



04.08.25 16.09.25 16.09.25 16.09.23, 16.09.25

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)

WRIT PETITION NO. 12388 OF 2019

In the matter of:

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

And

In the matter of:

S. M. Madud Rana, son of Shah Md. Monsur
Rahman of Village- Tontonia (Hindupara),
Post Office- Bogura Sadar, District- Bogura
and Assistant Director (Administration)
(Dismissed from service), Bangladesh Rural
Electrification Board (BREB), Khilkhet,
Dhaka.

... Petitioner

-Versus-

The Government of the People's Republic of
Bangladesh represented by the Secretary,
Ministry of Energy and Mineral Resources
(Electricity Division), Bangladesh Secretariat,
Dhaka and others.

... Respondents

Mr. Niaz Murshed, Advocate

...For the petitioner

Mr. Shaikh Mohammad Zakir Hossain, Senior
Advocate

...For the respondent no. 3

Heard on 31.07.2025, 03.08.2024 and
04.08.2025.

Judgment on 04.08.2025.

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Present:

Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Md. Bashir Ullah

Md. Mozibur Rahman Miah, 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 respondents to show cause as to why the office order under Memo No. 27.12.2637.012.27.042.16.665 dated 20.12.2016 (Annexure-'H-1' to the writ petition) passed under the signature of the respondent no. 6, the Deputy Director and Director (In-Charge), Directorate of Inquiry and Discipline, Bangladesh Rural Electrification Board dismissing the petitioner from service and office order under Memo No. 27.12.0000.030.98.001.19.71 dated 23.10.2019 (Annexure-'K' to the writ petition) issued under the signature of the respondent no. 4, the Secretary, Bangladesh Rural Electrification Board affirming the dismissal order under Memo No. 27.12.2637.012.27.042.16.665 dated 20.12.2019 (Annexure-'H-1' to the writ petition) issued under the signature of the respondent no. 6, the Deputy

২/২ *আবেদন শুনানি করা, স্থগিতকৃত বিচার করা*



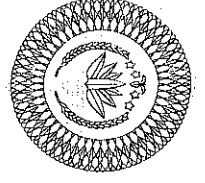
Director and Director (In-Charge), Directorate of Inquiry and Discipline, Bangladesh Rural Electrification Board should not be declared to have been issued without lawful authority and is of no legal effect and also to show cause as to why the respondents should not be directed to reinstate the petitioner in service as the Assistant Director (Administration), Bangladesh Rural electrification Board with seniority and other service benefit and/or pass such other or further order or orders as to this court may seem fit and proper."

The case of the petitioners as described in the instant writ petition in precise are:

The petitioner was appointed as Assistant Director (Administration) on 10.04.2000 at Bangladesh Rural Electrification Board (shortly, BREB), Head Quarter Bhaban, Dhaka 1229 and subsequently, considering his excellence in service, by office order dated 03.03.2014, he was given current charge as Deputy Director (Administration) and the petitioner joined the said post on 03.03.2014 and since then he had been discharging his duties honestly, sincerely and with full satisfaction to the authority. Thereafter, on 05.06.2016, the Member, BREB, Dhaka for the Chairman issued an office order forming a two member inquiry committee under Memo No. 27.12.2637.004.01.023.04.16.148 to unearth the cause of death of one, DGM named, Delowar Hossain. On 08.06.2016 (issued on 06.06.2016),

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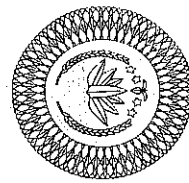
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the Director, Department of Personal Administration, BREB, Dhaka issued a letter suspending the petitioner from service as the Deputy Director (Administration, Current Charge), BREB, Dhaka under section 45 of “পুলী বিদ্যুতায়ন বোর্ড এর কর্মচারী চাকুরী প্রবিধানমালা, ১৯৯০” (hereinafter referred to as Service Regulations of 1990) contained in Memo No. 27.12.2637.025.1225.16-1938 dated 08.06.2016.

