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

***Present:***
Mr. Justice Sikder Mahmudur Razi

***IN THE MATTER OF:***
***Company Matter No. 341 of 2026***

Sharif Uddin Md. Hassan and others.
...Petitioners.
-Versus-
The Registrar of Joint Stock Companies and Firms and others.
…Respondents.
Mr. Khairul Alam Choudhury, Sr. Adv. with
Mr. Syed Mehedi Hasan, Adv. with
Mr. Nur-E-Alam Chowdhury, Adv. with
Ms. Shaila Sharmin, Adv.
Mr. Md. Jubair, Adv.
....For the Petitioners.

***Heard on: 17.08.2026***
***And***
***Judgment on: The 19th August, 2026***

Let all four supplementary affidavits be made part of the main application.

**1.** This application under sections 81(2), 85(3) and other enabling provisions of the Companies Act, 1994 has been filed by the petitioner Nos. 1 and 2 praying, firstly, for condonation of the delay in holding the Annual General Meetings of respondent No. 2 Company i.e. Market Express Limited (having Certificate of Incorporation No. C-82441) for the calendar years 2023, 2024 and 2025 together with all consequential reliefs and, secondly, for a direction upon the respondent No.1, the Registrar of Joint Stock Companies and Firms (RJSC), to reverse Submission No.2023837492 relating to the purported transfer of 3400 ordinary shares from petitioner No. 2 to respondent No. 3.

**2.** At the very outset, it deserves to mention that after filing of the present application, this Court directed publication of notices in two widely circulated daily newspapers inviting objections from shareholders, creditors and all other interested persons. Affidavit-in-compliance has thereafter been filed demonstrating due publication of the notices. Despite such publication, no shareholder, creditor, financial institution or any other person has appeared before this Court to oppose the present application or to dispute the facts stated by the petitioners. The Court has also considered the supplementary affidavits subsequently filed by the petitioners explaining the circumstances relating to the impugned share transfer and the subsequent request made to RJSC for reversal thereof.

**3.** In the midst of hearing, the respondent No. 3 as applicant filed an application for transposing himself as petitioner No. 3. The petitioner Nos. 1 and 2 did not oppose the application for transposition. Transposition of party in a proceeding is made under Order 1 Rule 10 of the Code of Civil Procedure, 1908, even though the word 'transposition' is not referred to therein, where the interest of the party seeking transposition is common with the petitioners and such transposition is conducive to complete adjudication upon the questions involved in the proceeding and to avoid multiplicity of proceedings. Reliance may be made on the cases of *Mrs. Ruksana Huq and others vs. A.K. Fayazul Huq (Raju) and others* reported in 6 SCOB [2016] AD Page 61 (Order dated 25.02.2014 in Civil Petition for Leave to Appeal No. 1827 of 2009); *Irapawwa alias Irawwa and others vs. Channabasawwa and others* reported in AIR 2005 (Kant) 84. Rule 8 of the Companies Rules, 2009 empowers this Court to follow any procedure including the provisions of the Code of Civil Procedure, 1908. This Court was satisfied that the interest of the respondent No. 3 is fully aligned with interest of the petitioner Nos. 1 and 2 as well as the respondent No. 3 in his application for transposition upon swearing affidavits adopted whole contentions of petitioner Nos. 1 and 2 submitted by way of affidavits; and therefore, this Court vide order dated 27.07.2026 allowed the transposition of respondent No. 3 as petitioner No. 3 in the instant Company Matter; and henceforth the respondent No. 3 is referred to as petitioner No.3.

**3.** Mr. Khairul Alam Choudhury, learned senior Advocate appearing along with Mr. Syed Mehedi Hasan on behalf of the petitioners, taking this court through the petition and supplementary affidavits submits that respondent No.2 Company was incorporated under the Companies Act, 1994 and had been carrying on its business in accordance with law. He submits that owing to unprecedented commercial disruption arising out of the COVID-19 pandemic and subsequent managerial complications, the Company failed to convene its Annual General Meetings for the years commencing from 2023. According to the learned Advocate, the delay was neither deliberate nor motivated but occurred due to circumstances beyond the control of the Company. He submits that the Company has now completed preparation of its financial statements together with the audit reports and is fully prepared to regularize all statutory compliances if appropriate directions are issued by this Court.

