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

Writ Petition No. 734 of 2016

IN THE MATTER OF:
An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

And

IN THE MATTER OF:

Abdur Rahim

----Petitioner.

-Versus-

Dhaka (South) City Corporation, represented by its Mayor, Nagar Bhaban, Fulbaria, Raman, Dhaka and others

----Respondents.

Mr. Md. Hasinur Rahman, Advocate
----For the Petitioner.

Mrs. Sufia Ahmed with
Mrs. Syeda Tamanna Begum and
Mrs. Helena Begum, Advocates
----For the Respondent Nos. 1-4.

Present:
Mr. Justice Md. Iqbal Kabir
And
Mr. Justice S. M. Saiful Islam

Heard on: 22.06.2026 & 23.06.2026.
Date of Judgment: 27.07.2026.

S. M. Saiful Islam, J:

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

> "Let a Rule Nisi be issued calling upon the Respondent Nos. 1-4 to show cause as to why the respondents should not be directed to issue final allotment letter along with hand over possession of a Shop Room No. 105, Ground Floor of the Dhaka New Super Market (North), Block-D of the New Market Complex, Dhaka which is lying vacant and awaiting for allotment and / or such other or further order or orders passed as to this Court may seem fit and proper."

The facts, as stated in the writ petition, in brief, are that the petitioner is a member of the *Hawkers Plaza Babshayee Samittee* and carries on his business at Azimpur Govt. New Market. The said market is managed and administered by the Ministry of Public Works. The petitioner was allotted Shop/ Stall No. 512 at Hawkers Plaza situated on the roof of Kitchen Market of Azimpur New Market, Dhaka by virtue of the Memo No. 407 (Stall) 80/962 dated 25.11.1980, issued by the Director, Government Accommodation, Ministry of Public Works and Urban Development, Dhaka, subject to the terms and conditions stipulated therein. Pursuant to the said Memo, the Sub-Divisional Engineer, P.W.D. Sub-Division No. II, Division-II, Dhaka handed over the possession of the said stall No. 512 under its Memo No. 2530(62) dated 20.06.1981.

After Independence of Bangladesh, the Government handed over the Azimpur Government New Market along with the other Markets of the Dhaka City to the then Dhaka Municipal Corporation

for its control, management and administration. Thereafter, the then Dhaka Municipal Corporation communicated its decision to the petitioner regarding suspension of allotment of the case Shop No. 512 for the time being vide Memo No. Bazar/ 6351 (1-410) dated 18.01.1984. The petitioner was then directed to shift his shop on the condition that upon reconstruction of the market complex, a new shop room would be allotted to him. Accordingly the petitioner shifted his shop as directed. The petitioner and the other shop keepers of the then Azimpur New Market were the member of the *Hawkers Plaza Market Baboshayee Samittee.* Pursuant to the directions of the authorities, all market associations including the petitioner's association, submitted lists containing the names of their respective members to the said Municipal Corporation for the allotment of shops in the proposed renovated market building.

Thereafter, Municipal Corporation issued Memo No. Bazar/2561 dated 13.03.1985 asking the Chairman of petitioner's association, namely, Mohammad Ali for payment of Tk. 30,000/- in respect of each member as advance Salami for allotment of shops in their favour. Subsequently, pursuant to an understanding between the petitioner's association and the respondent No. 1, the then Mayor of Dhaka Municipal Corporation, an oral decision was taken to the effect that Tk. 30,000/- would be paid in two installments of Tk. 20,000/- and Tk 10,000/- respectively. In accordance with the said decision, the petitioner paid Tk. 20,000/- as first installment vide pay order No.

896406, dated 30.03.1985, issued by the Uttara Bank, Awlad Hossain Branch, Dhaka and submitted a forwarding letter to the authority which was duly received and accepted. Thereafter, on 01.07.1985, the authority of the Dhaka Municipal Corporation directed the petitioner to pay the remaining amount of Tk. 10,000/-. Accordingly the petitioner paid Tk. 10,000/- through Rupali Bank, New Market Branch, Dhaka which was duly accepted by the authority of the Dhaka Municipal Corporation.