Thereafter, upon receipt of the charge sheet on 09.08.2016, the petitioner furnished a reply wherein he denied the allegations brought against him. On 04.10.2016, the Director, Directorate of Personal Administration, BREB, Dhaka issued an office order cancelling the current charge of the petitioner as Deputy Director (Administration), BREB. On 21.08.2016, the petitioner filed an application before the Chief Engineer and Convener of the Inquiry Committee, BREB, Dhaka seeking adducing of his witnesses mentioned in the said application. Then on 08.11.2016, the petitioner filed another application to the Convener of the Inquiry Committee praying for taking necessary steps in fixing the date of hearing of the allegation brought against him. Thereafter, on 28.11.2016, the Director (Current Charge), Directorate of Inquiry and Discipline, BREB, Dhaka, respondent no. 6 issued a final show cause notice to the petitioner annexing inquiry report asking him to furnish explanation of his position within 7(seven) working days from the date of receipt of the notice dated 28.11.2016. On 30.11.2016, the petitioner filed an application to the respondent no. 6 requesting him to supply necessary papers in connection with the inquiry. However, without considering the said application filed by the petitioner, the

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respondent no. 6 by his letter dated 04.12.2016 refused to supply necessary documents and requested him to give explanation about the said final show cause notice issued on 28.11.2016. Then on 05.12.2016, the petitioner filed an application before the respondent no. 6 praying for extension of the period for furnishing reply against the final show cause notice. But the respondent no. 6 refused to provide time to the petitioner asking him to give explanation against the show cause notice issued on 28.11.2016 vide letter under Memo No. 27.12.2637.012.27.042.16.619 dated 06.12.2016. Thereafter, on 18.12.2016, the petitioner furnished a reply wherein he denied the allegations brought against him but without considering the reply furnished by the petitioner, the respondent no. 5 on 20.12.2016 issued a letter dismissing the petitioner from service as

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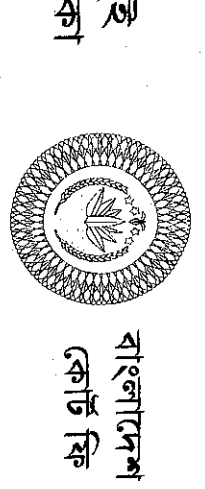
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After the dismissal, the petitioner then on 08.01.2017 preferred an appeal before the respondent no. 2, the Chairman, BREB, Dhaka praying for setting aside the order of dismissal. But without taking into account of the relevant provision of the Service Regulations of 1990, the Secretary (Current Charge), BREB, Dhaka (respondent no. 4) rejected the said application and upheld the order of dismissal of the petitioner from his service as Assistant Director (Administration) vide Memo No. 27.12.2637.030.98.001.17.37 dated 23.02.2017.

Being aggrieved by the order of dismissal dated 20.12.2016 and that of affirming the said dismissal order by the Chairman of the BREB undersigned by respondent no. 4 dated 23.02.2017, the petitioner and another preferred Writ Petition Nos. 3330 of 2017 and 3305 of 2017

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বাংলাদেশ ভাবলিপি ট্রাস্ট, পুনর্নির্দেশিত মামলা নং 3330/2017



respectively and obtained rule. However, both the rules were heard together and were disposed of vide judgment and order dated 22.11.2018 directing respondent no. 2 to dispose of the appeal earlier preferred by the petitioner and another in accordance with rule 48 of Service Regulations, 1990 within 2(two) months.

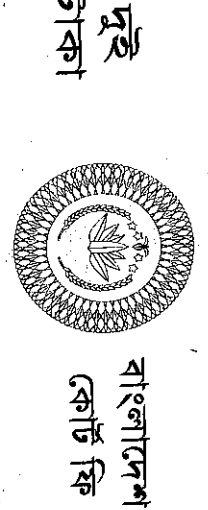
It is worthwhile to mention here that after passing the judgment in Writ petition No. 3330 of 2017, the respondent no. 2 took into the appeal for re-evaluation (পুনঃ পর্যালোচনা) but eventually by order dated 23.10.2019 (Annexure-'K' to the writ petition) affirmed its earlier order dated 23.02.2017 upholding the order of dismissal made vide office order dated 20.12.2016.

It is at that stage, the petitioner has filed the instant writ petition.

Mr. Niaz Murshed, the learned counsel appearing for the petitioner upon taking us to the writ petition and all the Annexure appended therewith at the very outset submits that in dismissing the petitioner from service, rule 44(2) of the Regulations of 1990 has not been complied with as the petitioner has not been given any opportunity to defend his case by cross-examining the witnesses so produced at the instance of the respondents-complainant nor he has been supplied with the relevant papers alleged to have relied by the inquiry committee in spite of praying for supplying the same by the petitioner vide its letter dated 30.11.2016.

