

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

WRIT PETITION NO. 15473 OF 2025

In the matter of:

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

And

In the matter of:

Alhaz Mohammd Mohe Uddin, President, Bangladesh Jatiotabadi Dol (BNP), Homna Upazilla Unit, Comilla, son of Md. Abdul Latif of Village- Shrimuddi Poschim Para, Post Office- Homna, Police Station- Homna, District- Comilla and others.

... Petitioners

-Versus-

Bangladesh Election Commission represented by the Chief Election Commissioner, Bangladesh Election Commission Secretariat, Nirbachan Bhaban, Plot No. E-14/Z, Agargaon, Dhaka-1207 and others.

... Respondents

Mr. Ehsan A. Siddiq, Senior Advocate with
Mr. Mohammad Saiful Islam, Advocate

...For the petitioners

Mr. Kamal Hossain Meahzi with
Mr. Md. Fuad Hassan Khan and
Mr. Shahriar Shahid Saad, Advocate

...For the respondent nos. 1-3

Mr. Abdullah Al Mamun, Senior Advocate with
Mr. Jyotirmoy Barua and

Mr. Mehadi Hasan, Advocates

...For the respondent nos. 4 and 5

Heard on 17.12.2025 and 08.01.2026.
Judgment on 08.01.2026.

Present:

Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Md. Hamidur Rahman

Md. Mozibur Rahman Miah, J.

The matter was earlier heard exhaustively from the learned counsels for the parties.

At the fag-end of the hearing held on 17.12.2025, one, Md. Ramiz Uddin filed an application for addition of party. Accordingly, the matter appeared in the list today for hearing together with the hearing of the rule made as heard-in-part. Understandably, we thus feel it expedient to dispose of the application first.

At the instance of one, Md. Ramiz Uddin, the application has been filed for adding him as party to this writ petition.

When the matter was taken up for hearing, none appeared for the applicant to press the application.

On the contrary, Mr. Ehsan A. Siddiq, the learned senior counsel appearing for the petitioner by taking us to Annexure-'X' to the application contends that apart from the applicant, Md. Ramiz Uddin as many as 18 other applicants filed joint application before the Election Commission whose presence hearing was held and out of those 19 applicants one, applicant, named, M. M. Mizanur Rahman has already been added as respondent no. 5 by this Hon'ble court having no reason for the applicant to file the application for addition of party since respondent

no. 5 asserted his case before the Election Commission and thus prays for rejecting the application.

Since the learned counsel for the applicant did not bother to press the application, and we find ample substance to the submission so placed by the learned counsel for the petitioner and hence, the application is rejected summarily.

Now, after taking full-length hearing today, from the learned counsels for the parties, we are now passing the following verdict.

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule *Nisi* was issued calling upon the respondents to show cause as to why Gazette Notification vide Memo No. 17. 00. 0000. 025. 22. 090. 24-654 dated 04.09.2025 (Annexure-'E' to the writ petition) published by the respondent no. 1 i.e. Bangladesh Election Commission in exercise of its powers conferred under section 6(4) of the **জাতীয় সংসদের নির্বাচনী এলাকার সীমানা নির্ধারণ আইন, ২০২১**, so far it relates to re-delimitation/re-demarcation of the boundaries of the Parliamentary Constituency No. 249 that is, Cumilla-1 comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upazilla and Parliamentary Constituency No. 250 that is, Cumilla-2 comprising Homna-Titas Upazilla instead of Homna-Meghna Upazilla should not be declared to have issued without lawful authority and is of no legal effect and why the respondents should not be directed to keep/maintain the boundaries of Parliamentary Constituency No. 249 i.e. Cumilla-1 comprising Daudkandi-Titash Upazilla and Parliamentary Constituency No. 250 i.e. Cumilla-2 comprising Homna-Meghna Upazilla as remained before

and/or pass such other or further order or orders as to this court may seem fit and proper.

At the very onset, Mr. Ehsan A. Siddiq, the learned senior counsel appearing for the petitioners submits that he has got instruction from the petitioners not to press the first part of the rule through which they petitioners have challenged the *vires* of Article 125(a) of the Constitution and that of section 7 of জাতীয় সংসদের নির্বাচনি এলাকার সীমানা নির্ধারণ আইন, ২০২১ which is why we refrain from inserting entire rule-issuing order above issued by this court on 17.09.2025.

The salient facts so figured in the writ petition are:

The petitioners are law abiding and peace loving permanent citizens of Bangladesh and they are permanent inhabitants of Homna and Meghna Upazilla of Comilla District. That the petitioner nos. 1 and 2 are the President and General Secretary of Bangladesh Jatiotabadi Dol (Nationalist Party) (shortly, BNP), Homna Upailla Unit, Comilla and the petitioner nos. 3 and 4 are the President and General Secretary of Bangladesh Jatiotabadi Dol (Nationalist Party) (BNP), Homna Pouroshova Unit, Comilla and the petitioner nos. 5 and 6 are the Joint Convenors of Bangladesh Jatiotabadi Dol (Nationalist Party) (BNP), Meghna Upzilla Unit, Comilla. They all were the voters of the Parliamentary Constituency No.250, i.e. Comilla-2 (Homna-Meghna) in the last 12th *Jatio Sangsad* (National Parliamentary) Election held in 2024 and they are also potential candidates for the upcoming 13th Parliamentary Election in Comilla-2 constituency and as such they became aggrieved with the decision of the Election Commission insofar as it relates to re-

