

CHAPTER-II

Constitution and Powers of the Benches and Powers of the Registrar and distribution of Judicial Business

1[1. Constitution and power of Division Bench in civil matters.-Unless otherwise required by law, a Division Bench for the hearing of appeals from decrees or orders of subordinate courts shall ordinarily consist of two Judges.

1A. Constitution of Single Bench in civil matters.-The Chief Justice may also constitute a Single Bench consisting one Judge and it shall be competent for such Bench to hear appeals and applications and Lawazimas relating thereto in all matters specified in the rule 1B, except where such appeals, applications or matters involve a substantial question of law as to the interpretation of the Constitution or *vires* of a law. The Judge of a Single Bench may, however, send to the Chief Justice any particular case, if the said Judge considers that the case should be disposed of by a Division Bench, with his reasons.

1B. Power of Single Bench in civil matters.-A Single Bench shall have power to dispose of such cases as are assigned to it by the Chief Justice and in particular to dispose of the following:

- (a) application under section 25 of the Small Cause Courts Act, 1887 and Rule issued upon such applications;
- (b) applications for Revision under Section 115(1) and 115 (4), Civil Procedure Code, against all decrees and orders passed by any Judge of a Civil Court arising out of a suit or proceeding up to the value of Tk.6,00,000/- and matters relating thereto;

¹ Rules 1, 1A and 1B were substituted for the original rule 1 and the Schedule, by Notification No. 181-G dt: 22-10-2012.

- (c) admission of appeal, or cross-objection, in matters in which the value of the suit or proceeding does not exceed Tk.6, 00,000/-;
- (d) all appeals from orders arising out of execution cases in which the value of the claim does not exceed Tk.6,00,000/- and all Rules issued and all applications relating thereto;
- (e) all appeals from orders made by the subordinate appellate courts in appeals arising out of a suit or proceeding the value of which does not exceed Tk.6,00,000/- and the value of the decree passed wherein do not exceed Tk.6,00,000/- and all Rules issued and all applications relating thereto;
- (f) all appeals or revisions arising out of suits or proceedings in which no specific valuation is specified or required by the relevant law.

Note.-Every memorandum of appeal from orders and every application for revision shall state the value of the suit or proceeding from which it arises or, as the case may be the decretal amount, if the proceeding is an execution case.]

1[1C. Constitution of Special Bench.-On the requisition of any Division Bench, or whenever he thinks fit, the Chief Justice, may appoint a Special Bench consisting of three Judges, for the hearing of any particular Appeal, Rule, Revision or an Application, or any particular question of law arising in an appeal or in any other matter.]

2[1D. Powers of Bench relating to Motion and Mention.- These matters are provided in Chapter IVA.]

¹ Rule 1C was inserted by Notification No. 181-G dt. 22-10-2012.

² Rule 1D was inserted by Notification *ibid*.

2. Registrar's powers in civil and criminal matters.-

In addition to the powers conferred upon him by other rules, the Registrar shall have the following duties and powers in relation to Civil and Criminal matters:-

(I) [Omitted by Notification No 181-G dt. 22-10-2012.]

(II) [Omitted by Notification No 181-G dt. 22-10-2012.]

(III) (a) To receive an appeal from a decree or an appealable order of a Civil Court;

(b) To post an appeal referred to in sub-clause (a) above in the list of hearing under Order XLI, rule 11 of the Civil Procedure Code; and

(c) In case of appeals preferred against original decrees or orders under the Workmen's Compensation Act, 1923 (since repealed by Act No. 42 of 2006), to issue notices.]

(IV) To dispose of all matters relating to Court-fees (other than appeals the subject matter of which is the amount of Court-fee payable) and to the service of notices or other processes:

Provided that all Rules, in which there has been default in paying process fees within the time allowed in ²[rule 13, Chapter IV shall, within 15 days after expiry of the time limit specified by the second proviso to the said rule 13.] be laid before the Bench which issued them, or if the Judges composing that Bench are no longer sitting together, before the senior of the two Judges and in his absence before the junior, to be dealt with by that Judge and the Judge who happens to be sitting with him.

