

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

**WRIT PETITION NO. 13075 OF 2023.**

IN THE MATTER OF:

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

-AND -

IN THE MATTER OF:

Abu Noor Muhammad Bahaul Huq  
... Petitioner

-VS-

Bangladesh Bank and others  
.....Respondents

Mr. A.K.M. Fakhru Islam, with  
Mr. Md. Faruk Hossain, Advocates  
.....For the Petitioner

Mr. A.S.M. Sharif Newaz, Advocate  
... For the respondent No. 6

**Present:**

**Mr. Justice Zafar Ahmed**

**And**

**Mr. Justice Sardar Md. Rashed Jahangir**

Heard on: 09.5.2024 and 16.05.2024.

Judgment on : 30.06.2024.

**Zafar Ahmed, J.**

In the instant writ petition, this Court issued a Rule Nisi  
on 19.10.2023 calling upon the respondents to show cause as to  
why the publication of the name of the petitioner in Credit

Information Bureau Report (CIB Report) of Bangladesh Bank in connection with the credit facilities provided by respondent Nos. 4-5 to the respondent No. 6 Sinha Dyeing and Finishing Ltd. should not be declared to have been done without lawful authority and is of no legal effect and as to why the respondent Nos. 1-3, should not be directed to dispose of application dated 25.01.2023 (Annexure-C) filed by the petitioner for removing his name from the CIB Report.

At the time of issuance of the Rule Nisi, this Court passed an interim order directing the concerned respondents to dispose of the petitioner's representation dated 25.01.2023 (Annexure-C) within 30 days.

Respondent No. 6 Sinha Dyeing and Finishing Ltd. filed an affidavit-in-opposition supporting the case of the petitioner.

The respondent No. 6 company was incorporated under the Companies Act, 1913 and Certificate of incorporation was issued on 14.08.1994. The company issued 4000 shares. One of the shareholders was Jaycee Fashions (Pvt.) Ltd. having 200 shares that is 5% of the total shares. Jaycee Fashions was represented by its managing director A.N.M. Bahaul Huq (petitioner). Thereafter, on 02.09.2009 the petitioner transferred his entire share of Jaycee Fashions and ceased to be a director

and managing director of the same. However, Jaycee Fashions continued to hold its 200 shares in the respondent No. 6 company being represented by one Anisur Rahman Sinha. The lender Bank Shahjalal Islami Bank issued no objection certificate (NOC) on 08.02.2018 regarding the change in nomination of Jaycee Fashions and waiver of providing personal guarantee of the petitioner. Subsequently, the petitioner became one of the directors of Western Agro Products Ltd. The petitioner was informed by the respondent No. 5 Meghna Bank Ltd., vide its memo dated 09.01.2023 (Annexure-B) that the credit facilities of Western Agro Products Ltd. could not be renewed for the reason that the account of respondent No. 6 was shown “BL” (bad and loss) status in the CIB report of Bangladesh Bank. Thereafter, the petitioner made a representation dated 25.01.2023 to Bangladesh Bank. Having received no response, the petitioner filed the instant writ petition and obtained the Rule. It appears from the supplementary affidavit filed by the petitioner that on 20.05.2024 another representation was made to Bangladesh Bank to remove the name of the petitioner from the CIB report. It appears that Bangladesh Bank is sitting silent over the matter.

Section 5(গগ) of the Bank Companies Act, 1991 (as amended) runs as follows:

৫। (গগ) “খেলাপী ঋণ গ্রহীতা” অর্থ কোন দেনাদার ব্যক্তি বা প্রতিষ্ঠান বা কোম্পানী যাহার নিজের বা স্বার্থ সংশ্লিষ্ট প্রতিষ্ঠানের অনুকূলে প্রদত্ত অগ্রীম, ঋণ বা অন্য কোন আর্থিক সুবিধা বা উহার অংশ বা উহার উপর অর্জিত সুদ বা উহার মুনাফা বাংলাদেশ ব্যাংক কর্তৃক জারীকৃত সংজ্ঞা অনুযায়ী মেয়াদোত্তীর্ণ হওয়ার ৬ (ছয়) মাস অতিবাহিত হইয়াছেঃ

ব্যাখ্যা- এই দফার উদ্দেশ্য পূরণকল্পে কোন ব্যক্তি বা, ক্ষেত্রমত, প্রতিষ্ঠান বা কোম্পানী অন্য কোন প্রতিষ্ঠানের পরিচালক না হইলে অথবা উক্ত প্রতিষ্ঠানে তাহার বা উহার শেয়ারের অংশ ২০% এর অধিক না হইলে অথবা উক্ত প্রতিষ্ঠানের ঋণের জামিনদাতা না হইলে, উক্ত প্রতিষ্ঠান তাহার বা উহার স্বার্থ সংশ্লিষ্ট প্রতিষ্ঠান বলিয়া গণ্য হইবে না”। (*emphasis supplied*)

Admittedly, Jaycee Fashions, of which the petitioner was the managing director, held 5% shares of the respondent No. 6 company which is the defaulter borrower. Therefore, as per explanation to Section 5(গগ), Jaycee Fashions cannot be treated as interested establishment (স্বার্থ সংশ্লিষ্ট প্রতিষ্ঠান) within the meaning of Section 5(গগ). Hence, Jaycee Fashions cannot be termed as defaulter borrower as being স্বার্থ সংশ্লিষ্ট প্রতিষ্ঠান as per definition of defaulter borrower given in Section 5(গগ). Moreover, the petitioner had already resigned from the board of directors of Jaycee Fashions which was approved by the

concerned bank as per requirement of Section 27ফ of the Bank Companies Act, 1991.

Subsection (5) of Section 27ফ provides that the aggrieved person or establishment identified as wilful defaulter under subsection (4) may prefer an appeal to Bangladesh Bank and the decision of Bangladesh shall be final. In the case in hand, the petitioner was not treated as wilful defaulter and accordingly, subsection (5) providing an appellate forum does not apply to the case.

In view of the foregoing discussions, both on facts and law, we find merit in the Rule.

In the result the Rule is made absolute. The concerned respondents are directed to strike out the name of the petitioner from the CIB report as defaulter borrower provided the petitioner is not a defaulter borrower or wilful borrower in accordance with law for any other accounts other than that of the respondent No. 6 Sinha Dyeing and Finishing Ltd.

**Sardar Md. Rashed Jahangir, J.**

I agree.