delimitation/re-demarcation the boundaries of the Parliamentary Constituency No. 249, i.e. Comilla-1 comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upzilla and Parliamentary Constituency No. 250, i.e. Comilla-2 comprising Homna-Titas Upazilla instead of Homan-Meghna Upazilla which was published through a gazette notification dated 04.09.2025. It has also been stated that Meghna Upazilla, which was included in Comilla-2 parliamentary constituency, was-a part of Homna Upazilla from 1954 to 1998 and later, in order to bring administrative facilities and development works to the doorsteps of the people, Meghna Upazilla was formed in 1998 taking 4 unions of Homna Upazilla and 3 unions of Daudkandi Upazilla. It is stated that in every parliamentary election held from 1954 to 2001, i.e. in parliamentary elections of 1954, 1973, 1979, 1986, 1991, 1996 and 2001, a large part of Meghna Upazilla was attached with Homna Upazilla. Even after Meghna Upazilla was formed in 1998, the parliamentary election of 2001 was held under the name of Comilla-1 (Homna-Meghna) parliamentary constituency in order to maintain administrative facilities and regional unity. In 2006, another separate Upazilla called Titash was formed from Daudkandi Upazilla by taking 5 unions, but the administrative benefits and territorial unity of Titash Upazilla with Daudkandi Upazilla are still maintained and on the other hand, Meghna Upazilla is completely a separate Upazilla from Daudkandi Upazilla and there is no direct road connection from Meghna Upazilla to Daudkandi Upazilla and to go from Meghna Upazilla to Daudkandi Upazilla, one has to use Dhaka-Chittagong Highway over Gazaria Upazilla of Munshiganj District or go

through Homna Upazilla via Batakandi Bazar and over Titas Upazilla but despite of these facts, the then Election Commission of Moinuddin-Fakruddin government, with an aim to give unfair privileges to only 2/3 influential people, broke the deep bond of more than 50 years of the people of Homna-Meghna Upazilla by re-delimiting/re-demarcating the boundaries of Comilla-2 parliamentary constituency just before 2008 National Parliamentary Elections by attaching newly created Titas Upazilla with Homna Upazilla. It is stated that even before 12th Parliamentary Election, the Election Commission without considering the above facts published primary list of re-demarcated Comilla-1 Parliamentary Constituency comprising Daudkandi and Meghna Upazilla and Comilla-2 Parliamentary Constituency comprising Homna and Titas Upazilla through a gazette notification dated 26.02.2023 when the local leaders, public representatives, professionals and the general public of Homna-Meghna Upazillas submitted objections/applications to the Election Commission against that unwanted re-demarcation and for restoration of Homna-Meghna parliamentary constituency as remained before. The Election Commission then after hearing those objections/applications and on considering the issues of territorial unity, administrative facilities, convenience and inconvenience of public transportation and social ties as per Section 6(2) of the "জাতীয় সংসদের নির্মাচনী এলাকার সীমানা নির্ধারণ আইন, ২০২১" (hereinafter referred to as 'Ain of 2021') re-demarcated Comilla-1 Parliamentary Constituency comprising Daudkandi and Titas Upazilla and Comilla-2 Parliamentary Constituency comprising Homna and Meghna Upazilla and thereafter

published final list of re-demarcated parliamentary constituencies through a gazette notification dated 01.06.2023 as per section 6(4) of the Ain of 2021 and then 12th National Parliamentary Election of 2024 was held according to existing Homan-Meghna boundaries. Lately, the Commission without taking into consideration of the administrative convenience, territorial unity and actual distribution of population in accordance with Section 6(2) of the Ain of 2021 re-delimited/re-demarcated the boundaries of parliamentary constituencies and as per Section 6(3) of the said Ain and published a primary list through a gazette notification on 30.07.2025 demarcating Comilla-1 Parliamentary Constituency comprising Daudkandi-Meghna Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla instead of the existing Homna-Meghna Upazilla. Thereafter, the petitioners and thousands of permanent inhabitants of Homna-Meghna Upazilla submitted their written demands/objections on 07.08.2025 against re-demarcation of Comilla-1 and Comilla-2 Parliamentary Constituency and demanded to keep/maintain the boundaries of Comilla-2 constituency comprising Homna-Meghna Upazilla remained as before. Thereafter, the Election Commission through a public notice dated 18.08.2025 fixed a date for hearing of the said written objections/demands on 24.08.2025 and during hearing, the petitioners again raised their objections regarding the current re-demarcation and demanded maintain the boundaries of Comilla-2 Parliamentary Constituency comprising Homna-Meghna Upazilla. But the Election Commission without considering the facts, written objections submitted by the petitioners and without taking into

consideration of the administrative convenience, territorial unity and actual distribution of population, in accordance with Section 6(2) and 6(3) of the Ain of 2021 most arbitrarily and illegally finalized the process of re-delimitation/re-demarcation of the boundaries of parliamentary constituencies and published a final list of re-demarcated parliamentary constituency through a gazette notification dated 04.09.2025. In the said final list, the boundaries of Comilla-1 Parliamentary Constituency has been re-demarcated comprising Daudkandi-Meghna Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla instead of the existing Homna-Meghna Upazillas.

