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. 512 of 2026

Chittagong Eye Infirmary and Training Complex(CEITC).
...Petitioner.
-Versus-
Imperial Hospital Limited and others.
…Respondents.
Mr. Muminul Islam Chowdhury, Advocate
....For the Petitioner.

Heard on: 07.09.2026
And
Judgment on: The 15th September, 2026

1. This application under section 85(3) of the Companies Act, 1994 read with Rules 8 and 263 of the Companies Rules, 2009 has been filed, inter alia, seeking an order for holding an Extra-Ordinary General Meeting (EGM) of Imperial Hospital Limited (hereinafter referred to as "IHL" or "the Company") under a Court-appointed neutral Chairman, subject to reconstitution of the representatives of Chittagong Eye Infirmary and Training Complex (hereinafter referred to as "CEITC") on the Board of Directors of IHL. The petitioners further seek appointment of petitioner No. 2 as Chairman of the Board and consequential declarations in respect of meetings and resolutions of the existing Board.

2. The case of the petitioners, in substance, is that CEITC is the majority shareholder of IHL. According to the Schedule-X annexed to the petition as Annexure-D, CEITC holds 2,18,99,128 shares representing 77.70% of the paid-up shares of IHL. Articles 57(B) and 58(B) of the Articles of Association provide for

minimum 51% representation of CEITC on the Board and for the Chairman of IHL to be a director designated by CEITC.

It further appears that the controversy has arisen following competing decisions said to have been taken by different groups of trustees of CEITC. The petitioners rely upon a meeting stated to have been held on 26.07.2025 (Annexure-F to the substantive petition) whereby seven persons, including petitioner Nos. 2, 3 and 4, were nominated as representatives of CEITC on the Board of IHL. The petitioners claim that those nominations ought to have been acted upon by IHL.

2.1 The contesting respondent nos. 1-4 and 6, however, seriously dispute the authority and validity of the said meeting and nominations. According to them, another meeting of the Board of Trustees of CEITC held on the same date (Annexure- 2 to the affidavit-in-opposition) nominated Prof. Dr. Iftekhar Uddin Chowdhury, Mr. Zakir Hossain and Mr. Rajib Sinha, thereby constituting a different set of seven representatives of CEITC on the IHL Board.

2.2 It further appears that the controversy regarding the authority of the respective groups of trustees is already the subject matter of civil proceedings. Other Class Suit No. 271 of 2025 has been instituted before the learned Joint District Judge, 2nd Court, Chattogram challenging, amongst others, the decision whereby the representatives of CEITC on the Board of IHL were purportedly reconstituted. The application for temporary injunction in the said suit has been annexed as Annexures-10. Furthermore, after obtaining consent from the Attorney General for Bangladesh under section 92 of the Code of Civil Procedure (Annexure- 21 of the supplementary affidavit to the affidavit-in-opposition), another proceeding being Civil Suit No. 1 of 2026 has been instituted before the District Judge, Chattogram (Annexure- 22 of the supplementary affidavit to the affidavit-in-opposition) concerning removal and appointment of trustees/managing trustee of CEITC.

2.3 Thus, it becomes apparent that the dispute which has ultimately travelled to this Court originates not from any inability of IHL to call, hold or conduct its meetings but from a dispute within CEITC as to which group of trustees is lawfully entitled to act for CEITC and, consequently, nominate its representatives to the Board of IHL.

3. At this stage it is necessary to examine the scope of section 85(3) of the Companies Act, 1994. The provision empowers the Court to intervene where, for any reason, it is impracticable to call a meeting of a company in any manner in which such meeting may be called, or to conduct the meeting in the manner prescribed by the Articles or by the Act. Therefore, the existence of 'impracticability' in relation to the meeting of the company concerned is the foundational condition for exercise of jurisdiction under section 85(3).

3.1 The expression "for any reason" is undoubtedly wide. Nevertheless, it cannot be read independently of the statutory requirement which follows it. The reason, whatever it may be, must produce an 'impracticability' in calling, holding or conducting the meeting of the company. Section 85(3) is therefore a remedial and enabling provision intended to overcome an impediment in the functioning of the corporate meeting. It is not a general jurisdiction for determination of every dispute which may remotely affect the composition or management of a company.

3.2 The Hon'ble Appellate Division in *Mirpur Ceramic Works Limited and another vs. Yousuf Ariff Tabani and others*, 23 BLC (AD) 70: LEX/BDAD/0150/2016 considered the scope of sections 81(2) and 85(3) of the Companies Act, 1994. The principle emerging therefrom is that those provisions are concerned with holding of the relevant company meeting and the situation where such holding becomes impracticable; they are not provisions by which grievances arising out of resolutions or actions taken in the affairs of a company are generally adjudicated.

3.3 The distinction assumes particular importance in the present matter. There are two separate legal relationships involved. The first concerns the internal administration of CEITC and the competing claims of two groups of trustees regarding their authority to act for the Trust. The second concerns the functioning of IHL as an incorporated company. These two controversies cannot be treated as synonymous.

