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

Present:

**Ms. Justice Fahmida Quader**

And

**Ms. Justice Mubina Asaf**

**Writ Petition No. 11796 of 2021**

**In the matter of:**

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

**And**

**In the matter of:**

Khondokar Rafiqul Alam

.....Petitioner

**-Versus-**

The Government of Bangladesh and others  
.....Respondents

Mr. Zainal Abedin, Senior Advocate with  
Mr. M Tashdid Anwar, Advocate

.....For the petitioner,

Mr. Sheikh Mohammad Zakir Hossain,  
Senior Advocate with

Ms. Raziah Sultana, Advocate

.....For the respondent No. 1

Mr. Mahfuz Bin Yousuf, D.A.G with

Mr. Mohammed Shafiur Rahman, D.A.G with

Mr. Md. Esa, A.A.G with

Mr. Eakramul Kabir, A.A.G with

Mr. Mohiuddin Md. Hanif A.A.G

..... for the respondents/government.

**Heard on: 07.11.2024, 23.01.2025, and  
30.01.2025**

**Judgment on: 20.02.2025.**

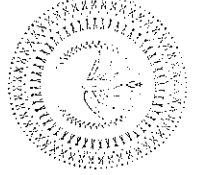
**Fahmida Quader, J.**

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

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কো-অপারেটিভ  
বোর্ড

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the letter dated 05.11.2020 issued vide Office Memo No. 27.12.0000.012.27.076.17.472 by the respondent No. 4 dismissing the petitioner from his service from the post of Deputy Director (Technical) of Bangladesh Rural Electrification Board and the Office Order dated 31.05.2021 issued vide Memo No. 27.12.0000.030.31.645. 21.466 by the respondent No. 6 dismissing the appeal preferred by the petitioner pursuant to resolution No. 18305 of 645<sup>th</sup> meeting of Bangladesh Rural Electrification Board should not be declared to have been done without lawful authority and is of no legal effect and why the Respondent Nos. 2 and 3 should not be directed to reinstate the petitioner in his service against the aforesaid post and/or pass such other or further order or orders as to this Court may seem fit and proper.”

The facts leading to disposal of the Rule, in a nutshell, is that, the petitioner was senior employee of Bangladesh Rural Electrification Board and was working as Deputy Director (Technical). On 20.11.2017, Md. Liton, Sohél, Abu Hannan and Nazim submitted an application to the State Minister, Ministry of Power, Energy and Mineral Resources, alleging that Janata Cooperative Society in Pabna had collected Tk. 400 Crore from the public as FDR between 2015 and 2017. They claimed the petitioner

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supported the society but did not mention their name in the application (Annexure-A).

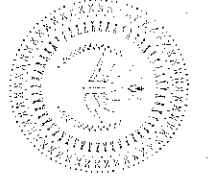
Following this application, on 03.12.2017, a Director and Assistant Director of the Bangladesh Rural Electrification Board issued an office order from their headquarter in Nikunja 02, Khilkhet, Dhaka. An investigation committee was formed to review the application. The memo referred to the petitioners name (Annexure-B). On 14.12.2017, respondent No.7 issued a letter directing the petitioner to appear before the investigation committee by 19.12.2017 (Annexure-C). On 03.07.2017, the Investigation Committee submitted its report, concluding that the allegations against the petitioner were unproven (Annexure-D). On 26.04.2018, the 1<sup>st</sup> investigation committee submitted its 2<sup>nd</sup> report, stating that the allegations against the petitioner were unproven. The committee found no connection between the petitioner and Janata-Cooperative Society limited Pabna (Annexure-E).