In the event of both Judges who issued the Rule being absent or otherwise unable to deal with it, the Rule shall be laid before the Division Bench taking Lawazima matters.

¹ Clause (III) was substituted for the original clause (III) by Notification No. 181-G dt. 22-10-2012.

² The expression "rule 13, Chapter IV shall, within 15 days after expiry of the time limit specified by the second proviso to the said rule 13." was substituted for the expression "Rule 13, Chapter IV of these rules, shall" by Notification *ibid*.

A Rule issued by a Judge sitting singly in which there is default in paying process fees, shall be laid before the Judge, who issued the Rule and if he is not sitting singly it shall be laid before ¹[the Single Bench taking Lawazima matters].

²[(V) To dispose of all matters relating to-

- (a) the substitution of the heirs of parties, provided no question of limitation arises,
- (b) the representation of minor parties when there is no dispute as to the guardianship,
- (c) applications under Order-XXII, rule 10, Civil Procedure Code, and to record an assignment, creation or the devolution of an interest during the pendency of an appeal:

Provided that such assignment, creation or devolution is not disputed, and where such assignment, creation or devolution has taken place within three years as provided for in Article 181 of the First Schedule to the Limitation Act, 1908.]

(VI) To dispose of all matters relating to the appointment, removal or discharge of next friends or guardians *ad-litem* of minors or persons of unsound mind:

Provided that next friends or guardians *ad-litem*, as the case may be, shall not be removed except on stamped application supported by an affidavit and on notices to the persons sought to be removed, and also with notice to such party or parties as the Registrar in his discretion directs.

(VII) To require any memorandum of appeal, petition, application or other proceeding presented to the Court or to the Registrar to be amended in accordance with the procedure or practice of the Court.

¹ The words "the Single Bench taking Lawazima matters" were substituted for the words "some other Judge sitting singly" by Notification No. 181-G dt. 22-10-2012.

² Clause (V) was substituted for the original clause (V) by Notification *ibid*.

(VIII) To call for records from subordinate courts.

(IX) To dispose of requisitions by subordinate courts for records and documents.

¹[(IXA) To appoint a Commissioner for the purpose of administering oaths/affirmation of an affidavit made outside the Court Building and to fix the cost to be deposited by the concerned party.]

²[**Note.-** In fixing the cost, the Registrar shall consider the relevant distance, transport, time necessary and other relevant factors.]

(X) To receive and dispose of an application for the return of a document.

(XI) To require any person or party to file an Affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.

(XII) To stop at his discretion the issue of all or any papers to any person who has failed to pay any fee or charges due to the Court.

(XIII) To dispose of all applications for copies of records, whether presented by parties or persons who are not parties to the proceedings to which such records relate.

(XIV) To decide the question of necessity for transcribing and printing any accounts, not specifically applied for by the parties to an ³[appeal to the Appellate Division].

¹ Clause (IXA) was inserted by Notification No. 181-G dt. 22-10-2012.

² This Note was substituted for the original Note by Notification *ibid*.

³ The words "appeal to the Appellate Division" were substituted for the words "Appeal to the Supreme Court" by Notification *ibid*.

(XV) To call for a further deposit where the deposit already made by the appellant in an ¹[appeal to the Appellate Division] is not sufficient to defray the cost of preparing the record, and to fix the time within which such further deposit shall be made.

(XVI) To order payment of the interest accruing on Government Promissory Notes or other securities bearing interest deposited under Order XLV, rule 7, Civil Procedure Code, and to order the refund of any unexpended balance under Order XLV, rule 12 of the Code.

(XVII) To dispose of all Lawazima reports relating to the preparation of paper-books, and to hear all applications in any of the above matters.

²[(XVIII) To deal with and hear applications for dispensing with more than one copy of the judgment under Order XLI, rule 1 of the Civil Procedure Code and Chapter V, rule 4 of these Rules; and to direct analogous hearing of appeals.]

