

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

**WRIT PETITION NO.7228 OF 2022**

**In the matter of:**

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

And

**In the matter of:**

1. Md. Mustakim Billah and 2. Md. Al Mamun.  
..... Petitioners.

-Versus-

Bangladesh, represented by the Secretary,  
Ministry of Education, Bangladesh Secretariat,  
Dhaka-1000 and others.

.....Respondents.

Mr. Akhter-Ul Alam for Mr. Zubair A. Bhuiyan  
with Ms. Roksana Parvin, Mr. Mustafizur  
Rahman, Mr. Md. Moniruzzaman, Advocates  
..... For the Petitioners.

Mr. M. Masud Rana, Deputy Attorney General  
..... For the Respondents.

**Present:**  
**Mr. Justice Mohammad Ullah**  
**And**  
**Mr. Justice Md. Toufiq Inam**

**Heard and Judgment Delivered On 29.05.2025.**

**Md. Toufiq Inam, J:**

Following the filing of an application under Article 102 of the Constitution, this Rule Nisi was issued on 03.11.2022 at the instance of the petitioners, calling upon the respondents to show cause as to:

*“Why the removal of the names of the petitioners from the MPO (Monthly Pay Order) sheet of Kayra Fazil (Degree) Madrasha, Ullapara, Sirajganj, and the consequent stoppage of their salaries and MPO facilities should not be declared unlawful, made without any lawful authority, and of no legal effect;*

*And why the suspension of the petitioners’ bank accounts, maintained in respect of their MPO facilities with Sonali Bank, Ullapara Branch, by Respondent Nos. 2, 5, and 6, should not be declared without lawful authority and why a direction should not be issued upon the respondents to reinstate the names of the petitioners in the MPO sheet of Kayra Fazil (Degree) Madrasha, Ullapara, Sirajganj, and to resume the payment of their monthly salary and other MPO benefits including arrears, by lifting the suspension imposed on their respective accounts maintained with Sonali Bank, Ullapara Branch, Sirajganj and/or pass such other or further orders as to this Court may deem fit and proper.”*

At the hearing of the Rule Nisi, Mr. Akhter-Ul Alam, learned Advocate appearing on behalf of the petitioners by placing an application, at the outset, prayed for striking out the name of petitioner No. 1, Md. Mustakim Billah, as his grievances have already been redressed by the reinstatement of his name in the MPO and the resumption of MPO salary payments. Accordingly,

his name is hereby struck out from this Rule. The Rule Nisi is thus being considered only in respect of petitioner No.2-Md. Al Mamun (MPO Index No. M0019038).

Relevant facts for consideration of the Rule Nisi:

Petitioner No. 2 joined as an *Office Shohokari-cum-Computer Operator* at Kayra Fazil (Degree) Madrasha (“the Madrasha”) on 08.04.2015. Earlier, following a job vacancy notice published in a national daily, he applied and participated in the recruitment examination, stood first in the merit list, and was subsequently appointed by the Governing Body on 07.04.2015.

He discharged his duties with utmost sincerity and diligence, earning the trust and satisfaction of the Madrasha authorities. He was later enlisted under the MPO scheme and began receiving the government salary benefits. He had lastly received the salary under MPO for the month of April 2022. However, from May 2022, his MPO (under Index No.M0019038) payments were abruptly stopped.

Upon inquiry, he discovered that his name was omitted from the MPO list (Annexure-D). He further came to learn from memo dated 28.04.2022 (Annexure-E) that Respondent No. 6 directed Respondent No. 5 to suspend two bank accounts maintained by both petitioners at Sonali Bank, Ullapara Branch, based on telephonic instructions from Respondent No. 2. The memo dated 28.04.2022 stated that the suspension was due to an alleged “double entry” in the MPO sheet, which would remain in force until the MPO sheet was corrected. The MPO sheet of the Madrasha shows that another individual, AKM Al Amin (Index No. R681230), was

mistakenly designated as “Librarian” despite serving in the role of Assistant Librarian.

Representations were duly made, and a notice demanding justice dated 31.05.2022 was served on the respondents, seeking reinstatement of the petitioners’ names in the MPO sheet and resumption of salary and other benefits. In the absence of any response, the petitioners were compelled to seek remedy before this Court under Article 102 of the Constitution.

Mr. Akhter-Ul Alam, for Mr. Zubair A. Bhuiyan, learned Advocate for the petitioners, submits that the removal of the petitioners’ names from the MPO list and the stoppage of their salaries were done without issuing any show cause notice. Such unilateral action is in clear violation of the principles of natural justice and fairness, and thus, is liable to be declared without lawful authority and of no legal effect.