By filing a supplementary-affidavit dated 04.11.2025, it has further been asserted that, as per the latest voter list published on 20.10.2025 by the Election Commission, the total voters of Daudkandi-Titas Upazilas are $(3,20,533 + 1,74,541) = 4,95,074$ and the total voters of Homna- Meghna Upazilas are $(1,95,917 + 1,12,718) = 3,08,635$ and therefore, the voter difference between these two constituencies stands at 1,86,439 which shows, by 1 year and 10 months, only 5,585 voters have increased than the total voters of earlier list published on 06.12.2023 and therefore, it can be easily said that the Commission has re-demarcated the boundaries of Comilla-1 and Comilla-2 constituencies following pick and choose policy which is maladfide, arbitrary high handedness and colourable exercise of power. It has further been asserted in the supplementary-affidavit that by gazette notification dated 05.12.2024, a committee consist of 6 members was formed for re-demarcation of the boundaries of the parliamentary constituencies, registration of the political parties, preparation of the local

government election, setting up of polling centre and so on headed by one, Mr. Md. Anowarul Islam Sarkar, Hon'ble Election Commissioner and on 16.07.2025, a specialized/technical committee has also been formed for re-demarcation of the boundaries of the constituencies for the upcoming 13th Parliamentary Election consisting of 7 members out of which 5 members were not the employees/officials of the Election Commission. The function of the said committee was to formulate the proposal/report regarding delimitation of 300 constituencies for the upcoming 13th Parliamentary Election within next 7(seven) days, which means that the said committee has to prepare the proposal/report for around 43 constituencies per day for re-demarcation of the boundaries of the constituencies which is practically impossible. It has further been stated that no official such as Upazilla Election Officer or Upazilla Nirbahi Officer (UNO) or Assistant Commissioner (Land) (AC Land) or Deputy Commissioner (DC) of the concerned Upazilla and District have been included in the said Committee for getting proper information, real scenario or the situation regarding practical administrative facilities, territorial compactness and difference of the population between two adjacent constituencies which is set to be re-demarcated.

By filing another supplementary-affidavit dated 12.11.2025, it has further been stated that in paragraph no. 2 of the gazette notification dated 30.07.2025 (Annexure-'B' to the writ petition), the Election Commission has stated the method which has to be taken into account while re-demarcating boundaries of a parliamentary constituency; that is, in clause (5) of the said gazette notification, it has been stated that the number of

voters difference in the constituencies within the same districts will be limited to a maximum 30% but in reality, there are other constituencies in Comilla District where the difference of voter limits exceeded more than 30%. In Comilla District there are 11 constituencies and the total number of voters of that 11 constituencies are 46,06,209 as per the voter list published on 06.12.2023 and therefore, the average voters for those 11 constituencies of Comilla stands at 4,18,746 and as such, as per the voter list published in 06.12.2023, average voter difference of Comilla-1 is $4,63,516-4,18,746/4,18,746 \times 100-(+)$ 10.69% and Comilla-2 is $2,82,662-4,18,746/4,18,746 \times 100-(-)$ 32.49% while Comilla-7 is $3,03,287-4,18,746/8,746 \times 100 =(-)$ 27.57% and Comilla-10 is $6,21,922-4,18,746/4,18,746 \times 100-(+)$ 48.52%. But the Election Commission did not change the boundaries of Comilla-10 and Comilla-7 constituencies and therefore the Election Commission has applied pick and choose policy in re-demarcating the constituencies by average number of voters. It has also been stated that even as per the latest voter list published on 20.10.2025 by the Election Commission, the total voters of Comilla-1 (Daudkandi-Titas Upazillas) are $(3,20,533+1,74,541)-4,95,074$ and the average voter difference of Comilla-1 is $4,95,074-4,18,746/4,18,746 \times 100-(+)$ 18.22% and the total voters of Comilla-2 (Homna-Meghna Upazillas) are $(1,95,917+1,12,718)-3,08,635$ and the average voter difference of Comilla-2 is $3,08,635-4,18,746/4,18,746 \times 100-(-)$ 26.29% which shows that the average voters difference limit of Comilla-2 constituency remains below 30% as per clause (5) of the gazette notification dated 30.07.2025, yet the Commission without considering this aspects has re-demarcated

the boundaries of Comilla-1 and Comilla-2 constituencies which is maladfide, arbitrary and its colourable exercise of power.

Mr. Ehsan A. Siddiq, learned senior counsel appearing for the petitioners upon taking us to the writ petition and two supplementary-affidavits and all the documents appended therewith at the very outset submits that the Election Commission has re-demarcated Comilla-1 and Comilla-2 Parliamentary Constituency without considering the mandatory conditions set out in section 6(2) of the Ain of 2021 namely, administrative convenience and geographical compactness, unity of the constituency, rather only focused on the 3rd condition namely, the actual distribution of the population as far as possible of the said section which is not mandatory but directory.

The learned counsel also contends that even in clause (5) of paragraph No. 2 of the gazette notification dated 30.07.2025 (Annexure-‘B’ to the writ petition), the Election Commission has stated that the number of voters in the constituencies within the same districts will be limited to a maximum 30% but in reality there are so many constituencies within the same districts where this condition has not been followed, rather the Election Commission has applied pick and choose policy to re-demarcate the constituencies by the number of voters even though in section 6(2) of the Ain of 2021, there is no mention of specific number or percentage, rather it is stated that re-demarcation will be done by the actual distribution of the **population** as far as possible and therefore, mentioning the specific number/percentage i.e. 30% in clause (5) of paragraph no. 2 to the gazette notification dated 30.07.2025 (Annexure-

