2015, and decided to forward the case documents to the Board of Intermediate and Secondary Education, Dhaka, for statutory approval.

On 16.02.2015, the Principal forwarded the documents to the Chairman of the Dhaka Board seeking approval from the Appeal and Arbitration Committee for the dismissal of the teacher (অপসারিত শিক্ষক), Md. Abul Mansur. At its meeting on 20.04.2015, the Appeal and Arbitration Committee examined the relevant documents, conducted an extensive discussion, and ultimately decided not to approve the Governing Body's decision. Instead, the Committee decided to reinstate the accused Md. Abul Hossain, Assistant Professor to his respective post and directed the college to pay all his outstanding arrears. Dr. Ashfakus Salehin, the Inspector of Colleges, officially communicated this decision to the petitioner vide memo No. ৩৫১/ক/স্বী/৯৩(অংশ-১)/১৭৪ dated 28.05.2015, directing its immediate implementation.

On 08.09.2015, the Principal applied for a review of the Appeal and Arbitration Committee's decision. In response, Dr. Ashfakus Salehin issued a subsequent memo No. ৩৫১/ক/স্বী/৯৩(অংশ-১)/৫০২ dated 02.11.2015, informing the petitioner and the relevant authorities that there was no legal provision to review a final decision made by the Appeal and Arbitration Committee. The memo reiterated the directive to

reinstate the Assistant Professor, clear all his arrears, and report compliance back to the Board.

Challenging these two administrative memos, the petitioner moved before this Court by filing the instant writ petition, whereupon this Court was pleased to issue a Rule Nisi and a corresponding ad-interim stay order.

Respondent No.7 contests the Rule by filing an affidavit-in-opposition contending, *inter alia*, that respondent No.7 never abused the daughter of the complainant with indecent and immoral intention and also not abused her sexually. The allegation stated in the complaint is absolutely vague because no such complaint was filed dated 09.11.2014 rather it was pursued by the petitioner through back dated to harass respondent No.7 from abdicating himself from his post. Moreover, departmental inquiry had been conducted without observing the principles of natural justice and without giving him any opportunity to defend himself before the inquiry committee. Furthermore, the inquiry report revealed that the date of the alleged occurrence was 05.12.2014, instead of 09.11 2014 (as stated in the original complaint), which flatly contradicted the complainant's narrative. Additionally, on 07.12.2014, Hazera Akter, one of the members of the inquiry committee along with 31 other teachers of the college, had signed an opinion in favor of respondent No. 7, asserting that the alleged facts were false and fabricated, and that the petitioner had failed to comply with the relevant provisions of law.

It is also stated that the petitioner issued a letter to respondent No.7 vide memo No. স্বাক্ষর নং- গ/ক-২৯৬৫/২০১৫ dated 19.01.2015 ordering him to obey the decision of the Governing Body of the College as well as admit the guilty of the alleged offence. Therefore, it is clearly revealed that the allegations brought against respondent No.7 is absolutely false and fabricated and the petitioner most illegally and maliciously trying to abdicate respondent No.7 from his post.

Mr. Md. Kamruzzaman, the learned Counsel, appearing on behalf of the petitioner submits that the decision to dismiss respondent No. 7, was duly made in accordance with the applicable legal procedures. The learned Counsel also submits that the respondent was found guilty by an independent inquiry committee and was given ample opportunity to explain his position through multiple show-cause notices, as well as a personal hearing. Since his explanation regarding the complaints remained unconvincing at every stage, there was no illegality in the decision to dismiss him from service.

The learned Counsel further argues that respondent No.3, the Appeal and Arbitration Committee acted arbitrarily and without valid reason in refusing to approve the dismissal. Consequently, he contends that this refusal should be declared illegal, devoid of lawful authority, and of no legal effect, and that the Rule should be made absolute.

On the other hand, the learned Counsel Mr. Jahirul Islam appearing on behalf of respondent No.7 submits that the allegations brought against respondent No.7 were entirely false, fabricated and concocted. The learned Counsel argues that while the initial complaint

was filed and forwarded to the principal regarding the occurrence on 09.11.2014, the Principal inexplicably altered the date of occurrence to 07.11.2014 in the first show-cause notice (beginning the question of how he arrived at that date).

The learned Counsel surprisingly submits that, the inquiry committee which was formed vide telephonic instructions from the President of the Governing body rather than through a formal resolution of the Governing Body itself recorded the date of occurrence as 05.12.2014.

The learned Counsel then submits that not only did the dates shift, but the nature of the allegations was also described inconsistently. While the first show-cause notice raised only a single issue, the second notice was suddenly expanded into five elaborate questions. Furthermore, the Governing Body dismissed respondent No.7 with effect from 01.02.2015, in blatant violation of statutory procedures. Therefore, the Board's Appeal and Arbitration Committee acted lawfully in refusing to approve the dismissal. As such, the Rule is liable to be discharged.

We have considered the submissions of the learned Counsels of both the parties and perused the writ petition, supplementary affidavit filed by the petitioner, affidavit-in-opposition, relevant materials on record appended thereto and consulted relevant provisions of law.

