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

Present:
Mr. Justice Md. Toufiq Inam.

COMPANY MATTER NO. 274 OF 2021.

IN THE MATTER OF:

An application under section 43 of the Companies Act, 1994.

AND

IN THE MATTER OF:

Md. Abdul Malek being dead his legal heirs Md. Monjur Morshed and others.
------ Petitioners.
-Versus-
Jessore Plastic Industries Limited and others.
----- Respondents.

Mr. Md. Earul Islam, Advocate
----- For the Petitioners.

Mr. Arif Billah, Advocate
----- For the Respondent Nos. 4 and 5.

Judgment Delivered On 26.07.2026.

Md. Toufiq Inam, J.

This is an application under section 43 of the Companies Act, 1994, seeking rectification of the Register of Members of the respondent No.1-Company-*Jessore Plastic Industries Ltd*. by recording the names of the petitioners as members through transmission of the shares standing in the names of their respective predecessors-in-interest.

The respondent No.1, Jessore Plastic Industries Limited, is a private limited company incorporated on 09.08.1986under the Companies Act 1913and registered with the Registrar of Joint Stock Companies and Firms (RJSC) being registration No. C-15796. The respondent No.2 is the Managing Director of the respondent No.1-company and is admittedly in control of its affairs.

At the time of incorporation, the authorised share capital of the company was Tk. 2,50,00,000/-, divided into 2,50,000 ordinary shares of Tk.100/- each. The initial subscribed capital consisted of 6,000 shares, of which: i) late Md. Abdul Malek held 700 shares; ii) late Khalilur Rahman Mridha held 275 shares; iii) late Md. Abdul Latif Mondol held 275 shares; iv) late Habibur Rahman Mridha held 150 shares; and v) late Mahmuda Ahmed held 100 shares.

The petitioners claim to be the lawful heirs and successors of the aforesaid deceased shareholders. Their case is that, upon the death of the respective shareholders, all rights and interests in the shares devolved upon them by operation of law. They accordingly requested the respondent company to transmit the shares in their favour and to enter their names in the Register of Members. It is their further case that repeated requests and legal notices were served upon the company and the Managing Director, but no steps were taken to recognise their rights or to effect the transmission.

The records produced from the RJSC assume considerable significance. They reveal that the last statutory return filed by the company was Schedule X dated 30.11.1996. That return records that the issued share capital had increased to 37,500 shares, whereupon the holdings of the aforesaid deceased shareholders stood as follows:

1) Late Md. Abdul Malek – 2,500 shares;
2) Late Khalilur Rahman Mridha – 1,500 shares;
3) Late Md. Abdul Latif Mondol – 1,500 shares;
4) Late Habibur Rahman – 1,250 shares; and
5) Late Mahmuda Ahmed – 500 shares.

The RJSC record further discloses that no annual return, Schedule X, or any other statutory return has been filed by the company after 30.11.1996. Consequently, there is no official record of any subsequent allotment, transfer, transmission, alteration in the shareholding pattern, or change in the composition of the company's membership for nearly three decades.

Despite service of notice, the respondent No.2, on behalf of the company, neither recognised the petitioners as the successors of the deceased shareholders nor took any steps to transmit the shares in their favour.

The respondent No.2 has contested the application by filing an affidavit-in-opposition. Significantly, however, the affidavit does not specifically deny that the petitioners are the legal heirs and successors of the deceased shareholders. Nor does it dispute that the deceased persons were shareholders of the company in the number of shares reflected in the RJSC records. No rival heirs have been identified, nor has any material been produced to show that the shares were lawfully transferred, forfeited, redeemed or otherwise ceased to belong to the estates of the deceased shareholders. The respondents have also failed to explain why the company has not filed any statutory return with the RJSC since 1996.

Mr. Md. Earul Islam, learned Advocate appearing for the petitioners submits that the refusal of the company to register the transmission of shares is wholly arbitrary and contrary to law. He contends that transmission of shares occurs by operation of law upon the death of a shareholder and that the company has no discretion to refuse registration once the legal entitlement of the heirs is established. It is further submitted that the prolonged failure of the company to maintain its statutory records or file annual returns cannot prejudice the rights of the petitioners.

