

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

Writ Petition No.14017 of 2018

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Sadat Anwar Sadi and another
.....Petitioners

-Versus-

Bangladesh Bank and others
.....Respondents

None appears.
...for the petitioners

Mr. Ruhul Amin, Advocate
...for the respondent Nos.6 and 7

Heard on: 25.01.2023

Judgment on: 27.08.2023

Present

Mr. Justice Abu Taher Md. Saifur Rahman
And
Mr. Justice A.K.M. Rabiul Hassan

A.K.M. Rabiul Hassan, J:

At the instance of the petitioner, the *Rule Nisi* was issued calling upon the respondent Nos. 1-7 to show cause as to why the inclusion, circulation, and publication of the CIB report of Bangladesh Bank showing the name of the petitioners as a Bank Loan Defaulter should not be declared to have been passed without lawful authority

and is of no legal effect and as to why the respondent Nos. 1-3 should not be directed to delete/withdraw the particulars of the name of the petitioner No. 2 from the list of Credit Information Bureau (CIB) reports and/or pass such other or further order or orders as to this court may seem fit and proper.

At the time of issuance of the Rule, this Court was pleased to stay the operation of circulation and supplying of CIB report showing the petitioner No. 2 as a bank loan defaulter for a period of 3(three) months from the date, which was time to time extended by this court and lastly, it was extended on 27.02.2022 for a further period of 3(three) months from date.

Facts leading to the issuance of the Rule are, in brief, as follows:

That the Petitioner No.2 Lark Petroleum Company Limited has obtained the various loan facilities from respondent Nos. 4, 5, and 6 (Fast Finance Limited and Industrial and Infrastructure Development Finance Company Limited). Subsequently, due to financial difficulties, petitioner No.2 could not adjust the aforesaid loan in time as per the terms and conditions of the sanctioned letters. Thereafter, as per the provision of law the respondent No. 4, 5, and 6 sent the name of the petitioner No.2 and its directors to the Bangladesh Bank for reporting their names in the CIB report. Accordingly, the petitioners name have been listed in the CIB Report of Bangladesh Bank. Being

aggrieved, the petitioners have preferred this application before this court and obtained the instant Rule and stay.

None appears on behalf of the petitioners to press the Rule.

Respondent No.1, Bangladesh neither appeared nor filed any affidavit-in-opposition.

Mr. Ruhul Amin, the learned Advocate appearing for the respondent Nos. 6 and 7 submits that respondent No.6 as a plaintiff filed an Artha Rin Suit No. 448 of 2017 against the petitioner No.2 and others for the realization of its outstanding loan liabilities amounting to Tk.19,30,53,852.00 (Taka Nineteen Crore Thirty Lac Fifty Three Thousand Eight Hundred Fifty-Two) before the Artha Rin Adalat, Chattogram wherein the petitioners duly appeared and submitted their written statements, which is still pending for disposal before the said court. He further states that as per provision of section 27 Ka Ka of the Bank Companies Act, 1991, the respondent Nos.6 and 7 referred the name of the petitioners to the Bangladesh Bank as loan defaulters. Accordingly, the petitioners' names have been rightly included in the CIB Report.

Heard the submissions of the learned Advocate for respondent Nos. 6 and 7 and perused the instant writ petition and other materials on record thoroughly.

On perusal of the petitioners' application, it transpires that admittedly the petitioner No.2 obtained the various loan facilities from

respondent No.4, 5, and 6. It is also admitted fact that the petitioners subsequently failed to adjust the loan in question in favour of the respondent No.4, 5, and 6.

In order to appreciate the contention of the learned Advocate for the respondent No.6 it is necessary to examine the relevant provision of section 27 Ka ka of the Banking Companies Act, 1991, which reads as follows:

“Section 27 ka ka. List of defaulter borrowers,

etc.- (1) Every banking company or financial institution shall, from time to time, send a list of its defaulter borrower to the Bangladesh Bank.

(2) The Bangladesh Bank shall send the list received under sub-section (1) to banking companies and financial institutions of the country.

(3) No banking company or financial institution shall grant any kind of loan facility in favour of any defaulter borrower.

(4) Notwithstanding anything contained in any other law for the time being in force, the loan granting banking company or financial institution,

as the case may be, shall file a suit against the defaulter borrower in accordance with the prevailing laws.”

On perusal of the aforesaid provision, it transpires that Bangladesh Bank does not decide who is a loan defaulter and it is the concerned bank, who gave a loan to the borrower, decides who is a loan defaulter and sends a list of such loan defaulter to the Bangladesh Bank and Bangladesh Bank simply circulates the said defaulter's name to all Banks and Financial Institutions accordingly.

In the instant case, since the petitioners have failed to repay the loan, respondent No.4 and 6 (Fast Finance Limited and Industrial and Infrastructure Development Finance Company Limited)) rightly sent the name of the petitioners to the Bangladesh Bank as loan defaulters.

We have further noticed that in the meanwhile respondent No.6 as a plaintiff filed an Artha Rin Suit No. 448 of 2017 against the petitioners and others for the realization of its outstanding loan liabilities amounting to Tk.19,30,53,852.00 (Taka Nineteen Crore Thirty Lac Fifty Three Thousand Eight Hundred Fifty-Two) before the Artha Rin Adalat, Chattogram, which is still pending, as evident

from the Annexure – 4 to the affidavit-in-opposition filed by the respondent No.6.

Under the given facts and circumstances of the case, we do not find any substance of this Rule.

As a result, the Rule is discharged.

The order of stay granted earlier by this Court so far as it relates to publishing the name of the petitioners in the CIB Report of Bangladesh Bank is hereby recalled and vacated.

Let a copy of this judgment and order be communicated to the respondents at once.

Abu Taher Md. Saifur Rahman, J:

I agree.