(XIX) [Omitted by Notification No. 181-G dt. 22-10-2012.]

(XX) To deal with all matters relating to the service, non-service and defect of service of the Court's notices in criminal cases.

(XXI) To deal with all matters relating to the substitution of legal heirs of deceased parties in all criminal cases wherein such substitution may be necessary.

(XXII) To deal with all defects in ³[Wokalatnamas in all proceedings].

¹ The words "appeal to the Appellate Division" were substituted for the words "Appeal to the Supreme Court" by Notification No. 181-G dt. 22-10-2012.

² Clause (XVIII) was substituted for the original clause (XVIII) by Notification *ibid*.

³ The words "Wokalatnamas in all proceedings" were substituted for the words "Wakalatnamas in Civil and Criminal cases" by Notification *ibid*.

(XXIII) To deal with applications for copies in criminal cases, where such copies are not ordinarily granted without the permission of the Court.

(XXIV) To deal with, and dispose of, all petitions of appeals in criminal cases wherein appeals may not be preferred to this Court.

(XXV) To record an order of abatement of all appeals, ¹[Rules], revisions ²[against decree or order by which an appeal or other case has been disposed of] and applications after the expiry of the statutory period, provided that he shall not be entitled to entertain applications of parties for the revival or for the setting aside of abatement of any appeal or other proceeding.

(XXVI) To deal with and pass orders on matters referred to in Order XLI, rule 14(3) of the Civil Procedure Code.

2A. Certain restriction on Registrar's power.- Nothing in ³[rule] 2 shall be deemed to authorise the Registrar to make an order of dismissal of an appeal for default or for any ⁴[other] reason or to determine disputed questions of representation under Order XXII, ⁵[rule] 5, Civil Procedure Code, or to pass final orders on contested applications for the appointment and removal of next friends and guardians *ad-litem* or on contested applications under Order XXII, Rule 10, C.P.C.

⁶[2B. Delegation by Registrar.-The Registrar may delegate to the Additional Registrar/Deputy Registrar or to an Assistant Registrar any function with which he is vested under Chapters IV, IVA, V, VA and VIII to XIII, except those referred to

¹ The word "Rules" was substituted for the original word "rules" by Notification No. 181-G dt. 22-10-2012.

² The words "against decree or order by which an appeal or other case has been disposed of" were inserted by Notification *ibid.*

³ The word "rule" was substituted for the original word "Rule" by Notification *ibid.*

⁴ The word "other" was inserted by Notification *ibid.*

⁵ The word "rule" was substituted for the original word "Rule" by Notification *ibid.*

⁶ Rule 2B was substituted for the original rule 2B by Notification *ibid.*

in clauses (IV) to (VII), (X), (XI), (XIV) to (XXI), (XXV) and (XXVI) of rule 2 above. He may also refer any matter under rule 2 to the Court for orders.]

2C. Appeal from Registrar's order.- All orders made by the Registrar under these rules shall be appealable with a fixed Court-fee of ¹[Tk.20/-] and shall be heard by ²[the Lawazima Bench, as constituted by the Chief Justice].

3. Application to Registrar.- Applications entertainable by the Registrar shall be presented to him and not to the Bench. All such applications shall be made in writing on paper of foolscap size with a margin of 2 inches, and shall ³[be preferably typewritten or printed by electronic device and must be legible].

4. Arrangement during Registrar's absence.- In the absence of the Registrar, or whenever the Chief Justice so directs, his powers and duties under clauses (IV) to (VII), (X), (XI), (XIV) to (XXI), (XXV) and (XXVI) of ⁴[rule] 2 of this Chapter shall be performed by a Judge or Judges, and the powers which he is authorised to delegate shall be performed by ⁵[an Additional Registrar or Deputy Registrar] or other officers of the Court, as the Chief Justice may specify.