**3.1** The learned Advocate next submits that during the aforesaid period petitioner No.2 intended to transfer 3400 shares in favour of petitioner No.3 and, accordingly, Submission No.2023837492 was uploaded before the office of the Registrar of Joint Stock Companies and Firms. However, according to him, the said transfer was never completed nor was it ever approved or registered by the Registrar. Instead, the Registrar kept the submission pending requiring, amongst others, production of No Objection Certificates from the lending financial institutions. Before those requirements could be complied with, both the transferor and the transferee mutually decided not to proceed with the proposed transfer and vide letter dated 28.12.2025 jointly requested the Registrar to reverse the pending submission as well as uploaded the same in the online portal of respondent No. 1 under submission No. 2026305038 dated 05.01.2026. He submits that since no consideration had passed, no third-party rights had accrued and the transfer never attained finality as per law, the Registrar ought to restore the parties to their original position by reversing the pending submission.

**3.2** The learned senior Advocate further submits that respondent No.2 Company was enjoying credit facilities from AB Bank PLC and IPDC Finance PLC at the relevant point of time. Therefore, by reason of section 27Ka of the Bank Companies Act, 1991, no transfer of shares by a director of the borrower company could lawfully be completed without obtaining prior approval of the concerned lending institutions. Since admittedly no such approval or No Objection Certificate was ever obtained, the proposed transfer could never acquire legal efficacy. He further submits that section 27Ka begins with a non-obstante clause and, therefore, overrides any inconsistent provision contained in any other law including the Companies Act, 1994.

**3.3** The learned senior Advocate finally submits that unless the uncertainty surrounding the pending submission is removed, the Company would not be able to convene Annual General Meetings upon the correct shareholding structure and the very purpose of the present application would be frustrated. He therefore prays for allowing the application in its entirety.

**4.** Having heard the learned Advocate for the petitioners and having examined the petition, supplementary affidavits and the documents brought on record, the following issues arise for determination:

> **Firstly**, whether sufficient grounds have been made out for condoning the delay in holding the Annual General Meetings under sections 81(2) and 85(3) of the Companies Act, 1994.
>
> **Secondly**, whether this Court, in exercise of its jurisdiction under the Companies Act, may direct the Registrar of Joint Stock Companies and Firms to reverse Submission No.2023837492 relating to the proposed transfer of shares.

**Issue No.1 : Whether sufficient grounds have been made out for condoning the delay**

**5.** The materials on record disclose that the Company failed to hold its Annual General Meetings after the year 2022. The explanation furnished by the petitioners show that the delay occurred due to the prolonged disruption caused by the COVID-19 pandemic together with the managerial complications arising from the unresolved issue relating to the proposed transfer of shares. The petitioners have further produced audited financial statements and have expressed their readiness to hold all outstanding Annual General Meetings immediately upon obtaining leave of this Court.

The object behind sections 81 and 85 of the Companies Act is not to punish companies for technical defaults but to facilitate restoration of statutory compliance wherever the default is satisfactorily explained and no prejudice is caused to shareholders, creditors or the public interest.

In the present case, notices were duly published pursuant to the direction of this Court. Despite such publication no shareholder, creditor, financial institution or any interested person has opposed the prayer for condonation. There is likewise nothing on record to suggest that any prejudice would be occasioned if the Company is permitted to regularize its statutory affairs.

This Court is, therefore, satisfied that sufficient cause has been shown for condoning the delay in holding the Annual General Meetings for the years in question.

**Issue No. 2: Whether this Court may direct reversal of Submission No. 2023837492.**

**6.** The second and more substantial question requiring determination is whether this Court, while exercising jurisdiction under the Companies Act, 1994, can direct the respondent No.1, namely, the Registrar of Joint Stock Companies and Firms, to reverse Submission No. 2023837492 relating to the purported transfer of 3400 ordinary shares from petitioner No.2 to petitioner No.3.