‘B’ to the writ petition) has got no basis/foundation by the original Act of delimitation as well as bears no basis in the eye of law and therefore, the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission by re-demarcating the boundaries of Comilla-1 Parliamentary Constituency comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla instead of Homna-Meghna Upazilla is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel further contends that the total voters in Comilla-1 constituency are 4,63,516 and Comilla-2 constituency are 2,82,662 as per the gazette notification dated 06.12.2023, therefore, the voter difference between these two constituencies are (4,63,516-2,82,662)-1,80,854 and on the other hand, as per the gazette notification dated 07.12.2023, the total voters of Dhaka-19 constituency are 7,56,416 and Dhaka-20 constituency are 3,55,982 and therefore, difference between these two constituencies are 4,00,434 while total voters of Narayongonj-3 constituency are 3,45,638 and Narayangonj-4 constituency are 6,96,139, therefore the voter difference between these two constituencies are 3,50,501 and the total voters of Mymensingh-2 constituency are 5,40,345 and Mymensingh-3 constituency are 2,76,040, therefore, the voter difference between these two constituencies are also 2,64,305 and the total voters of Mymensingh-4 constituency are 6,50,285 and Mymensingh-5 constituency are 3,64,160, therefore, the voter difference between these two constituencies are also 2,86,125 and

therefore, the voter difference between these two constituencies are 2,02,482 yet boundaries of those constituencies have not been re-demarcated by the Election Commission which shows that the Commission has re-demarcated the boundaries of Comilla-1 and Comilla-2 constituencies by following pick and choose policy which is malafide, arbitrary and colourable exercise of high handedness and therefore, the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission by re-demarcating the boundaries of Comilla-1 Parliamentary Constituency comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla instead of Homna-Meghna Upazilla is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel next submits that in the gazette notification dated 30.07.2025, that is, in clause (୯) of paragraph no. 2, it has been mentioned that in re-demarcation of boundaries Upazilla will be kept intact by giving priority to the Administrative system and in clause (୭) of paragraph no. 2 of the said gazette, it has also been mentioned that in re-demarcation of boundaries, the benefits and disadvantages of service to the people connected will be considered as far as possible and in clause (୫) of paragraph no. 2 of the said gazette it has also been mentioned that, in case of re-demarcation, the geographical features (such as rivers) and communication system as well as the facilities and disadvantages of the public transportation system will also be considered, yet the Commission did not follow those methods at all while re-demarcate the boundaries of

Comilla-1 and Comilla-2 parliamentary constituencies and as such it has violated section 6(2) of the Ain of 2021 by not keeping the Upazilla territory intact and not considering the service related to facilities/disadvantages of the concerned people and not considering the geographical features and communication system as well as the facilities and disadvantages of the public which is maladfide, arbitrary and illegal, therefore the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission by re-demarcating the boundaries of Comilla-1 Parliamentary Constituency and Comilla-2 Parliamentary Constituency is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel further contends that the Election Commission in re-demarcating Comilla-2 parliamentary constituency comprising Homna-Titas Upazilla instead of Homna and Meghna Upazilla has grossly violated the provisions of Section 6(2) of the Ain of 2021 because the Election Commission did not consider the administrative facilities and territorial unity of two Upazillas and more so, the Commission did not conduct any inquiry and examine any documents regarding such administrative facilities and territorial unity of two Upazillas and therefore grossly violated the provisions of Section 6(3) of the Ain of 2021 and as such re-demarcation of the said constituencies are maladfide, arbitrary and illegal and therefore the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission re-demarcating the boundaries of Comilla-1 Parliamentary Constituency comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash

Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel next contends that since Meghna Upazilla created/formed from Homna Upazilla and Titas Upazilla was created from Daudkandi Upazilla and therefore Comilla-1 Parliamentary Constituency comprising Daudkandi-Titas Upazilla and Comilla-2 comprising of Parliamentary Constituency comprising Homna-Meghna Upazilla should be maintained and it will be in accordance with the provisions as stated in Section 6(2) of the Ain of 2021 and contrary to that, it will be violative to the conditions mentioned in Section 6(2) of the said Ain namely, administrative convenience and geographical unity of the constituency and therefore the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission by re-demarcating the boundaries of Comilla-1 Parliamentary Constituency comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upazilla and Comilla-2 Parliamentary Constituency comprising Homna-Titas Upazilla instead of Homna-Meghna Upazilla is liable to be declared to have been issued without lawful authority and is of no legal effect.

The learned counsel wrapped up his submission contending that the decision of the Election Commission re-delimiting/re-demarcating the boundaries of Comilla-2 constituency, by including Homna-Titas Upazilla instead of Homna-Meghna Upazilla is illegal, malafide and purely arbitrary and therefore the Gazette Notification dated 04.09.2025 published by the Bangladesh Election Commission re-delimitating the

boundaries of Comilla-1 Parliamentary Constituency and Comilla-2 Parliamentary Constituency is thus liable to be declared to have been issued without lawful authority and is of no legal effect.

In reply to the submission placed by the learned counsel for the respondent nos. 4-5 to the effect that since in the meantime nomination paper has been submitted for Comilla-1 and Comilla-2 Constituencies on the basis of impugned notification, so there remains no scope to interfere with the same- the learned counsel then submits that it will never make any hindrance in adjudicating the rule and the Election Commission is bound to obey the order supposed to be passed by this Hon'ble court and then referred to a decision reported in 46 DLR (AD) 192 where it has been held:

“A Court’s anxiety in decision-making must be limited to the question of facts and law and the interest of justice in the circumstances of a particular case.