To fortify the said submission, the learned counsel then refers to the memorandum of appeal which has been preferred before the respondent no. 2 on 08.01.2017 and take us to paragraph no. 13(3) as

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কর্তৃপক্ষের পক্ষে



well as paragraph no. 18 thereof and very robustly submits that the authority has palpably violated the rule innot providing opportunity to the petitioner for defending his case for which the punishment awarded to him is absolutely lopsided one which can never stand.

In his second leg of submission, the learned counsel then refers us rule 48(2) of the Regulations of 1990 and contends that in similar vein, the appellate authority (respondent no. 2) has also sidestepped his statutory obligation to examine whether the authority imposing punishment has ever followed the procedure to make sure that the authority has deprived the delinquent petitioner from getting justice and in spite of taking specific grounds for not complying with rule 44(2) of the Regulations of 1990 in the memorandum of appeal, the appellate authority, the respondent no. 2 has not given due consideration to it and

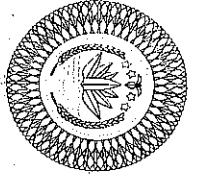
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therefore, the order of dismissal can never be sustained.

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The learned counsel by referring to Annexure-'F' to the writ petition which is a letter dated 08.11.2016 addressed to the Convener and Director of the Inquiry Committee also contends that in spite of filing a specific application seeking to provide him opportunity to cross-examine the witness so adduced at the instance of the complainant and his witnesses yet without affording such opportunity to the petitioner inquiry report was submitted by the inquiry committee on 14.11.2016 (Annexure-'F-1' to the writ petition) depriving the petitioner to take his defence which is flagrant violation to rule 44 (2) of the Regulations, 1990.

অধ্যক্ষ, বাংলাদেশ আদালত কমিশন, ঢাকা



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The learned counsel by referring to the judgment passed by this court in Writ Petition No. 3330 of 2017 dated 22.11.2018 (Annexure-‘J’ to the writ petition) in particular, the directive portion to the same, also contends that in spite of clear direction to the appellate authority to consider the grievance of the petitioner in light of the provision of rule 48(2) of the Regulations of 1990 but from Annexure-‘K’, it depicts that the said directive has not been at all adhered to yet the dismissal order passed against the petitioner has been re-affirmed which is also clear violation of the direction passed by this Hon’ble court.

When we pose a question to the learned counsel for the petitioner as to whether before affirming the dismissal order in the appeal vide office order dated 23.10.2019 (Annexure-‘K’ to the writ petition), the petitioner had been given any opportunity to make his defence by the appellate authority as per the direction passed in the judgment by this court in the said writ petition, the learned counsel then very candidly submits that no opportunity had been given to the petitioner to make his defence by the respondent no. 2 in spite of the fact that a clear direction has been given to the said authority stating “*the appeal be disposed of in accordance with the provision of rule 48(2) and to dispose of the same as soon as possible after giving proper opportunity as the right of the petitioners*” so non providing opportunity to the petitioner is tantamount to disregard the direction passed by this Hon’ble court.

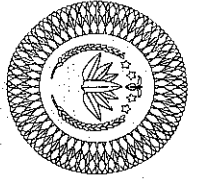
The learned counsel by referring to allegation nos. 7 and 8 as contained in the dismissal order dated 20.12.2016 (Annexure-‘H-1’ to the writ petition) in which allegations were levelled against the petitioner

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that he took bribe at taka 1,50,000/- from one, Md. Mirazul Islam, a candidate vying for the post of area Director in Jessore Palli Biddyut Samity-2 but fact remains, though said Mirazul Islam gave his testimony before the inquiry committee but the petitioner had not given opportunity to cross-examine that Mirazul Islam in spite of filing a proper application to that effect which clearly vitiated the entire departmental proceeding initiated against the petitioner.

The learned counsel by referring to charge no. 8 also contends that though it has been alleged in that charge that the said amount of taka 1,50,000/- had been deposited by the petitioner himself at Satkhira Branch of Dutch Bangla Bank to be credited to its Tongi Branch in the account of "M/s Islam Enterprise" but the account holder of Tongi Branch has neither been made any witness nor any bank officials of those two branches of bank has given any statement to prove the alleged allegation against the petitioner leaving the same totally false still the petitioner has been dismissed basing on that frivolous allegation.