He further contends that a careful examination of the MPO sheet of April 2022, as well as the Manpower Organogram and MPO Policy 2018 applicable to Non-Government Educational Institutions (Madrasha), reveals that no “double entry” actually occurred. Both petitioners were duly included in accordance with the manpower policy. Yet, without any cogent justification, their bank accounts were suspended. This action, he argues, is not only unlawful but also infringes upon the constitutional rights of the petitioners.

Referring to Annexure “J,” Mr. Alam submits that during the pendency of the Rule Nisi, the respondents have reinstated petitioner No. 1 and resumed his MPO payments. This act, he

argues, clearly reflects discriminatory treatment towards petitioner No. 2, who remains excluded despite being similarly situated.

We have heard the learned Advocate for both parties and have carefully perused the writ petition, annexures appended thereto, supplementary affidavits filed by the petitioners, and other materials on record.

The petitioner No.2, was a duly appointed in the Madrasha and had lastly received the MPO benefits for the month of April 2022. His service and eligibility for MPO were never in question, and the stoppage of salary was due to double entry, which is not apparent in the record. Furthermore, there is no allegation of misconduct, voluntary abandonment of service, or any form of disqualification. The petitioner No.2 continued in service and was *de facto* entitled to receive salary. As such, the salary for the service was lawfully earned and remains legally payable.

It is an established principle of administrative law that no person shall be condemned unheard (*audi alteram partem*). In the present case, the petitioner's name was removed from the MPO list and his salary along with other financial entitlements under the MPO scheme was abruptly stopped without serving any show cause notice or affording him an opportunity to be heard. This unilateral action amounts to a gross violation of the principles of natural justice. The respondents, being public authorities, are legally bound to act fairly, reasonably, and in accordance with due process.

The petitioner has placed on record the MPO sheet of April 2022 and referred to the Government's approved Manpower Organogram and MPO Policy, 2018. A careful perusal of these materials does

not reveal any violation or anomaly. The allegation of “double entry” appears to be unfounded, as the petitioner and another employee held entirely different designations. The respondents have failed to rebut this assertion or to provide any documentation to support their claim of duplication.

It is evident from Annexure “J” and the submissions of the learned Advocate that during the pendency of this Rule, the similarly situated Petitioner No. 1 has been reinstated in the MPO list and his salary payments have resumed. However, Petitioner No.2 continues to suffer from deprivation without any cause. This unequal treatment between similarly situated individuals is violative of the constitutional guarantee of equality before law under Article 27 and equal protection under the law guaranteed by Article 31 of the Constitution.

The denial of salary and suspension of the petitioner’s bank account has directly affected his right to livelihood, which forms an integral part of the right to life under Article 32 of the Constitution. Public functionaries are expected to act in a manner that promotes, rather than undermines, constitutionally protected rights.

The petitioner made representations and also served a legal notice dated 31.05.2022 demanding justice. The respondents neither replied to those nor took any corrective action. Their silence in the face of repeated pleas underscores arbitrary inaction, which is actionable under the writ jurisdiction of this Court.

When the petitioner's right is clear, the respondents' conduct is arbitrary, and no procedural safeguard was observed, the Court is not only empowered but duty-bound to intervene and grant relief.

Denial of such relief in the face of evident injustice would amount to a failure to uphold the constitutional mandate of fairness and legality in administrative action.

**Accordingly, the Rule is made absolute.**

The removal of Petitioner No. 2, Md. Al Mamun from the MPO sheet of Kayra Fazil Madrasha, Ullapara, Sirajganj and the suspension of his bank account maintained with Sonali Bank, Ullapara Branch are hereby declared to have been made without lawful authority and of no legal effect.

The Respondents are hereby directed to-

- i) Reinstatement the name of the Petitioner No. 2 in the MPO sheet of the said Madrasha;
- ii) Resume payment of his monthly salary under MPO and other related benefits; and
- iii) Pay all arrears from May 2022 till the date of reinstatement.

The Respondents shall comply with the above directions within sixty (60) days from the date of receipt of this judgment, without fail.

There will be no order as to costs.

Let this judgment be communicated immediately.

**(Justice Md. Toufiq Inam)**

**Mohammad Ullah, J:**

I agree.

**(Justice Mohammad Ullah)**

Syed B.O.  
Ashraf/A.B.O.