Diverse consequences may follow from a decision. A Court may not have the prescience to foresee the imponderabilities of the future. While acting under the law, a Court’s anxiety in decision-making must be limited to the questions of facts and law and the interest of justice in the circumstances of a particular case. It should not brook any doubt while making a decision. And it should not also have any conceit that its is the perfect decision.”

On the flipside, Mr. Kamal Hossain Meahzi, the learned counsel appearing for the respondent no. 1 by filing an affidavit-in-opposition mainly contends that during the process of delimitation in question, the Election Commission completed its task in strict compliance with the provisions of Section 6 of the Ain of 2021 and the Commission neither committed any illegality in publishing the primary list on 30.07.2025 under Section 6(3) of the said Ain of 2021 nor the Commission acted illegally in publishing the final Gazette Notification on 04.09.2025 and the act of final delimitation by the Commission would appear to be justified from the fact that the voter and population gaps between Comilla-1 (Daudkandi and Titas) and Comilla-2 (Homna and Meghna) are 1,87,371 and 2,64,004 respectively, creating significant imbalance and thus reconstituting Comilla-2 with Homna and Meghna would therefore produce substantial disparities.

The learned counsel also submits that having regard to geography, administration, services, population, electorate, surrounding conditions, and the continuity of 3 (three) elections since 2008, it is more appropriate to retain Comilla-1 (Daudkandi and Meghna) and Comilla-2 (Homna and Titas) constituencies and it is also justified for the reasons that, by the delimitation in question, the Election Commission has carefully maintained the geographical compactness and administrative convenience of Comilla district which would be evident from EC Resolution-dated 24.08.2025 and Map of Comilla however, by filing the instant writ petition, the petitioners sought to re-open the process of delimitation under writ jurisdiction, which is not permissible in law.

The learned counsel further submits that delimitation is an essential task to be completed after every census and before a scheduled national election and Bangladesh had its first parliamentary election in 1973 based on 300 seats and electoral constituencies drawn by the Pakistani authority for both national and provincial assembly seats within the then 19 (nineteen) districts were amalgamated and re-adjusted after the promulgation of the Constitution in 1972 and historically, this re-adjustment is known as the first delimitation under the respondent no. 1, Bangladesh Election Commission (shortly, BEC) and if viewed from the global perspective, it can be said that the delimitation is a continuing process which usually becomes sine qua non prior to National Election in order to ensure balanced population representation in Parliament and in the instant case, the sole objective of BEC behind delimitation of the district Comilla was to bring equality in representation of people considering other aspects, such as, public convenience, geographical features and administrative integrity etc.

The learned counsel also contends that the instant writ petition is not maintainable in its present form in view of the facts that the terms of the Rule if made absolute with direction to the Election Commission, it would sustain both legally and practically to be violative to Sections 3, 6, 7 and 8 of the Ain of 2021 and Articles 119 (1) (c), 124, 125 (a) and 65 (2) of the Constitution.

The learned counsel next submits that the instant writ petition is not maintainable as the petitioners of the instant writ petition are not persons aggrieved within the meaning of Article 102 of the Constitution, they are

interlopers, set by the vested quarter, out of a political motive and as such, the Rule *Nisi* issued in the instant writ petition may be discharged on the ground of maintainability.

The learned counsel wrapped up his submission contending that the instant writ petition is devoid of any merits in view of the facts that the Election Commission committed no illegality in delimiting the disputed constituencies under district Cumilla, while discharging its functions under Article 119(1)(c) of the Constitution read with Section 6 of the Ain of 2021 and as such, the instant writ petition being a classic example of frivolous litigation and thus the Rule *Nisi* issued therein may be discharged for ends of justice.

However, in support of his submission, the learned counsel referred to a series of decisions and out of those, he chiefly takes us through the decision reported in 48 DLR (HCD) 490 and referred to paragraph 4 and 53 DLR (AD) 25 and referred to paragraph no. 8 and two unreported decisions passed in Writ Petition Nos. 5912 of 2008 dated 02.11.2008 and Writ Petition No. 7357 of 2023 dated 09.09.2023 and finally prays for discharging the rule.

By contrast, Mr. Abdullah-Al-Mamun, learned senior counsel and Mr. Jyotirmoy Barua, learned counsel adopted most of the submissions so advance by the learned counsel for the respondent no. 1. By taking us through affidavit-in-opposition and supplementary-affidavit filed by respondent nos. 4-5, Mr. Mamun contends that Article 65(2) of the Constitution of the People's Republic of Bangladesh unequivocally provides that "Parliament shall consist of three hundred members to be

elected in accordance with law from single territorial constituencies by direct election and, so long as clause (3) is effective, the members shall be designated as Members of Parliament." and therefore it manifestly clear that the formation, alteration, or re-delimitation of parliamentary constituencies is a constitutional necessity to ensure proper representation of the electorate.

The learned senior counsel further contends that for argument's sake, if the Rule is made absolute in its present form, it would stand in direct contradiction to Article 65(2), read conjointly with Article 119(1)(c) of the Constitution, which expressly vests the Election Commission with the power to delimit constituencies and the Election Commission, in exercise of its constitutional and statutory mandate, has lawfully undertaken the task of delimitation under Sections 6(1), (2), (3), and (4) of the Ain of 2021 and this Act is a specially protected legislation within the contemplation of Article 125(a) of the Constitution, thereby insulating the Commission's actions from judicial interference save in cases of clear illegality, which is conspicuously absent herein.