Note.-⁶[Whenever the expression "Additional Registrar" occurs in any provision of the High Court Division Rules it shall be held to include the Deputy Registrar and any other officer of the Court to whom the Registrar may delegate the authority to exercise the function mentioned in the concerned provision.]

¹ The expression "Tk.20/-" was substituted for the expression "Rs.3" by Notification No. 181-G dt. 22-10-2012.

² The expression "the Lawazima Bench, as constituted by the Chief Justice" was substituted for words "an appropriate Lawazima Bench" by Notification *ibid*.

³ The words "be preferably typewritten or printed by electronic device and must be legible" were substituted for the expression ", if not typewritten, be legibly written" by Notification *ibid*.

⁴ The word "rule" was substituted for the word "Rule" by Notification *ibid*.

⁵ The words "an Additional Registrar or Deputy Registrar" were substituted for the words "the Deputy Registrar" by Notification *ibid*.

⁶ This Note was substituted for the original Note by Notification *ibid*.

5. [Omitted by Notification No. 181-G dt. 22-10-2012.]

6. Reference from Civil Court.-A reference from a Civil Court shall first be placed before the Chief Justice for orders and if it appears to him that it is in order then it shall be heard by the Division Bench appointed for the hearing of appeals from decrees and orders of the Civil Court.

1[7. Powers of Division Bench and Single Bench in criminal matters.-

(1) Unless otherwise required by any other law, a Division Bench for the hearing of cases on appeal including appeal against inadequacy of sentence, reference, or revision in respect of the sentence or order of any Criminal Court or a Tribunal adjudicating criminal matter shall ordinarily consist of two Judges.

(2) A Single Bench consisting of one Judge may hear any appeal including appeal against inadequacy of sentence, or application for revision, except the following:

- (a) one relating to an order of sentence of death, imprisonment for life or of imprisonment exceeding seven years;
- (b) an appeal under section 476B of the Criminal Procedure Code;
- (c) an application for transfer under section 526 of the said Code or under any other law;
- (d) one relating to an order for execution of a bond where the person required to execute the bond has gone to prison in default of execution;
- (e) an appeal under section 417 or 417A of the Cr. P.C. against an order of acquittal or under section 23A of the Foreign Exchange Regulation Act, 1947 against an order of acquittal or discharge, in cases involving offences punishable with sentence of imprisonment exceeding 7 (seven) years;

¹ Rule 7 was substituted for the original rule 7 by Notification No. 181-G dt. 22-10-2012.

- (f) an application for revision under section 439, Cr. P.C. against an order of acquittal in cases involving offences punishable with sentence of imprisonment exceeding 7 (seven) years;
- (g) an application under section 561A, Cr. P. C.;
- (h) an application for bail under section 498, Cr. P.C or under any other law.

(3) The Judge of a Single Bench while dealing with a case may, after recording reasons, send it to the Chief Justice for disposal thereof by another appropriate Bench.]

8. Division Bench for hearing of matters under section 195, 476 Cr.P.C.- A Division ¹[Bench] for the hearing of applications relating to, or arising out of, proceedings in any Subordinate Court (Civil, Criminal or Revenue) under section 195 or section 476, Criminal Procedure Code, shall consist of two Judges.

²[9. Reference to Bar Council regarding Advocate's misconduct.-(1) Whenever any Judge or Bench is of opinion that there are reasonable grounds for holding that any Advocate is guilty of any misconduct rendering such Advocate liable to be dealt with under the provisions of the Bangladesh Legal Practitioners and Bar Council Order, 1972, the Judge or the Bench may initiate a proceeding by issuing a Rule calling upon such Advocate to show cause as to why he should not be so dealt with and, after giving the Advocate an opportunity of being heard, the Judge or the Bench may refer the matter to the Bar Council.

(2) Where the matter is referred to the Bar Council under sub-rule (1), copy of the order may be sent to the Office of the Registrar and the Registrar shall depute an Officer to conduct the prosecution.]

¹ The word "Bench" was substituted for the word "Court" by Notification No. 181-G dt. 22-10-2012.