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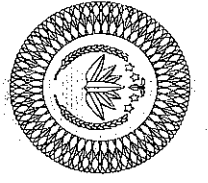
The learned counsel by taking us to Annexure-'B' to the writ petition, an office order (দণ্ডরাদেশ) dated 05.06.2016 also contends that though by that order inquiry was supposed to be held to unearth the cause of death and voicing provoking statement on the demise of one, Delwar Hossain, DGM at Noakhali Palli Biddyut Samity but surprisingly only after three days of forming two member inquiry committee, on 08.06.2016, the petitioner was suspended from his post under rule 45 of the Regulations, 1990 without assigning any reason for his such suspension and then charge sheet (অভিযোগনামা) was submitted on

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সংস্কৃতিকরণ শিল্প মন্ত্রণালয়, দুর্নীতিবিরোধী বিভাগ, ঢাকা



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09.08.2016 (Annexure-'D' to the writ petition) replacing one of the inquiry officers so formed earlier on 05.06.2016 and as many as 8 charges were laid against the petitioner which has nothing to do with the objective for which inquiry committee was earlier formed on 05.06.2016 which alternatively proves that the petitioner has been made scapegoat having not been permitted to face prosecution under Regulations of 1990.

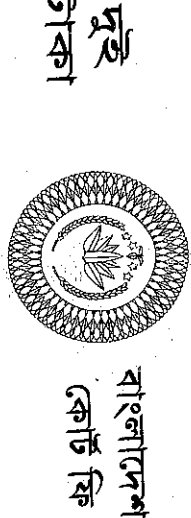
On the point of not providing opportunity to cross-examine the complainant or any of its witness supporting the case and its consequence, the learned counsel then referred decisions reported in 73 DLR (AD) 214 as well as 56 DLR (AD) 183 and read out paragraph nos. 15 and 16 as well as paragraph nos. 7 and 8 respectively.

The learned counsel wrapped up his submission contending that in a very slipshod and lackluster manner, the respondent no. 2, BREB has upheld the order keeping its earlier order dated 23.02.2017 in place vide order dated 23.10.2019 clearly evading the explicit direction made in Writ Petition No. 3330 of 2017 which is liable to be struck down.

On the contrary, Mr. Shaikh Mohammad Zakir Hossain, the learned senior counsel appearing for the respondent no. 3 by filing an affidavit-in-opposition vehemently opposes the contention taken by the learned counsel for the petitioner and contends that Annexure-'K' to the writ petition through which the respondent no. 2 has affirmed the dismissal order as well as its earlier order dismissing departmental appeal as has been annexed as of Annexure-'H-1' and 'I-1' to the writ petition has rightly been passed having no illegality in it.

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The learned counsel by taking us to the office order (Annexure- 'K' to the writ petition) also contends that it is not a fact that, the petitioner has not been given any opportunity to cross-examine the complainant or any of his witnesses and by referring to Annexure- '2' to the affidavit-in-opposition he contends that, the narration of the witnesses supporting the case of the complainant has clearly been described there, so the provision of rule 44(2) of the Regulations of 1990 has clearly been complied with.

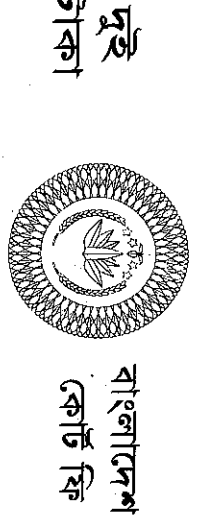
The learned counsel by reading the inquiry report (Annexure- 'F-2' to the writ petition) in particular, charge nos. 7 and 8 thereof also contends that after evaluating those charges, the respondent no. 6 has finally come into a conclusion, that both the charges have been proved without any shred of doubt as Md. Mirazul Islam from whom the petitioner took bribe at taka 1,50,000/- has assertively given his testimony to the inquiry committee which has also been corroborated by all the witnesses who claimed to have remained present at the time of taking bribe as well as depositing the amount at Satkhira Branch of Dutch Bangla Bank having no reason not to disbelieve the said allegation.

