

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

Writ Petition No. 14391 of 2019

In the matter of :

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

-And-

In the matter of :

Md. Nur-E-Helal
Son of late Hazi Md. Hanif Mondi
38/2,B.C.Das Street
Lalbagh, Dhaka

..... Petitioner

-Versus-

Bangladesh, represented by its Secretary,
Ministry of Education, Floor No. 18,
Bhaban No. 6, Bangladesh Secretariat, 16,
Abdul Gani Road, Dhaka-1205 and others

.....Respondents

Mr. Dr. Qazi Zahed Iqbal, Advocate

.... For the Petitioner

Mrs. Nahid Mahtab, Advocate

..... For Respondent No. 5

Present:

Ms. Justice Kashefa Hussain
And
Ms. Justice Kazi Zinat Hoque

Date of Hearing : 17.11.2022, 23.11.2022
Date of Judgment : 28.11.2022

Kazi Zinat Hoque, J :

On an application under Article 102 of the Constitution this Rule Nisi has been issued calling upon the respondents to show cause as to why the impugned resolution taken in the special meeting of the Syndicate dated 05.04.2019 approving the recommendation of the 134th meeting of the Academic Council and 112th meeting of the Board of Advance Studies dated 24.03.2019 disallowing the application of the petitioner for changing the department, supervisor for his Ph.D course and to submit the thesis thereof (Annexure-O) should not be declared to have been done illegally without lawful authority and is of no legal effect and as to why the respondents should not be directed to allow the application of the petitioner dated 10.10.2017 regarding change of the department, supervisor of his Ph.D course and to submit the thesis.

The petitioner applied to the Jahangirnagar University authority for getting admission in PhD course in 2006-2007

session. Accordingly, he had been permitted and got enrolled as a PhD researcher in the Department of Economics. At the time of his admission, he also obtained University scholarship for conducting his PhD. There was as many as 3 supervisors one after another. Registration period having expired, the petitioner applied for re-registration. He took readmission in 2015-2016 academic year. The petitioner applied for changing his department and supervisor and for submission of his thesis. Vide resolution dated 05.04.2019, the syndicate approved the recommendation taken by the academic council rejecting the petitioner's application. Hence this writ petition.

Mr. Dr. Qazi Zahed Iqbal, learned Advocate appearing for the petitioner, submitted that the University authority most arbitrarily and malafide passed the impugned order. Therefore the impugned decision should be declared to have been issued without lawful authority.

The Rule has been opposed by filing affidavit-in-opposition. Mrs. Nahid Mahtab, learned Senior Advocate appearing for respondent No. 5, has referred our attention to Clause 4 of the Ordinance for the Degree of Doctor of Philosophy (Ph.D.) approved by the Syndicate. As per said Ordinance no candidate shall be permitted to be a registered

research student for PhD for more than seven academic year. The petitioner though was enrolled in the University of Jahangir Nagar in academic year 2006-2007, he has not been able to complete PhD within the stipulated time. The said seven years expired long before. Therefore the University authority legally passed the impugned order. As such the Rule is liable to be discharged.

Arears relating to academic matters are absolutely within the domain of the University authority. In writ jurisdiction we can only interfere if the University exercises its authority arbitrarily and in violation of any law.

It is admitted that the petitioner was enrolled as a full time PhD candidate in 2006-2007 academic session and he took readmission in 2015-2016. Clause 4(iii) of the Ordinance for the Degree of Doctor of Philosophy (Ph.D) provides that no candidate shall be permitted to be a registered research student for the Ph.D degree for more seven academic years. This period may extended in exceptional circumstances. It is also admitted that the petitioner has not completed his Ph.D course within the stipulated time or extended time. The petitioner has been changing his supervisor one after another. At one point in time he prayed for changing his department.

On careful perusal of Annexure-2 dated 13.4.2017 it is evident that the quality of the petitioner's research was not satisfactory. Since he was not able to show satisfactory progress, the Department of Economics was not agreeable to grant any extension. After final seminar he was advised to discontinue his PhD research. Thereafter the petitioner through application prayed for change of Department, change of Supervisor and permission to submit thesis. The Controller of Examination prepared note sheet and the same was placed before the Academic Council. On 24.03.2019 the Academic Council rejected the petitioner's application. On 05.04.2019 the Syndicate approved the decision of the Academic Council taken on 24.03.2019 thereby rejecting the petitioner's application for change of Department, change of Supervisor and acceptance of PhD thesis. The said decision was only communicated to the petitioner vide memo dated 21.05.2019 (Annexure-O).

In the facts and circumstances stated above we are of the considered view that the University authority rightly rejected the petitioner's application for change of Department, change of Supervisor and submission of PhD thesis. Therefore we find no merit in the Rule.

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

Communicate copy of this judgment to the concerned respondents.

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(Kazi Zinat Hoque,J)

I agree

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(Kashefa Hussain,J)

N.Amin/B.O.