² Rule 9 was substituted for the original rule 9 by Notification *ibid*.

10. [Omitted by Notification No. 181-G dt. 22-10-2012.]

11. Constitution of Full Bench.- A Full Bench appointed for any of the purposes mentioned in Chapter VII. Rules 1 to 5, or for disposing of any application, petition, suit, appeal or reference directed by the Chief Justice to be heard by a Full Bench ¹[***], shall be a Bench of any number not less than three of the Judges for the time being present as Judges of the Court.

12 and 13. [Omitted by Notification No. 181-G dt. 22-10-2012.]

14. Reference under Divorce Act.- ²[(1)] The time within which a decree of a District Court may not, under section 17 of the Divorce Act, ³[1869.] be confirmed shall be six months from the pronouncing thereof.

⁴[(2)] Rules 3, 4 and 5 of Order XLVI, Civil Procedure Code shall apply to references under section 9 of the Divorce Act, ⁵[1869] and the practice and procedure for disposing of such References for hearing shall be the same as prescribed in the case of References made under section 113 and ⁶[Order XLVI] of the said Code, provided always that every such Reference shall be laid before the Chief Justice for his direction as to the Bench by ⁷[which] it shall be heard.

¹ The expression "or any matter or application coming before the Court on a certificate given by the Advocate-General under clause 26 of the Letters Patent" was omitted by Notification No. 181-G dt. 22-10-2012.

² Sub-rule "(1)" was re-numbered for the sub-rule "(a)" by Notification *ibid*.

³ The expression "1869." was inserted by Notification *ibid*.

⁴ Sub-rule "(2)" was re-numbered for the sub-rule "(b)" by Notification *ibid*.

⁵ The figure "1869" was inserted by Notification *ibid*.

⁶ The expression "Order XLVI" was substituted for the expression "Orders 46" by Notification *ibid*.

⁷ The word "which" was substituted for the word "whom" by Notification *ibid*.

1[15. Bench(es) for civil business.- The civil business of the Court shall be laid before the Bench or Benches constituted by the Chief Justice to deal with such business:

Provided that when an order under Order XLI, rule 25 or 28, Civil Procedure Code has been passed by a Division Bench, and at the time of the receipt of the return of such order, the Judge(s) of that Bench are not taking such appeal, the matter shall be laid before the Chief Justice for constitution of a Bench to hear such appeal.]

16 and 17. [Omitted by Notification No. 181-G dt. 22-10-2012.]

18. Notice to Attorney-General about Court-fee matter.- The Court may direct notice to be given to the ²[Attorney-General] in all matters of Court-fees before it and the ³[Attorney-General or any law officer assigned by him] may appear and take part in the proceedings.

19. Notice to Attorney-General about constitutional matter.- ⁴[(1)] The Court may direct notice to be given to the ⁵[Attorney-General] in all matters of a constitutional nature coming before it and the ⁶[Attorney-General] may appear and take part in it.

⁷[(2)] The ⁸[Attorney-General] may apply to be heard in any such proceedings before the Court, and the Court may, if in its opinion, the justice of the case so requires, permit him to appear and be heard, subject to such terms as to costs or otherwise as the Court may think fit.

¹ Rule 15 was substituted for the original rule 15 by Notification No. 181-G dt. 22-10-2012.

² The words "Attorney-General" were substituted for the words "Government Pleader" by Notification *ibid*.

³ The words "Attorney-General or any law officer assigned by him" were substituted for the words "Government Pleader" by Notification *ibid*.

⁴ The expression "(1)" was substituted for the expression "(i)" by Notification *ibid*.

⁵ The words "Attorney-General" were substituted for the words "Advocate-General" by Notification *ibid*.

⁶ The words "Attorney-General" were substituted for the words "Advocate-General" by Notification *ibid*.

⁷ The expression "(2)" was substituted for the expression "(ii)" by Notification *ibid*.

⁸ The words "Attorney-General" were substituted for the words "Advocate-General" by Notification *ibid*.