After completion of the construction work of the Dhaka New Market Complex, the Municipal Corporation, without considering the affected shop owners, made allotment to the new persons by advertisement. Thereafter, challenging the legality of such allotment, the *Hawkers Plaza Market Baboshayee Samittee* represented by its Chairman Mr. Mohammad Ali and 4 others filed Writ Petition No. 32 of 1987 and obtained a Rule along with an interim order of stay against further allotment in the whole market. Subsequently, the Dhaka Municipal Corporation, by its Memo No. 836/ রাজস্ব-৩ dated 22.09.1987 asked Mr. Amzad Hossain, the Chairman, Ward No. 20, Dhaka Municipal Corporation, Dhaka for making arrangement of withdrawal of said Writ Petition No. 32 of 1987, for allotment of shops in favour of the members of the *Hawkers Plaza Market Baboshayee Samittee* enclosing a block wise lists of proposed allotment. The said Amzad Hossain, the Chairman, Ward No. 20 of the Dhaka Municipal Corporation, under Memo No. Ward-20/155/87

dated 12.09.1987, asked the Chairman of the petitioner's *samittee* for a proposal for allotment of shops to the members of the *samittee* block wise in the Dhaka New Market Complex.

Finally, the Writ Petition No. 32 of 1987 was disposed of on compromise and the compromise petition formed the part of the judgment dated 28.03.1988. The Chairman of *Hawkers Plaza Market Baboshayee Samittee,* Dhaka New Super Market Complex (South), prepared and submitted a list of their members as affected shop owners and submitted the same to the respondent No. 1 claiming allotment of shops in their favour. The name of the petitioner was enlisted at Serial No. 44 of the said list. Despite this, the respondents remained silent and no shop room was allotted in favour of the petitioner. The petitioner recently on query came to learn that shop No. 105 in the ground floor of Block-D in new Super Market Complex is lying vacant. Finding no other alternative, the petitioner filed an application on 14.09.2015 praying for allotment of the said shop in his favour, but the respondents did not respond. The petitioner served a notice upon the respondents on 01.11.2015 demanding justice and praying for the said allotment. However, the respondents did not reply. Finding no other alternative equally efficacious remedy, the petitioner filed the instant Writ Petition and obtained the Rule.

At the time of issuance of the Rule, an order of injunction was passed restraining the respondents from allotting Shop Room No. 105, Ground Floor, Dhaka New Super Market (North), Block-D of the

New Market Complex, Dhaka for a period of 6 (six) months and subsequently the same was extended till disposal of the Rule.

The Rule was contested by the Respondent Nos. 1-4, who filed an affidavit-in-opposition denying all the material allegations set forth in the writ petition. The substance of the contention of the affidavit-in-opposition is that the petitioner did not acquire any right and title in respect of the Stall No. 512 in the *Hawkers Plaza* and his allotment remained in force for a period of twelve months only with effect from 01.01.1980. It is also contended that the petitioner violated the terms and condition of the allotment letter dated 22.11.1980 and as per clause 21 of the allotment letter, it was cancelled. It is further contended that the Dhaka City Corporation allotted the shops in favour of the affected original shop owners as per advertisement and the Shop No. 105, Ground floor of the Dhaka New Super Market (North), Block-D was allotted to one Rafiqul Islam in the year 1986 before granting the ad-interim injunction order in the present writ petition.

The learned Advocate Mr. Mir Moklesur Rahman, along with the learned Advocate, Mr. Md. Hasinur Rahman, appearing for the petitioner, submits that the petitioner, while carrying on business in the former Azimpur Government New Market as an allottee shop owner, was evicted by the Respondent No. 1 on an assurance to be rehabilitated by re-allotment after completion of the construction of the Market Building. In accordance with the direction of respondent

No. 1, the petitioner deposited Tk. 30,000/- as an advance *Salami*. Accordingly, the respondents are bound to allot the case Shop Room No. 105 in favour of the petitioner, which is still lying vacant and awaiting for allotment. The learned Advocate further contends that in a similar matter, Md. Harun and others, who were also the allottees under the P.W.D. and subsequently evicted like the petitioner, filed Writ Petition No. 1131 of 2005 and the Rule issued in that writ petition was made absolute. According to the learned Advocate, the petitioner stands on the same footing and is entitled to get remedy as per terms of the Rule. On these grounds, the learned Advocate for the petitioner prays for making the Rule absolute.