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Insofar as regards to charge no. 1, the learned counsel further contends that since at the time of holding inquiry at REB office in Mymensingh, the petitioner remained present and he exerted influence on the inquiry held by one, Delowar Hossain, DGM, Noakhali who ultimately failed to endure mental pressure died of heart attack and the charge framed on the cause of death (charge no. 1) of said Delowar

১১ "শ্রমশ্রমেণৈব মঙ্গলং জিনং, দুর্বীতিকে বিদায় জিনং"



Hossain has thus partially been proved against the petitioner. When we pose a question to the learned counsel for the respondent no. 3 that whether there has been any report either by any medical board formed for detecting the cause of death or any certificate issued by any individual physicians finding involvement of the petitioner with the death of Delowar Hossain, the learned counsel could not give any plausible reply to substantiate that charge no. 1 partially proved against the petitioner.

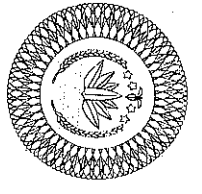
The learned counsel further contends that though the other charges (charge nos. 4 and 6) are not so important but as a responsible officer of REB, it was not desirable for the petitioner to make such conduct and he should have maintained official decorum while performing his duties though the charges have rightly been proved and the respondent no. 2 has passed the dismissal order but how those two charges constitute the offence of misconduct under rule 39(kha) of Regulations of 1990-, the learned counsel has failed to impress us on that though finally prays for discharging the rule.

Be that as it may, we have considered the submission so advanced by the learned counsel for the petitioner and that of the respondent no. 3. We have also carefully gone through the office orders which has been annexed as of Annexure-'H-1' and 'K' to the writ petition through which the petitioner was dismissed and his appeal has been negated and all the documents appended with the writ petition.

At the very outset, we would like to take note of the direction passed by this court in Writ Petition No. 3330 of 2017, because it is the

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contention of the petitioner that he has compelled to file the instant writ petition for not complying with the direction of this court by the respondent no. 2 leading us to examine whether the direction made in earlier writ petition has been taken into account by the respondent no. 2 or not.

On going through the operative portion of the judgment passed in Writ Petition No. 3330 of 2017 (Annexure-‘J’ to the writ petition), we find that two specific directions have been given by this court directly to the appellate authority, (respondent no. 2). The directions are, to dispose of the appeal in accordance with the provision of rule 48(2) of the Regulations of 1990. Secondly, to give the petitioner opportunity to make his defence.

For obvious reason, we feel it expedient to reproduce the provision provided in rule 44(2) and rule 48(2) of the Regulations of 1990 here.

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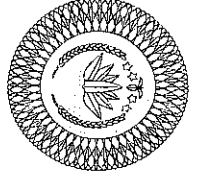
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Supreme Court
Dhaka

“৪৪(২) এই প্রবিধানের অধনে পরিচালিত তদন্তের ক্ষেত্রে, অভিযুক্ত ব্যক্তি যে সকল অভিযোগ স্বীকার করেননি সেই সকল অভিযোগ সম্পর্কে মৌখিক সাক্ষ্য ও নানীও লিপিবদ্ধ করা হইবে এবং উক্ত অভিযোগসমূহের ব্যাপারে প্রাসংগিক বা গুরুত্বপূর্ণ দলিলী সাক্ষ্য বিবেচনা করা হইবে। অভিযুক্ত ব্যক্তি তাহার প্রতিপক্ষের সাক্ষীগণকে জেরা করার এবং তিনি নিজে সাক্ষ্য প্রদান করার এবং তাহার পক্ষ সমর্থন করার জন্য কোন সাক্ষীকে ডাক্তার করার অধিকারী হইবেন। অভিযোগ ও সংশ্লিষ্ট সকল বিষয় উপস্থাপনকারী ব্যক্তিও অভিযুক্ত ব্যক্তি এবং তাহার তলবকৃত সাক্ষীগণকে জেরা করার অধিকারী হইবেন। অভিযুক্ত ব্যক্তি প্রাসংগিক নথিপত্রের জন্য অনুরোধ করিতে পারিবেন, তবে তাহাকে নথির ... অংশ