On perusal of the writ petition and the relevant materials on record, it is revealed that the petitioner has challenged the decision of the Appeal and Arbitration Committee, taken during its meeting on 20.04.2015. By the said decision, the Committee refused to approve the

resolution of the Governing Body of Gochihata College regarding the dismissal (অপসারণ) of Mr. Md. Abul Mansur, Assistant Professor of Mathematics, and instead directed to reinstate him to his respective post along with the payment of all outstanding arrears.

The moot question that requires determination in the instant writ petition is whether respondent No. 3, the Appeal and Arbitration Committee, Board of intermediate and Secondary Education, Dhaka lawfully refused to approve the resolution of the Governing Body of Gochihata College regarding the dismissal (অপসারণ) of Mr. Md. Abul Mansur and instead directed his reinstatement to his respective post along with the payment of all outstanding arrears.

To gain a clear understanding of the legal implications of regulations 2 (Definitions), 11, 12, 13 and 14 of the Recognised Non-Government Intermediate College Teachers (Board of Intermediate and Secondary Education, Dhaka) Terms and Conditions of Service Regulations, 1979 (in short, the Regulations, 1979) on the impugned actions, we deem it expedient to reproduce the said regulations hereunder for ready reference, which read as follows:

2. Definitions- In these regulations unless there is anything repugnant in the subject or context

- (a) "appointing authority" means the Governing Body in respect of teachers other than Principal and in respect of Principal, the Governing Body with the approval of the Board or an officer authorized by the Board in this behalf.

- (b) "Appeal and Arbitration Committee" means the Appeal and Arbitration Committee appointed under section 19 of the Ordinance.
- (c) "Board" means the Board of Intermediate and Secondary Education, Dhaka.
- (d) "College" means a recognized Non-Government Intermediate College;
- (e) "Governing Body" means a governing body constituted in accordance with the Board of Intermediate and Secondary Education, Dhaka (Governing Bodies of Non-government Intermediate Colleges) Regulations, 1977.

11. Punishment- A teacher who commits a breach of the provisions of these regulations or who is guilty of negligence of duty, inefficiency or corruption or who knowingly does anything detrimental to the interest of the college or is guilty of professional misconduct shall be liable to all or any of following penalties, namely –

- (a) censure;
- (b) withholding of increment for a specified period;
- (c) recovery from pay of the whole or part of any pecuniary loss caused to the college by negligence of duty;
- (d) removal from service; and
- (e) dismissal from service.

Explanation- Without prejudice to the generality of the term "professional misconduct" includes, for the purpose of these regulations, the following acts or omission or commission, namely:-

- (a) unpunctuality in attending classes or any other duty assigned;
- (b) absence from duty without permission;
- (c) unauthorized extension of leave;
- (d) any activity which may directly or indirectly influence in exciting one group of teachers or students against another group of teachers or students for political or personal gains;
- (e) any activity which creates indiscipline or moral repercussions among the teachers and students;
- (f) insubordination, alone or in combination with others, to any lawful or reasonable order of the Principal or, as the case may be, the Governing Body.
- (g) unauthorized use of college property, and
- (h) any other activity which is considered and specified by the Board to be prejudicial to the interest of the college.

- 12 Power to impose penalty- The power to impose penalty upon a teacher under regulation 11 shall vest in the authority competent to make appointment;

Provided that the penalties of dismissal or removal from service shall not be imposed unless the proposal for such penalty is examined by the Appeal and Arbitration Committee and approved by the Board.

13. Suspension-

- (1) A teacher may be placed under suspension pending enquiry. The power of suspending a teacher pending enquiry shall vest in the appointing authority.

- (2) During suspension, a teacher shall be entitled to a subsistence allowance at the rate of one-half of his pay.

While under suspension the employee shall not leave the place where he ordinarily resides to perform his duties as teacher without prior permission of the authority competent to suspend him.

14. Procedure for drawing up proceedings-

- (1) When a teacher is to be proceeded against for offences specified in regulation 11, he shall be called upon by a notice to submit a written explanation within seven days as to why the penalty or penalties specified in the notice should not be imposed on him for the alleged offences and asking him if he desires to be heard in person
- (2) On receipt of the explanation from the teacher and his desire to be heard in person, the authority competent to impose penalty shall constitute a three member enquiry committee with a Chairman.

A plain reading of the provisions of law reveals that based on the statutory regulations, the dismissal of a college teacher is a strict, step-by-step legal process. Failing to follow any single step precisely will violate the principles of natural justice and statutory law, making the dismissal legally invalid. The lawful procedure for dismissing a teacher must be conducted as follows:

When an allegation of misconduct arises, the appointing authority (Governing Body) must issue a formal written notice to the teacher

regarding the allegation. The teacher must be given a strict minimum of seven days to submit a written explanation and the notice must explicitly state the specific proposed penalties being considered and directly ask the teacher if he desires to be heard in person. If the teacher's explanation is unsatisfactory and they have requested a personal hearing, an Inquiry Committee must be formed by the Governing Body. It must be a three-member committee, including a designated Chairman. The committee must be constituted through a formal, recorded resolution passed during a properly convened Governing Body meeting. Verbal or telephonic instructions from the President or Principal are completely illegal and will void the entire process.