**6.1** Before entering into the legal issues and to discover the answer to this issue, it would be advantageous to notice certain admitted facts emerging from the materials on record.

Firstly, it is undisputed that although the prescribed forms together with the relevant documents were uploaded before the office of the Registrar seeking registration of the proposed transfer, the Registrar never approved or registered the said transfer. On the contrary, the submission remained pending awaiting compliance of certain statutory requirements including production of the No Objection Certificates from the lending financial institutions. Thus, the proposed transfer never matured into a completed transfer recognized by law.

Secondly, the materials on record further reveal that before completion of the registration process both the transferor and the transferee unequivocally abandoned the proposed transaction and jointly vide letter dated 28.12.2025 requested the Registrar to reverse the pending submission. The supplementary affidavits filed before this Court further disclose that no consideration whatsoever passed between the parties pursuant to the proposed transfer and that neither party now desires to proceed with the same.

Thirdly, it further appears that no third-party rights have intervened during the pendency of the submission. No person claims to have altered his position relying upon the proposed transfer. Consequently, restoration of the parties to their original position would not prejudice any shareholder, creditor or any other person whatsoever.

The above facts being substantially undisputed, the legal consequences thereof now fall for consideration are as follows:

**6.2 Effect of Section 27Ka of the Bank Companies Act, 1991**

The petitioners have heavily relied upon section 27Ka of the Bank Companies Act, 1991. Since the said provision constitutes one of the principal foundations of the present application, it is appropriate to examine its scope and effect.

Section 27Ka was incorporated into the Bank Companies Act, 1991 with a definite legislative object. Directors of borrower companies, after availing substantial credit facilities from banks and financial institutions, frequently transferred their shareholdings or divested control of the borrowing company without the knowledge or approval of the lenders, thereby frustrating recovery proceedings and jeopardizing the security of public money. It was precisely to prevent such mischief that the Legislature introduced section 27Ka of Bank Companies Act, 1991 by employing an overriding non-obstante clause.

The provision expressly declares that notwithstanding anything contained in any other law, no director of a borrower company shall transfer or sell his shares without obtaining prior approval from the Board of Directors or the competent authority of the concerned bank or financial institution.

The significance of the opening non-obstante clause cannot be overlooked. It unmistakably manifests the legislative intention that the embargo imposed by section 27Ka of Bank Companies Act, 1991 shall prevail over every inconsistent provision contained in any other law. Again, section 2 of the Bank Companies Act, 1991 provides that the provisions of the Bank Companies Act, 1991 is additional to the Companies Act, 1994 unless anything otherwise is provided in the Bank Companies Act, 1991. Therefore, section 27Ka of the Bank Companies Act, 1991 has overriding effect upon any provision of the Companies Act, 1994. Consequently, even though the Companies Act, 1994 generally permits transfer of shares subject to its own requirements, such liberty stands curtailed where the company has obtained financial accommodation from a bank or financial institution attracting section 27Ka of Bank Companies Act, 1991.

The records before this Court show that respondent No.2 Company had been enjoying credit facilities from AB Bank PLC and IPDC Finance PLC during the relevant period. It further appears that no “No Objection Certificate” or approval contemplated under section 27Ka of Bank Companies Act, 1991 was ever obtained from either of those lending institutions. Rather, the communication issued from the office of the Registrar itself required submission of such approvals before the proposed transfer could proceed. Therefore, the statutory precondition imposed by section 27Ka of Bank Companies Act, 1991 admittedly remained unfulfilled.

In the absence of compliance with the mandatory requirement prescribed by law, this Court is unable to hold that the proposed transfer ever attained validity, legal efficacy and finality.

**6.3 Interplay between Sections 27Ka of Bank Companies Act, 1991 and 86 of the Companies Act, 1994**

The learned Advocate has also rightly invited the attention of this Court to section 86 of the Companies Act, 1994.

Section 86 of Companies Act, 1994 recognizes that where a body corporate is a member of another company, it may authorize an individual to represent it in meetings, and such representative exercises all rights which the corporate shareholder itself could have exercised.