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কোন প্রকারেই দেখিতে দেওয়া হইবে না। অভিযুক্ত ব্যক্তিকে যে লিখিত বিবৃতি প্রদানের নির্দেশ দেওয়া হইবে, তিনি তাহা লিখিয়া স্বাক্ষর করিবেন, এবং যদি অভিযুক্ত ব্যক্তি স্বাক্ষর করিতে অস্বীকার করেন তাহা হইবে, তদন্তকারী কর্মকর্তা ঐ বিষয় লিপিবদ্ধ করিয়া রাখিবেন।

৪৮(২) আপীল কর্তৃপক্ষ নিম্নোক্ত বিষয়সমূহ বিবেচনা করিবেন, যথাঃ-

(ক) এই প্রবিধানমালায় নির্ধারিত পদ্ধতি পালন করা হইয়াছে কিনা, বা হইয়া থাকিলে উহার কারণে ন্যায় বিচারের হানি হইয়াছে কি না,

(খ) অভিযোগসমূহের উপর প্রদত্ত সিদ্ধান্ত ন্যায়সংগত কি না,

(গ) আরোপিত দণ্ড মাত্রাতিরিক্ত, পর্যাপ্ত বা অপরিপূর্ণ কি না।"

On going through rule 44(2) of the Regulations of 1990, we amongst others find that the delinquent official has to be given an opportunity to cross-examine the witnesses of his/her adversary that is, the complainant or the persons produced by the complainant and to give testimony and allow him/her (delinquent official) to invite other witness to assert his defence case. But in the memo of appeal, it has been asserted that the petitioner had not been given such statutory opportunity in spite of filing specific application on 08.11.2016 (Annexure-'F' to the writ petition) seeking permission to cross-examine the said complainant and other witnesses who supported the case of the complainant but fact remains, though the inquiry report was submitted on 14.11.2016 (Annexure-'F-2' to the writ petition) but the said application has not been taken into consideration by the inquiry committee or the respondent no. 5 vis-à-vis the respondent no. 2 while dismissing the petitioner as well as upheld the said dismissal order.

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বাংলাদেশ
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Even though similar authority has been given to the appellate authority vide rule 48(2) of Regulations of 1990 authorizing it to examine whether required procedure laid down in the regulations has been complied or not but what we find from both Annexure-‘I-1’ and ‘K’ to the writ petition that in a very casual manner, the respondent no. 2 has disposed of the appeal.

Then again, from Annexure-‘K’ to the writ petition, we further find that through the respondent no. 2 asserted that he has taken into consideration of the direction made in writ petition no. 3330 of 2017 as well as the appeal preferred by the petitioner before him but we don’t find any shred of reflection of complying the direction given by this court in Writ Petition No. 3330 of 2017. Rather, it reflects that the respondent no. 2 has just performed a routine job in the name of evaluating the appeal which is clear disregard to the direction of this court.

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ginal court.

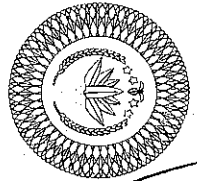
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Furthermore, as per direction, the petitioner has to be given opportunity to place his grievance before the appellate authority as there has been a specific direction to that effect in the judgment of Writ Petition No. 3330 of 2017. But from Annexure-‘K’ to the writ petition, we find no reflection of adhering such direction in the office order dated 23.10.2019 passed by respondent no. 2 who affirmed the dismissal order again which is also tantamount to cunningly sidetracked the direction of this court.

On top of that, it is the universal proposition that the delinquent official has to be given opportunity of being heard that is to say, apart

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স্বাক্ষরিতঃ সিনিয়র বিচারক, কৃষিক্ষেত্রের আদালত



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benefits till date reckoning it from the date of his dismissal within a period of 60 (sixty) days from the date of receipt of the copy of the order.

The order of stay granted at the time of issuance of the rule is thus recalled and vacated.

Let a copy of this judgment be communicated to the respondents forthwith.

Md. Mozibur Rahman Miah

Md. Bashir Ullah, J:

I agree

Md. Bashir Ullah

Typed by: M. Mun: 16.09.2025.

Read by: 16.09.25

Exam by:

Readied by: 16.9.25

16.09.25
Rubul Amin
Administrative Officer

16.09.25
Masima Khatun
Superintendent

প্রত্যায়িত অধিকার প্রতিলিপি

16.09.25
সহকারী রেজিস্ট্রার

বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিচার
(১৮৭২ ইং সনের ১নং আইনের
৭৬ ধারামতে ক্ষমতা প্রাপ্ত)