3.4 A dispute amongst the trustees of a shareholder, even though that shareholder may hold a controlling block of shares in the company, does not ipso facto render a meeting of the company impracticable. To attract section 85(3), it must further be demonstrated that the dispute has produced such a consequence within the company that its meeting cannot, as a practical matter, be called, held or conducted in accordance with the Companies Act and the Articles of Association. In other words, there must be a demonstrable nexus between the underlying dispute and the alleged breakdown of the corporate machinery.

4. The materials before this Court establish precisely the contrary. The supplementary affidavit of respondent Nos. 1-4 and 6 shows that, notwithstanding

the dispute within CEITC, notice dated 30.12.2025 was issued for holding the 24th Annual General Meeting of IHL on 25.01.2026 and the said AGM was in fact held with the participation of the existing representatives of CEITC, other directors and shareholders. It has further been stated that the Board of Directors of IHL has continued to convene its meetings regularly in accordance with the Articles of Association. The notice of the AGM, minutes of the 24th AGM and the relevant Board meetings have been annexed as Annexures-23, 24, 25 and 26 to the supplementary affidavit of the affidavit-in-opposition.

5. These documents are of considerable significance. They demonstrate that the corporate machinery of IHL has neither become paralysed nor incapable of functioning. There is no material before this Court showing that meetings cannot be called for want of authority, that quorum cannot be constituted, that notices cannot lawfully be issued, or that the Company's meetings cannot otherwise be conducted in accordance with its Articles. On the contrary, an AGM has actually been held and Board meetings are continuing.

6. Therefore, what presently exists is a dispute regarding representation, not an impracticability regarding meetings.

7. The petitioners have also produced further documents by supplementary affidavit relating to the financial liabilities of IHL and the position of CEITC as an institutional guarantor. These documents may demonstrate the financial interest of CEITC in the affairs of IHL and the importance of proper management of the Company. They do not, however, establish the statutory condition required by section 85(3), namely, impracticability in calling or conducting a meeting of IHL.

8. Similarly, the subsequent supplementary affidavit filed by the petitioners contains documents concerning the internal affairs of CEITC, including earlier proceedings relating to withdrawal of nomination, minutes of various meetings of the CEITC Board of Trustees, the list of current trustees and documents relating to the status of the rival meetings and ongoing litigations. These materials buttress the fact that there exists a serious dispute within CEITC regarding its trustees and their authority. But the seriousness of that dispute cannot substitute the statutory requirement of impracticability in the affairs of IHL.

9. It is also important that the principal relief sought by the petitioners is not merely an order facilitating a meeting which otherwise cannot be held. They seek an EGM subject to prior reconstitution of the CEITC representatives on the Board, appointment of petitioner No. 2 as Chairman, and declarations affecting meetings and resolutions of the existing Board. Granting such relief would necessarily require this Court first to accept the petitioners' version as to which group validly represents CEITC and which nominations ought to prevail.

9.1 That is precisely the controversy presently pending before the competent civil courts. Section 85(3) cannot be employed as an indirect means of determining that antecedent dispute. Otherwise, while ostensibly exercising jurisdiction to facilitate a company meeting, this Court would in substance determine which of the competing groups of trustees is lawfully entitled to control or represent CEITC, thereby prejudging matters directly in issue in the pending civil proceedings.

9.2 This Court is not holding that a dispute within a controlling shareholder can never result in impracticability within the meaning of section 85(3). The words "for any reason" do not permit such an absolute proposition. If, for example, a dispute within a controlling shareholder produces a corresponding deadlock within the company so that no valid notice can be issued, no quorum can be constituted, rival boards prevent the corporate machinery from functioning, or a meeting otherwise becomes incapable of being lawfully called or conducted, the consequence of such dispute may attract section 85(3). But the existence of the underlying dispute and the resulting corporate impracticability are two different things. The latter must be established by evidence. No such consequence has been established in the present case.

9.3 Rather, the documentary materials, particularly Annexures-23 to 26 of the supplementary affidavit to the affidavit-in-opposition, establish that IHL continues to function, its AGM has been held and its Board meetings are being regularly convened. The condition precedent for exercise of jurisdiction under section 85(3) is therefore absent.

10. Accordingly, this Court is of the view that the dispute amongst the members/trustees of Chittagong Eye Infirmary and Training Complex regarding the validity of their respective resolutions, authority and nominations cannot, on the facts of the present case, be treated as an 'impracticability' in calling, holding or conducting a meeting of Imperial Hospital Limited. Those disputes are to be resolved in the proceedings instituted before the competent Courts and cannot be adjudicated indirectly by invoking section 85(3) of the Companies Act, 1994.

11. In view of the discussions made hereinabove, this Court finds no ground for exercising jurisdiction under section 85(3) of the Companies Act, 1994.

11.1 Accordingly, the Company Matter is dismissed.

11.2 It is, however, made clear that the observations made in this judgment regarding the rival groups of trustees, their resolutions or nominations are confined solely to the determination of whether the statutory requirement of impracticability under section 85(3) has been established. Nothing stated herein shall be construed as an adjudication upon the validity of the rival resolutions, nominations, trusteeship or authority of either group of CEITC, and the competent Courts shall determine those questions independently on the materials placed before them.

There will be no order as to costs.

(Sikder Mahmudur Razi, J:)