In the instant case petitioner No.2, being itself a corporate entity, held shares in respondent No.2 Company and participated in its affairs through its nominated representative. The prohibition contained in section 27Ka of Bank Companies Act, 1991 cannot be permitted to be circumvented merely because the registered shareholder happens to be a corporate body acting through its nominee. Any contrary interpretation would defeat the very object of the legislation and would permit directors of borrower companies to avoid the statutory embargo simply by routing their shareholdings through corporate entities. The Court must always adopt an interpretation that advances the object of the statute rather than one which frustrates it or enables its circumvention.

Accordingly, this Court holds that section 27Ka of Bank Companies Act, 1991 applies with equal force to the proposed transfer involved in the present proceeding.

**6.4 Transfer Never Became Complete**

Under the Companies Act, 1994 a mere execution of transfer forms or uploading of documents before the Registrar does not by itself alter the legal ownership of shares. Until the statutory process reaches its culmination in accordance with law, the proposed transfer remains incomplete.

The materials before this Court clearly establish that the Registrar never approved the submission in question. The submission still remains pending. Consequently, the records of RJSC never stood altered pursuant to Submission No.2023837492.

Therefore, directing reversal of such incomplete submission does not amount to cancelling a completed transfer. Rather, it merely acknowledges that the statutory process itself never reached its finality.

**6.5 Mutual Rescission of the Proposed Transfer**

There is yet another important aspect of the matter which, in the opinion of this Court, independently supports the relief sought by the petitioners.

The materials on record demonstrate that before the proposed transfer could attain finality, both the transferor and the transferee mutually decided not to proceed with the transaction. Pursuant thereto, they jointly addressed the respondent No.1 requesting reversal of Submission No.2023837492 (Annexure-E1 to the main petition). The supplementary affidavits subsequently filed before this Court reaffirm the said position and unequivocally state that both parties have abandoned the proposed transfer and desire restoration of the original shareholding structure.

It is a well-settled principle of law, which also finds statutory recognition in section 62 of the Contract Act, 1872, that where the parties to an executory transaction, by mutual consent, rescind the transaction before its completion and before any right or interest of a third party has intervened, the parties are ordinarily entitled to be restored, as nearly as possible, to the position they occupied prior to the transaction. Such restoration neither creates any new rights nor extinguishes vested rights; rather, it merely recognizes the legal consequence of the parties' mutual abandonment of an incomplete transaction.

The present case squarely falls within the aforesaid principle. The transfer remained incomplete. Both parties have unequivocally withdrawn from the transaction. Consequently, there remains no legal justification for compelling continuation of a transaction which neither party wishes to pursue.

**6.6 No Third-Party Rights Have Intervened**

It is equally significant to note that as per assertions made by the petitioners no third-party rights have accrued on the basis of the pending submission. There is no allegation that dividends have been declared upon the altered shareholding. There is no allegation that voting rights have been exercised on the strength of the proposed transfer. There is no allegation that any creditor, shareholder, investor or regulatory authority altered its position relying upon the impugned submission. Likewise, the register of members never stood amended.

Thus, no vested rights have arisen in favour of any person which would be disturbed by restoration of the parties to their original position.

Therefore, reversal of the pending submission would merely restore the existing legal position without prejudicing any person whatsoever.

**6.7 Ancillary and Consequential Jurisdiction of the Company Court**

The next question is whether this Court possesses jurisdiction to direct the Registrar of Joint Stock Companies and Firms to reverse the pending submission.

In the opinion of this Court, the answer must again be in the affirmative.

The jurisdiction exercised by this Court under sections 81 and 85 of the Companies Act, 1994 is not confined to granting or refusing the specific prayers expressly mentioned in those provisions. Once jurisdiction under any provision of the Companies Act, 1994 is validly invoked for restoration of corporate compliance, the Court necessarily possesses all incidental, ancillary and consequential powers required to render its principal order effective.