The learned counsel goes on to submit that as per Section 7 of the Ain of 2021, the actions taken by the Election Commission in relation to delimitation enjoy statutory protection, and any attempt to invalidate such actions without cogent-grounds would be contrary to both constitutional and legislative intent.

The learned counsel next contends that the Election Commission by properly considering the territorial unity, administrative convenience of the people and performing proper local enquiries of the geographical areas

of the Upazilla, roads and communications, sentiments of the people, social and political relations of the two Upazillas, trade and commerce of the people or practical distribution of the population published a preliminary list of territorial constituencies of Comilla-2 by the election commission by its preliminary notification dated 04.09.2025 and very rightfully transposed and delimited Upazilla Meghna with Daudkandi and Upazilla Homna with Titas vide gazette as contained in Memo No. 17.00.0000.025.22.090.24-341 dated 30.07.2025.

The learned counsel by referring to Annexure-'1' to the application for addition of party, in particular, paragraphs 13, 14 and 15 appearing at page no. 17(A) thereof also contends that the communication between Daudkandi Upazilla and Meghna Upazilla is very convenience and considering the overall facilities of the citizen of the constituency of Cumilla-1 and Cumilla-2, considering administrative convenience and geographical unity of the Constituency, election commission has very rightly published the final official Gazette notification dated 04.09.2025.

The learned counsel wrapped up his submission contending that the Election Commission, in exercise of its constitutional and statutory mandate, has lawfully undertaken the task of delimitation under Section 6(1), (2), (3) and (4) of the Act of 2021 and this Act is a specially protected legislation within the contemplation of Article 125(a) of the Constitution, thereby insulating the Commission's actions from judicial interference save in cases of clear illegality, which is conspicuously absent herein and more so, as per Section 7 of the Act of 2021, the actions taken by the Election Commission in relation to delimitation enjoys

statutory protection however, the petitioner has sought to challenge the *vires* of Article 125(a) of the Constitution and Section 7 of the said Act without assigning any specific, substantiated, or legally tenable grounds in the writ petition and hence, the rule is liable to be discharged in limine.

Be that as it may, we have considered the submission so placed exhaustively by the learned senior counsels for the petitioner and that of the respondent nos. 4-5, learned counsel for the respondent no. 1, perused the writ petition, affidavit-in-opposition so filed by those respondents and all the documents appended therewith very sparingly.

Taking into account of the submission and counter-submission so placed at the bar, we feel it expedient to confine our discussion and observation in adjudicating the rule keeping ourselves without the ambit of draft (primary) notice dated 30.07.2025 (Annexure-‘B’ to the writ petition), decision of the Election Commission (সিদ্ধান্ত) dated 24.08.2025 (Annexure-‘2’ to the affidavit-in-opposition filed by the respondent no. 1) and that of impugned notification dated 04.09.2025 (Annexure-‘E’ to the writ petition) obviously basing on the respective provision so postulated in জাতীয় সংসদের নির্বাচনী এলাকার সীমানা নির্ধারণ আইন, ২০২১.

It is admitted position as evident from Annexure-‘A-1’ to the writ petition that earlier 249 Comilla-1 constituency comprised of Doubdkandi and Titash Upazilla and 250 Comilla-2 Constituency comprised of Homna and Meghna Upazilla and the last (12th) Parliamentary Election was held basing on that set up.

At the first instance, let us examine the propriety of the notice issued by the respondent no. 1 dated 30.01.2025 through which amongst

others, draft publication of Comilla-1 and Comilla-2 has been published. In publishing the said notice, the respondent no. 1 claimed to have issued the same on the basis of section 6(3) of the Ain of 2021 in the light of the provision provided in section 6(2) and 8(1)(kha) of the said Ain. In redrawing the boundary of the constituency, the Election Commission has also claimed to have followed certain procedure which has been laid down in paragraph nos. ‘ka’ to ‘tha’ (ক-ঠ).

It is worth noting, in that draft publication, the Election Commission demarcated 249 Comilla-1 Constituency comprising Doubdkandi Upazilla and Meghna Upazilla and that of 250 Comilla-2 Constituency comprising Homna and Titas Upazilla by reversing their earlier set up basing on which, last Parliamentary Election (12th) was held. In doing so, the Election Commission at the very first inception violated its own condition provided in paragraph ‘ঘ’ to the notice dated 30.07.2025 where it has clearly been asserted that যেসকল আসনের সীমানা পুনঃনির্ধারণের জন্য কোন আবেদন দাখিল হয়নি সে আসনগুলো অপরিবর্তীত রাখা।

In paragraph (চ) to the said circular, it has been laid out that জেলার মধ্যকার আসনের ভোটার সংখ্যা সরোচ্চ ৩০% ব্যবধানের মধ্যে সীমাবদ্ধ রাখা. But insertion of said paragraph is totally repugnant to the provision enshrined in section 6(2) of the Ain of 2021 which runs as follows:

“**৬ (২) উপ-ধারা (১) এর উদ্দেশ্য পূরণকল্পে, কমিশন প্রশাসনিক সুবিধা বিবেচনা করিয়া প্রতিটি আঞ্চলিক নির্বাচনি এলাকার সীমানা নির্ধারণ করিবে, যাহাতে প্রতিটি আঞ্চলিক নির্বাচনি এলাকার ভোগোলিক অখণ্ডতা বজায় থাকে, এবং এইরূপ সীমানা নির্ধারণ সর্বশেষ আদমশুমারি প্রতিবেদনে উল্লিখিত জনসংখ্যার, যতদূর সম্ভব, বাস্তব বন্টনের ভিত্তিতে করিতে হবে।”**