Conversely, the learned Advocate Mrs. Sufia Ahmed, along with the learned Advocate Mrs. Helena Begum, appearing for the Respondent Nos. 1-4, submits that the Shop No. 105, Ground Floor, Dhaka New Super Market (North), Block-D was allotted to one Rafiqul Islam in the year 1986 before granting the ad-interim injunction order in the present writ petition and the petitioner is not entitled to the remedy as per terms of the Rule.

She also submits that the petitioner deposited part *salami* in favour of Dhaka City Corporation, but did not pay the balance amount within the stipulated time. She argues that all members of the *Hawkers Plaza Market Baboshayee Samittee* were requested to deposit Tk. 30,000/- within 30.3.1985. However, the petitioner deposited Tk. 10,000/- on 23.02.1986 and consequently he was not

entitled to get the allotment in respect of this payment. She contends that the Dhaka City Corporation returned the part *salami* who were deprived from getting allotment by lottery.

She also submits that, the petitioner filed this Writ Petition after long gap of 30 (thirty) years, but did not offer any explanation for this inordinate delay. According to her, the Rule issued in the instant writ petition is liable to be discharged on the ground of such inordinate delay. Upon these grounds, the learned Advocate for the respondents prayed for discharge of the Rule.

We have heard the learned Advocates appearing for both sides, perused the writ petition, affidavit-in-opposition and the Annexures appended thereto.

It is admitted position that the petitioner deposited Tk. 30,000/- as advance *salami* in two installments dated 30/3/1985 and 29/01/1986 for the allotment of a shop in the reconstructed New Market Shopping Complex. It is also admitted that, at the time of allotment of shops in the reconstructed shopping complex, a dispute arose between the concerned authority and the applicants seeking allotment and in this regard, Writ Petition no. 32 of 1987 was filed which was ultimately disposed of on compromise between the parties on 28/3/1988. It appears from the annexures to the writ petition that the reconstruction of the market complex as well as allotment of shops therein were completed in 1987. However, the petitioner filed the present writ petition in 2016, almost 29 years thereafter. We do

not find any satisfactory explanation as to why the petitioner waited for this long period to take recourse to law. Upon perusal of Annexure-J, it appears that after 1987, the petitioner first applied to the concerned authority seeking allotment of a shop in his favour on 19.9.2015, almost 28 years later. Such an inordinate, unexplained, long delay cannot be overlooked in granting relief under writ jurisdiction.

Now it is well settled that the power of the High Court Division to exercise writ jurisdiction under Article 102 of the Constitution is discretionary and the High Court, in the exercise of its jurisdiction, does not ordinarily assist the tardy and indolent and where there is inordinate and unexplained delay, the Court will decline to interfere even if the petitioner has a good case. In the present case, the inordinate delay in preferring the claim before the respondents as also the delay in filing the writ petition before this Court, by themselves, persuade us to decline to interfere.

Moreover, in the present Rule, the petitioner has sought a direction upon the respondent to issue a final allotment letter along with hand over possession of Shop Room No. 105, Ground Floor of the Dhaka New Super Market (North), Block-D of the New Market Complex, Dhaka, asserting that the said shop is lying vacant and awaiting allotment. On the other hand, the respondents, in their affidavit, have asserted that the said shop was allotted in favour of one Rafiqul Islam in the year 1986. It is also difficult to believe that a

shop situated in such prominent shopping complex has been lying vacant for about 28 years. Making an allotment of the said shop suddenly in favour of the petitioner after such a long period may give rise to further complications and disputes and may result in injustice to other persons who may have acquired rights or interest in the meantime in respect of the shop in question. The petitioner was merely an applicant seeking allotment of a shop in the market, and no right had accrued in his favour in respect of the said shop No. 105.

In the facts, circumstances and discussions detailed above, we are of the view that the Rule is devoid of merit and liable to be discharged.

In the result, the Rule is discharged without any order as to costs.

The order of injunction passed at the time of issuance of the Rule is hereby recalled and vacated.

Communicate this judgment forthwith.

Md. Iqbal Kabir, J:

I agree.