On 19.07.2018, another committee was formed to further investigation the matter. Subsequently a 2<sup>nd</sup> committee was constituted to examine the allegations against the petitioner (Annexure-F). On the same day 19.07.2018 the petitioner was suspended under Section 54(1) of the Bangladesh Rural Electrification Board Employees Service Rule 2018 (Annexure-G). The petitioner filed a writ petition (No.10030 of 2018) before High Court Division, challenging the suspension order, which was subsequently stayed on 30.07.2018 (Annexure-H)

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রূরাল ইলেকট্রিফিকেশন বোর্ড

The 2<sup>nd</sup> investigation committee submitted its report, on 19.11.2018 concluding that the allegations against the petitioner was true (Annexure-1). On 30.01.2019, the petitioner received a show cause notice under Rule 48(b) and 48(f) of the Bangladesh Rural Electrification Board Employee Service Rules, 2018, without being provided the enquiry report (Annexure-J). During pendency of show cause notice, a formal charge was initiated against the petitioner on 16.09.2019 under Rule 53 of the aforementioned Rules. The inquiry committee framed charges against the petitioner under Rules 51/52 of the Regulations, 2018 (Annexure-M). On 20.10.2019 the petitioner submitted a written statement in the response to the show cause notice, denying the allegations (Annexure-N).

The petitioner has no affiliation with any co-operative society and has never held a director position in any co-operative or Samity. On 07.09.2020 final show cause notice was served and the petitioner replied on 02.11.2020 (Annexure-Q-R). On 05.11.2020, the petitioner was dismissed from service via impugned letter (Annexure-S). Challenging the said dismissal order the petitioner preferred an appeal which was dismissed on 31.05.2021 (Annexure-T)

Challenging the legality of the aforementioned dismissal order dated 05.11.2020 and dismiss order of appeal dated 31.05.2021, the petitioner has filed the instant writ Petition.

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As a result, the entire proceeding against the petitioner was malafide, without lawful authority and of no legal effect. Consequently, the dismissal order and its appeal rejection were flawed, unlawful and invalid.

He again contends that a thorough review of the dismissal appeal order reveals that the appellate authority failed to consider the petitioner's case and did not properly assess the facts. The dismissal order merely reiterated the adjudication order, making it unlawful.

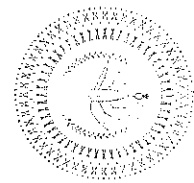
He then submits that the dismissal order dated 31.05.2021 issued by respondent No. 6, rejecting the petitioners appeal, is a non speaking order, made without due consideration. Therefore, the learned Advocate prayed the Rule to be absolute.

On the other hand Mr. Sheikh Mohammad Zakir Hossain, the learned Advocate appearing on behalf of the respondent No. 1 submits that the petitioner filed this writ petition without exhausting the required forums and procedures. Consequently, the petition is not maintainable in law and is insufficient for invoking Writ jurisdiction.

He further submits that the petitioner was temporarily suspended following Section 54(1) of the Probidhanmala 2018; a legitimate official procedure. If aggrieved, the petitioner had the proper remedy to appeal before the Chairman of Bangladesh Polli Biddutayan Board under Section 57 of the Probidhanmala 2018. Instead of pursuing this alternative remedy, the petitioner filed

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বাংলাদেশ ভূমি নিয়ন্ত্রণ বোর্ড, ঢাকা, (স্বাক্ষরিত)



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another writ petition without disclosing the available appeal provision consequently on 19.10.2020, the Rule was discharged for non-prosecution.

The petitioner filed another Writ petition No. 7140 of 2020 challenging the final show cause notice dated 07.09.2020. Hon'ble High Court Division issued Rule which was discharged for non prosecution on 29.11.2021.

The learned Advocate added that in the investigation report dated 13.08.2020 clearly states that Khandokar Rafiqul Alam is linked to the misappropriation of BDT four hundred crore. The petitioner allegedly used multiple named in different locations to cancel his government employment status, thereby violating section 35(2)(e) of the 2018 Regulation. As a government official, he is prohibited from engaging in business or having any business affiliation.