Clearly, the said provision does not speaks about number of voters rather population of each local parliamentary constituency (প্রতিটি আঞ্চলিক নির্বাচনী এলাকা) basing on the report of latest census (আদম শুমারী) as far as practicable even mentioning no percentage. In this regard, if we take a glance to 3rd paragraph of the decision made by the Election Commission dated 24.08.2025 as annexed as of Annexure-‘2’ to the affidavit-in-opposition filed by the respondent no. 1, we find that the Election Commission clearly committed a fundamental error in taking into account of the number of voters. For our ready reference let us reproduce the observation made by the Election Commission in its decision:

“অপরদিকে ২০২৩ সনের সীমানা অনুযায়ী কুমিল্লা (হোমনা ও মেঘনা) আসনের ভোটার সংখ্যা ৩০৭২৮১ জন যা জেলার গড় ভোটার সংখ্যা তুলনায় ৩১. ৩৪% কম এবং জনসংখ্যা ৩৪৬৩৩০ জন যা জেলার গড় জনসংখ্যা তুলনায় ২৩. ৬০% কম। এছাড়া কুমিল্লা-১ (দাউদকান্দি ও তিতাস) এর সাথে কুমিল্লা-২ হোমনা ও মেঘনা এর ভোটার সংখ্যার প্রযোধন (৪৯৪৬৫২- ৩০৭২৮১)= ১৮৭৩৭১ এবং জনসংখ্যার প্রযোধন (৬১০৩৩৪- ৩৪৬৩৩০)= ২৬৪০০৮। হোমনা ও মেঘনা উপজেলা নিয়ে কুমিল্লা-২ আসন পুনর্গঠন করলে জনসংখ্যা ও ভোটার সংখ্যার সাথে জেলার গড় জনসংখ্যা ও ভোটার সংখ্যার প্রযোধন ম্যাপকভাবে ভারসাম্যহীন হয়ে পড়ে। ভৌগলিক অস্থা, প্রশাসনিক অস্থা, প্রিভিন পরিষেবা, জনসংখ্যা, ভোটার সংখ্যা, পারিপার্শ্বিক অস্থা প্রিয়েচনায় এবং সর্পেপরি ২০০৮ সাল থেকে তিনটি নির্বাচনের ধারাপাহিককতায় খসড়া অনুযায়ী প্রিয়মান ২৪৯ কুমিল্লা-১ (দাউদকান্দি ও মেঘনা উপজেলা) ও ২৫০ কুমিল্লা-২ আসনের (হোমনা ও তিতাস উপজেলা) প্রায় রাখা অধিকতর যুক্তিযুক্ত হচ্ছে।”

Even though in paragraph ‘cha’ of Annexure-‘B’ to the writ petition, it has been mentioned that the number of voters of a constituency (though section 6(2) does not say so) will not exceed 30% above from any other constituency of a particular district but in the observation, the Election Commission found the number of voter of Comilla-2 fewer than 23.60% of the total population of that District yet it affirmed the set up of Comilla-2 Constituency as per primary notice dated 30.07.2025 which is total arbitrary.

In this regard, Mr. Ehsan has referred a decision passed by the court in Writ Petition No. 15780 of 2025 dated 11.12.2025 where this court amongst others, observed:

“Further, from the decision of the Election Commission while delimiting Faridpur-4 Constituency, it amongst others, take into account of balancing voter among Faridpur-4 and Faridpur-2 Constituencies which is also clear violation of section 6(2) of the Ain, as that section has very distinctively denotes the word “population” (জনসংখ্যা) not voter (ভোটার) to be taken into account from latest census but instead of reducing disparity.”

However, basing on the direction in that judgment, Election Commission has issued amended notification on 25.12.2025 keeping intact of 212 Faridpur-2 Constituency and 214 Faridpur-4 Constituency.

Further, though the provision of section 6(2), it is incumbent upon the Election Commission to consider administrative convenience and geographical compactness vis-à-vis last report of census while delimiting

a constituency but nothing sort of any of those prerequisites have been reflected in the observation quoted hereinabove. So for that obvious reason, basing on that perfunctory decision taken by the Election Commission, the impugned notice can never be sustained which is vitiated with sheer malafide action taken by it.

In the primary notice that accompanied draft publication, it amongst others referred to section 8(1)(kha) of the Ain of 2021 basing on which delimitation has to be carried out. Now let us take a look to the said provision which runs as follows:

“৮/ (১) উপ-ধারা (২) এর বিধান সাপেক্ষে, নিম্নবর্ণিত কোনো কারণে
কমিশন নৃতন করিয়া আঞ্চলিক নির্বাচনি এলাকার সীমানা নির্ধারণ করিতে
পারিবে, যথা :—
(খ) কমিশনের নিকট অন্য কোনো কারণ উপযুক্ত বিবেচিত হইলে উহা
লিপিবদ্ধ করিয়া, জাতীয় সংসদের প্রত্যেক সাধারণ নির্বাচন অনুষ্ঠানের
পূর্বে।”

On bare reading of that provision, it is palpably clear that the commission must jot down the reason stating the circumstances that derive it to re-demarcate of certain constituency which is totally absent in the notification dated 30.07.2025.