The Inquiry Committee must investigate the allegations impartially. The teacher must be given a fair opportunity to defend him, cross-examine witnesses, and present evidence if any. The final inquiry report must be meticulously precise regarding facts, dates, and evidence. Discrepancies in the date or nature of the occurrence will collapse the legal basis of the case. The committee then submits its formal report to the appointing authority.

If the Governing Body, upon considering the inquiry report, finds the teacher guilty, it shall pass a resolution (either unanimous or by majority) proposing the penalty, which will then be sent to the Appeal and Arbitration Committee for the Board's approval. The Governing Body cannot unilaterally implement the penalty until it has been approved by the Board.

Under Regulation 12, a penalty of dismissal or removal from service cannot be imposed without external oversight. The Principal must forward all relevant case documents, including the show-cause notices, replies, and the inquiry report, to the Board of Intermediate and Secondary Education (Dhaka Board). The proposal shall be thoroughly examined by the Appeal and Arbitration Committee; if the Committee finds merit in the proposal, the matter will then be sent to the Board for final approval. The dismissal becomes legally effective only on or after the date the Board grants its official approval.

A combined reading of the relevant provisions of law, alongside the facts and circumstances of the instant case, reveals that a lawful inquiry report must find clear nexus between the alleged offence and the evidence. In this case, the facts on record actively contradict each other:

The complaint alleged the incident happened on 09.11.2014.

The first show-cause notice modified the date to 07.11.2014.

The inquiry committee report concluded the occurrence took place on 05.12.2014.

A teacher must be given a notice to submit a written explanation within seven days before the matter proceeds. In this instance, respondent No.7, was neither examined nor called upon by the Inquiry Committee. Furthermore, the Inquiry Committee was formed on 07.12.2014, based solely on the telephonic instructions of the President of the Governing Body, rather than through a formal resolution passed by the Governing Body itself. Additionally, the committee was directed to submit its report within seven days by 13.12.2014; however,

calculating the actual time elapsed, they were only provided six days. By shortening the statutory response, the authority denied the teacher to defend himself before the Inquiry Committee, breaching the principles of natural justice.

A telephonic directive by a single individual cannot substitute for a formal resolution passed in a properly convened meeting of the Governing Body. This violates the legal procedure for "drawing up proceedings."

A Governing Body only has the power to propose a dismissal. The proposal for dismissal cannot be implemented until it is affirmed by the Appeal and Arbitration Committee and approved by the Board. In the instant case, the Governing Body resolved on 31.01.2015 to dismiss respondent No.7 with effect from 01.02.2015. They implemented the punishment before even sending the decision to the Board on 16.02.2015. The college executed a termination unilaterally, treating the Board's mandatory statutory approval as a mere rubber stamp rather than a legal prerequisite.

Because of these steep discrepancies, the Appeal and Arbitration Committee of the Dhaka Board legally passed the impugned memo in accordance with the law. Under administrative law, when a statute prescribes a specific method for doing something, it must be done in that way. The college's complete bypass of due process makes their dismissal order unsustainable.

On consideration of the facts and circumstances of the case, along with the materials on record, we are of the view that the Appeal and

Arbitration Committee, during its meeting on 20.04.2015, acted rightly and lawfully. After an extensive discussion regarding the allegations brought by the Governing Body of Gochihata College against the respondent No. 7, Mr. Md. Abul Mansur, Assistant Professor of Mathematics, Gochihata College, Upozila-Kotiadi, District-Kishorganj, the Committee lawfully decided not to approve the resolution of the Governing Body/Managing Committee, directing to reinstate respondent No.7 to his respective post with all outstanding arrears.

We find no illegality in the decision made by the Appeal and Arbitration Committee at its meeting dated 20.04.2015. After thoroughly examining the dismissal resolution passed by the Governing Body of Gochihata College and scrutinizing the related documents, the Appeal and Arbitration Committee rightly declined to forward the application to the Board for approval.

It is admitted that, in the interim, respondent No.7, Md. Abul Hossain, has reached the age of superannuation. Consequently, there is no scope to pass an order reinstating him to his former post. However, respondent No.7 remains entitled to receive his arrears salary, service benefits, and all applicable pension benefits up to the date he attained the age of superannuation.

In view of the above observations as well as the facts and circumstances of the case, we find no merit in the Rule.

Accordingly, the Rule is discharged and ad-interim order of stay granted earlier is hereby re-called and vacated.

However, there is no order as to costs.

Respondent No.7, Md. Abul Mansur is entitled to receive his arrears salary, service benefits, and all applicable pension benefits up to the date he attained the age of superannuation.

Communicate the judgment and order at once.

Md. Shohrwardi, J

I agree,