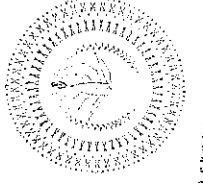
The learned Advocate added that the petitioner was allegedly involved in Janta co-operative and other societies, either under his own name or through his wife and relations, to evade responsibility under section 35(2)(e) of the 2018 Regulation. This is evident from the charge sheet dated 16.12.2019 that Upazilla Officer Puthiya, Rajshahi, vide a letter added 30.11.2017, confirmed that petitioner is a member of Janata Co-operative Society Limited.

He further submits that a competent investigating officer was appointed under section 52(2)(c) of the BREB Employee service Regulation, 2018. The officer conducted an inquiry into the

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allegations against the petitioner. The petitioners conduct was formed to be in clear violation of Section 48(a) and (b) of the 218 Regulations.

He added that the investigating officer gave the petitioner multiple opportunities to defend himself, but his responses were unclear and unsatisfactory.

The learned Advocate then submits that a three member inquiry committee conducted a fair investigation and found the petitioner guilty of nine charges, confirming his involvement in misappropriation of BDT. 40,00,00,000/-.

He then submits that the Rules of BREB Employees Service Regulation 2018 were strictly followed, with no procedural impropriety. The dismissal order dated 05.11.2020, issued under section 49(1)(b)(v) was lawful and within the respondents legal authority.

The learned Advocate next submits that the Rule is flawed due to material defects, as it challenges memos issued by different respondents. This renders it legally untenable, necessitating its dismissal in the interest of justice.

He finally submits that the writ petition raises disputed factual issues that cannot be adjudicated under Writ Jurisdiction. Therefore in the interest of justice, the Rule is liable to be discharged.

We have heard the learned Advocates, perused the Writ Petition, Affidavits-in-Opposition and the Annexures.

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The Petitioner, Khandokar Rafiqul Alam, has challenged his dismissal from service as a government employee, arguing that the dismissal order is illegal, malafide and issued without lawful authority. The petitioner seeks relief by way of Writ petition, challenging the order dated 05.11.2020, issued by respondent No.4 and subsequently rejection of his appeal.

The core issues in this case revolve around whether the dismissal was in accordance with the law and whether the petitioner had an effective alternative remedy before approaching this Court. The relevant laws and regulations include:

- Article 35 of the Constitution of Bangladesh which mandates that no Government employee shall be dismissed without due process.

- Bangladesh Rules Electrification Board (BREB) Employees Service Rules, 2018 specifically:

- Rule 35(2)e): Prohibiting Government employees from engaging in business which reads as follows:-

(২) কোন কর্মচারী ----

(ঙ) কোন ব্যবসায়ের কাজে নিয়োজিত হইবেন না কিংবা নিজে বা অন্য কোন ব্যক্তির প্রতিনিধি হিসাবে কোন ব্যবসা পরিচালনা করিবেন না;

- Rule 52(2)(c): Providing for the formation of inquiry committee.

- Rule 53(6): Granting the right of cross examination witness.

The petitioner contends that he was not given the opportunity to cross examine witness and that the dismissal was based on an

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unauthorized second inquiry committee. However, it is evident from the record that the first inquiry committee, despite not finding evidence against the petitioner, did not exonerate him. Instead, a second committee was duly constituted under Rule 52(2) (c) of the BREB service Rules, 2018, which conducted a thorough investigation.

The Audit Report (1.07.2002-30.06.2010) and the letter from the Upazilla Somobai Office dated 06.02.2018 confirm that the petitioner was involved with Janata Co-Operative Society Ltd. As a government employee, the petitioner was legally barred from engaging in business under Rule 35(2) (c) of the BREB service Rules, 2018. The charge sheet dated 16.12.2019 also evidences his financial misconduct.

Additionally, the inquiry report dated 13.08.2020 specifically mentions the petitioner involvement in misappropriation, which was duly considered before his dismissal. The petitioner's claim of wrongful termination is therefore unfounded, as the dismissal followed proper legal procedures.