Then again, if we took into account of the conditions laid out in the primary notification dated 30.07.2025 (Annexure-‘B’ to the writ petition) in particular, paragraph ‘ঘ’, we don’t find any inhabitant of the two constituencies ever demanded to re-demarcate their constituency, in absence of which the Election Commission should have kept those two

constituencies unchanged because it has clearly been asserted in that paragraph ‘ঘ’ that যেসকল আসনের সীমানা পুনঃনির্ধারণের জন্য কোন আবেদন দাখিল হয়নি সে আসনগুলো অপরিবর্তীত রাখা।

So, the Election Commission itself violated its own condition, it laid down so it is not within the remit of the Election Commission, to redraw the boundary of any constituency on its own volition. But facts remains, it has very illegally and in a malafide manner has done so by publishing primary notice and then affirmed so vide impugned notification through holding a sham hearing totally in an ulterior motive.

Even though, the Election Commission in its decision dated 24.08.2025 (Annexure-‘2’ to the affidavit-in-opposition filed by the respondent no. 1) put its emphasis entirely on the alleged disparity of voter between Comilla-1 and Comilla-2 Constituency but Mr. Ehsan in his submission has categorically and emphatically pointed out by giving reference as to how the Election Commission has applied pick and chose policy in arriving at such frivolous decision and since the statics so placed by him in the submission has not been rebutted by the learned counsels for the respondents, we thus refrain from making any observation rather we are totally at one with the assertion of the learned counsel for the petitioners.

Also, as per section 6(2) of the Ain of 2021, in redrawing of an area of any constituency, the latest report of census in regard to the population will also form the basis. In our country, last census was held in the year 2022 but nothing has been reflected either in the primary notification dated 30.07.2025 or in the four corner of the decision of the Election

Commission dated 24.08.2025 in absence of which, neither the primary notice dated 30.07.2025 or impugned notification dated 04.09.2025 bear any legal basis rather the impugned notification has been issued for collateral purpose.

Furthermore, in regard to paragraphs (୫), (୬) and (୭) provided in primary notice dated 30.07.2025, it has been provided as under:

“(୫) ପ୍ରଶାସନିକ ବ୍ୟବସ୍ଥାକେ ଅଧ୍ୟାଧିକାର ଗଣ୍ୟ ଉପଜେଲା/ଥାନା ଇଉନିଟକେ ଯତ୍ନୂର
ସମ୍ଭବ ଅର୍ଥାତ୍ ରାଖା,
(୬) ଯତ୍ନୂର ସମ୍ଭବ, ସୀମାନା ପୁନଃନିର୍ଧାରଣକାଲେ ସଂଖିଷ୍ଟ ଜନଗଣେର ସେବା ବିଷୟକ
ସୁବିଧା/ଅସୁବିଧାର ବିଷୟ ବିବେଚନା କରା,
(୭) ଯତ୍ନୂର ସମ୍ଭବ, ଭୌଗୋଳିକ ବୈଶିଷ୍ଟ୍ୟ (ସଥା-ନଦୀ) ଓ ଯୋଗାଯୋଗ ବ୍ୟବସ୍ଥା (ସଥା-
ରାତ୍ତାଘାଟ) ତଥା ଜନଗଣେର ଯାତାଯାତ ବ୍ୟବସ୍ଥା ସୁବିଧା ଓ ଅସୁବିଧା ବିବେଚନା କରା.”

But nothing has been discussed with those regard in the decision taken by the Election Commission dated 24.08.2025 and thus impugned notification has thus issued affirming the primary notification dated 30.07.2025 leaving the objection raised by the petitioners before the Election Commission totally redundant one nor what sort of objection the petitioners and others raised before the Election Commission against the delimitation has also not been found in the entire decision dated 24.08.2025.

Even though, the learned counsel for the petitioners in his submission has mainly put emphasis on the application of sections 6 and 8 of the Ain, 2021 vis-à-vis apparent illegality in the publication of primary notice, decision of the Election Commission dated 24.08.2025 and impugned notice yet the learned counsels for the respondents in their

respective submissions has not controverted to these legal submissions, rather they only tried to assert the decision of Election Commission and publication of impugned notice which are based on factual aspect.

However, though the learned counsel for respondent no. 1 has placed his reliance in the decision as stated above, but on going through those, we find those to be distinguishable with the instant case in terms of facts, circumstances and legal point involved in the writ petition.

Regard being had to the facts, circumstances and discussion made hereinabove, we find ample substance to the submission so placed by the learned counsel for the petitioners.

Resultantly, the rule is made absolute however without any order as to costs.

The gazette notification dated 04.09.2025 published by the respondent no. 1, so far it relates to re-delimitation/re-demarcation of the boundaries of the Parliamentary Constituency No. 249 that is, Cumilla-1 comprising Daudkandi-Meghna Upazilla instead of Daudkandi-Titash Upazilla and Parliamentary Constituency No. 250 that is, Cumilla-2 comprising Homna-Titas Upazilla instead of Homna-Meghna Upazilla is thus declared illegal without lawful authority and is of no legal effect and the same is thus struck down.

The respondents are hereby directed to publish a Gazette Notification restoring the boundaries of Parliamentary Constituency No. 249, that is, Comilla-1 comprising Doudbanki-Titas Upazilla and Parliamentary Constituency No. 250, that is, Comilla-2 comprising

Homna-Meghna Upazilla as remained before within 24(twenty-four) hours from today.

Let a copy of this judgment and order be communicated to the respondents forthwith **treating it utmost urgent.**

Md. Hamidur Rahman, J.

I agree.