On the other hand, Mr. Arif Billah, learned Advocate appearing for the respondent Nos. 4 and 5 did not raise any objection as to transmissions of shares.

I have considered the submissions of the learned Advocates and examined the materials on record.

Section 43 of the Companies Act confers jurisdiction upon this Court to direct rectification of the Register of Members where the name of any person is, without sufficient cause, omitted from the register or where default is made in entering the name of a person who is entitled to be registered as a member. The jurisdiction is equitable in nature and is intended to ensure that the register truly reflects the legal ownership of the company's shares.

The distinction between transfer and transmission of shares is well settled. A transfer is a voluntary act of a shareholder effected by an instrument of transfer. Transmission, however, is not founded upon contract but upon operation of law. Upon the death of a shareholder, the beneficial interest in the shares devolves upon his legal representatives or heirs, and the company is under a corresponding obligation to recognise such devolution upon proof of entitlement.

In the present case, the status of the deceased shareholders is not in dispute. The RJSC records conclusively establish that as on 30.11.1996 they were registered holders of the shares mentioned above. Equally significant is the fact that the company has not filed a single statutory return thereafter. The inevitable consequence is that the official record maintained by the statutory regulator continues to reflect the deceased persons as members of the company.

The respondent No.2 has not specifically denied the petitioners' status as the lawful heirs of the deceased shareholders. A vague or evasive denial cannot displace a positive assertion supported by documentary materials. It is a settled principle of pleadings that material facts not specifically traversed are deemed to have been admitted. The respondents have produced no documentary evidence to contradict the petitioners' claim or to show that any other person has acquired title to the shares.

The conduct of the respondent company also deserves serious comment. The company has admittedly failed to comply with its statutory obligation to file annual returns and other statutory documents with the RJSC for almost thirty years. Such persistent non-compliance cannot be permitted to become a means of defeating the lawful rights of shareholders or their successors. A company that neglects its statutory obligations cannot subsequently rely upon the absence of updated records created by its own default.

The prolonged refusal to recognise the petitioners despite repeated requests and legal notices is unsupported by any lawful justification. The omission to register the transmission of the shares is, therefore, an omission "without sufficient cause" within the meaning of section 43 of the Companies Act, warranting intervention by this Court.

Having regard to the undisputed status of the deceased shareholders, the absence of any challenge to the petitioners' succession, the official records maintained by the RJSC, and the complete failure of the respondents to produce any contrary evidence, I am satisfied that the petitioners have established their entitlement to transmission of the shares.

Accordingly, the application is allowed.

The respondent No.1, Jessore Plastic Industries Limited and respondent No. 2 are hereby directed to rectify its Register of Members by recording the names of the petitioners as members in place of the respective deceased shareholders, namely:

1) Late Md. Abdul Malek in respect of 2,500 shares;
2) Late Khalilur Rahman Mridha in respect of 1,500 shares;
3) Late Md. Abdul Latif Mondol in respect of 1,500 shares;
4) Late Habibur Rahman in respect of 1,250 shares; and
5) Late Mahmuda Ahmed in respect of 500 shares,

in accordance with the respective lawful shares of the petitioners as heirs and legal representatives of the deceased shareholders.

The respondent company shall complete the transmission, rectify the Register of Members, issue fresh share certificates, if necessary, and make all consequential entries in its statutory records within 30 (thirty) days from the date of receipt of this judgment.

The respondent company shall further file all outstanding statutory returns and other documents required under the Companies Act with the Registrar of Joint Stock Companies and Firms (RJSC), including the updated Register of Members reflecting the aforesaid rectification, within 60 (sixty) days, if not otherwise barred by law or subject to payment of the prescribed fees and penalties.

There shall be no order as to costs.

(Justice Md. Toufiq Inam)

Ashraf/ABO.