The dismissal order dated 05.11.2020 was issued under section 54(1) of the Probidhanmala- 2018, which allowed the termination of employees found guilty of professional misconduct. The dismissal was also communicated formally and the appellate authority affirmed the order rejecting the petitioners appeal on 31.05.2020.

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The petitioner argues that the Bangladesh Rural Electrification Board Service Rules, 2018 do not contain a second or more investigation committee and therefore, any proceedings initiated based on such inquiry are malafide and without lawful authority. However, this argument does not hold for the following reasons:

- (1) It is well established that a second or more inquiry are permissible if the first inquiry was inconclusive, flawed, or did not serve the ends of justice. The absence of a specific prohibition in Bangladesh Rural Electrification Board Service Rules, 2018 against conducting a second or more inquiry means that an employer or authority retains the discretion to do so when necessary.
- (2) Union of India vs. P. Thay agaranjan, AIR 1999 SC 449, The Supreme Court of India held that if the first inquiry was defective or incomplete, a second inquiry could be conducted to ensure justice, provided that due process is followed and charged individual is given an opportunity to defend themselves.
- (3) The right to conduct second or more inquiry are embedded in the fundamental principle that disciplinary authorities have the power to ensure a proper investigation, specially when prior inquiries do not yield a just outcome. Courts have upheld that administrative authorities can order further inquiry if the situation so demands.

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The High Court Division of Bangladesh Supreme Court has in multiple cases upheld the necessity of a second inquiry if the first report is defective or does not adhere to legal standards. In Secretary, Ministry of Establishment vs. Md. Nurul Islam (59 DLR 49), the court stated that an employee has the right to conduct further inquiries if procedural fairness is maintained.

(4) Even if the Bangladesh Rural Electrification Board Service Rules, 2018 do not explicitly mention the provision for second or more inquiries, the rules must be interpreted in line with established legal principles:

**-Principle of Natural Justice:**

The petitioner was not prejudiced by the second inquiries as long as they were given opportunity to present their defense.

**-Administrative Discretion:**

Authorities have the inherent right to conduct further inquiries if they find that investigations were inadequate.

**-Absence of an Express Bar:**

The Service Rules do not explicitly prohibit more inquiries and courts have consistently held that in the absence of an express bar, second and more inquiries are valid.

From the final investigation report (Annexure-I) it is evidenced that in the second inquiry due process was followed and the petitioner was given sufficient opportunity to defend himself.

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Therefore, the petitioner was not prejudiced by the second inquiry. The argument that the second inquiry is malafide lacks legal merit, as due process was followed, there is no explicit provision barring such an investigation and judicial precedents affirm the validity of additional inquiries in administrative and disciplinary proceedings.

The petitioner has failed to establish that the dismissal was unlawful, beyond procedural claims that have been adequate addressed.

Considering the Rule issued, facts of the case, and arguments of both the parties this Court finds no procedure or substantive illegality in the dismissal of the Petitioner. The petitioner has violated service regulations by engaging in business. The petitioner been implicated in financial misconduct, as evident in the audit and inquiry reports.

Based discussions we are of the opinion that the Rule has no merit and is liable to be discharged.

Accordingly, the Rule is discharged.

However, there will be no order as to cost.

Fahmida Quader

Mubina Asaf, J:

I agree.

Mubina Asaf

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Typed by: Sayed: 28.04.2025

Read by: 28.4.25

Exam. by: 28.04.25

Readied by: 28.04.25

28.4.25  
Ruhul Amin  
Administrative Officer

28.4.25  
Nasima Khatun  
Superintendent

আসিষ্ট সিনিয়র এডভোকেট  
28.4.25  
সরকারী বেকিং শিল্প  
বাংলাদেশ সুপ্রীম কোর্ট হাইকোর্ট বিভাগ  
(১৮৭২ ইং সনের ১ম আইনের  
২৬ খণ্ডের অধীনস্থ অফিস)

“দেশথেমের শপথ নিন, দুর্নীতিকে বিদায় দিন”