It is a well-established principle that where a statute confers jurisdiction upon a superior court to grant substantive relief, it impliedly confers all ancillary powers reasonably necessary for effective exercise of that jurisdiction. In other words, if any factual issue saddles upon the way of a superior Court to grant substantive relief, the Court has ample jurisdiction to dispose of the said factual issue in the manner dispensation of justice so requires. This aspect of this Court's inherent authority is further bolstered under Rule 8 of the Companies Rules, 2009. A statutory power would often become illusory if the Court were deprived of authority to remove obstacles standing in the way of its implementation.

Applying the above principle to the present case, this Court finds that the unresolved status of Submission No.2023837492 constitutes a substantial impediment to restoration of the Company's statutory affairs. Unless the uncertainty regarding the shareholding is removed, convening Board Meetings, preparing an accurate register of members, issuing notices of Annual General Meetings and regularizing subsequent corporate filings may unnecessarily give rise to avoidable disputes.

The relief sought regarding reversal of the pending submission is, therefore, not an independent or isolated claim. Rather, it is integrally connected with the principal relief relating to restoration of the Company's statutory compliance.

Accordingly, directing the Registrar to reverse the incomplete and abandoned submission is a proper exercise of the ancillary jurisdiction of this Court and is necessary for giving complete and effective relief to the parties.

**7.** For all the foregoing reasons, this Court has no hesitation in holding that Submission No.2023837492 deserves to be reversed and the parties be restored to the position immediately prior to the filing of the said submission.

**8. Order**

In view of the discussions and findings made hereinbefore, this Court is satisfied that the petitioners have successfully established sufficient grounds for grant of the reliefs prayed for.

The delay in holding the Annual General Meetings has been satisfactorily explained. The materials on record further establish that the impugned share transfer never attained legal finality, remained pending before the respondent No.1, was subsequently abandoned by both the transferor and the transferee, no consideration passed thereunder, no third-party rights intervened and, above all, the statutory embargo created by section 27Ka of the Bank Companies Act, 1991 stood in the way of completion of the proposed transfer in the admitted absence of approval from the concerned lending financial institutions.

This Court is, therefore, of the view that the ends of justice would be best served by allowing the present Company Matter with appropriate consequential directions so that the respondent No.2 Company may resume its statutory compliances in accordance with law.

Accordingly, the instant company matter is allowed in the following terms:

I. The delay in holding the Annual General Meetings of respondent No.2 Company for the calendar years 2023, 2024 and 2025, together with any consequential statutory default arising therefrom, is hereby condoned under sections 81(2) and 85(3) of the Companies Act, 1994. The respondent No. 2 company shall hold its pending AGMs within 30th December, 2026 without fail.

II. The respondent No.2 Company is permitted to regularize all its statutory compliances by holding the outstanding Annual General Meetings in accordance with the provisions of the Companies Act, 1994 and the Articles of Association of the Company.

III. The Directors of the Company shall ensure that all statutory returns, annual returns, audited financial statements and other documents required under the Companies Act, 1994 are filed with the respondent No.1 immediately after completion of the aforesaid Annual General Meetings within the time prescribed by law.

IV. The respondent No.1, namely, the Registrar of Joint Stock Companies and Firms, is hereby directed to reverse Submission No.2023837492 relating to the proposed transfer of 3400 ordinary shares from petitioner No.2 to petitioner No.3 and to restore the records of the Company to the position existing immediately prior to the submission of the said submission within 60 (sixty) days from the date of receipt of this judgment.

V. The petitioners and all other directors and officers of the respondent No. 2 company shall stand exonerated from liability for such defaults in terms of section 396 of the Companies Act, 1994.

**9.** The petitioners are directed to take all steps as per provision of the Companies Act, 1994. The petitioners intend to donate Taka 50,000/-which is to be given in the form of pay order in the name of "Gabkhan Central Jame Masjid" A/C No.0531120039567, Al-Arafah Islami Bank PLC, Jhalakathi and on furnishing receipt of the payment, the order may be drawn up if so prayed for.

Send down the records with a copy of this judgment forthwith to the Registrar of Joint Stock Companies and Firms for information and necessary action.

There shall be no order as to costs.

(Sikder Mahmudur Razi, J:)