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

Present:

Madam Justice Kazi Zinat Hoque
And
Madam Justice Aynun Nahar Siddiqua

Writ Petition No. 603 of 2025
With
Writ Petition No. 3248 of 2025
With
Writ Petition No.3249 of 2025
With
Writ Petition No.3250 of 2025
With
Writ Petition No.3347 of 2025
With
Writ Petition No.3348 of 2025
With
Writ Petition No.3349 of 2025
With
Writ Petition No.3350 of 2025
With
Writ Petition No.3351 of 2025
With
Writ Petition No.3629 of 2025
With
Writ Petition No.3630 of 2025
With
Writ Petition No.3631 of 2025
With
Writ Petition No.3632 of 2025
With
Writ Petition No.3633 of 2025
With
Writ Petition No.3634 of 2025
With
Writ Petition No. 6321 of 2025
With

Writ Petition No.6322 of 2025
With
Writ Petition No.6323 of 2025
With
Writ Petition No.6324 of 2025
With
Writ Petition No.6325 of 2025
With
Writ Petition No.6326 of 2025

In the matter of :

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

-And-

In the matter of :

Ms. Roksana Amzad and another
..... Petitioners
(In W.P. No.603 of 2025)

Marjana Rahman
..... Petitioner
(In W.P. No.3248 of 2025)

Abdur Rouf
……Petitioner
(In W.P. No.3249 of 2025)

Momtazur Rahman
……..Petitioner
(In W.P. No.3250 of 2025)

Cresent Limited
……..Petitioner
(In W.P. No.3347 of 2025
and W.P. No.3349 of 2025)

Abdur Rab
…….Petitioner
(In W.P. No.3348 of 2025)

Momtazur Rahman
……Petitioner
(In W.P. No.3350 of 2025)

Tradenext International Limited
…….Petitioner
(In W.P. No.3351 of 2025)

Marjana Rahman
…….Petitioner
(In W.P. No.3629 of 2025)
Apollo Trading Limited
……Petitioner
(In W.P. No.3630 of 2025
And W.P.No.3632 of 2025)
Art International Limited
……..Petitioner
(In W.P. No.3631 of 2025)

Jupiter Business Limited
…….Petitioner
(In W.P. No.3633 of 2025
and W.P. No.3634 of 2025)
Anika Farheen and others
…….Petitioners
(In W.P. No.6321 of 2025)
Afra Chowdhury and others
……Petitioners
(In W.P. No.6322 of 2025)
Anowar Galvanizing Limited
…….Petitioner
(In W.P. No.6323 of 2025)
Sameer Sekander and others
……..Petitioners
(In W.P. No.6324 of 2025)
City Insurance PLC
……..Petitioner
(In W.P. No.6325 of 2025)
Meher Sekander and others
……..Petitioners
(In W.P. No.6326 of 2025)

-VERSUS-

Bangladesh Securities and Exchange Commission, represented by the Chairman and others.
..…Respondents

Mr. ASM Abdur Razzaque, and
Mr. Md. Rabiul Islam, Advocates
.....… For the Petitioners
(In W.P. No.603 of 2025)
Mr. A M Masum, Senior Advocate with
Mr. Md. Farhad Bin Hossain, Advocate
…….For the petitioner
(In W.P. Nos. 3248 of 2025 to W.P.3634 of 2025)
Mr. Md. Ekramul Hoque Tutul, with
Mr. Muhammad Ibrahim Khalil, and
Mr. Muhammad Ullah, Advocates
……For the petitioners
(In W.P. No.6321 of 2025 to W.P.6326 of 2025)
Mr. Md. Asaduzzaman, Senior Advocate with
Mr. Abul Kalam Azad, with
Ms. Salma Sultana, Advocate with
Mr. Saleh Uddin, Advocate with
Mrs. Aklima Akter Hira, Advocate and
Mr. Md. Shafiqul Islam, Advocate
.... For respondent No.1
(In all W.Ps.)
Mr. Dr. Shahdeen Malik, Senior Advocate with
Mr. Abul Kalam Azad, Advocate and
Mr. Md. Tayeb-Ul-Islam Showrov, Advocate
.... For respondent No.1
(In Writ Petition Nos. 6321 to Writ Petition No. 6326 of 2025)

Heard on:21.05.2025, 23.06.2025, 26.06.2025, 13.07.2025 and 28.10.2025.

And

Judgment on: 06th November, 2025.

Kazi Zinat Hoque, J :

Since these writ petitions involve common factual and legal aspects, the Rules were heard together and the Rules are being disposed of by a single judgment.

In all the writ petitions the petitioners have challenged imposition of penalty of different amounts imposed by Bangladesh Securities and Exchange Commission and the order passed in review rejecting the Review Petition filed by the respective petitioner and upholding the decision of the Securities and Exchange Commission and directing the respective petitioner to deposit the penalty imposed by BSEC. The Rules were issued almost similar terms. For clarity the Rule nisi in Writ Petition No.603 of 2025 has been quoted below :

> "Let a Rule Nisi be issued calling upon the respondents to show cause as to why order No. BSEC/Enforcement/3409/ 2023/822 dated 22.10.2024 issued by the respondent No.2 imposing penalty of Tk.25,00,000/-(Taka Twenty Five Lacs) in favour of the Bangladesh Securities and Exchange Commission (Annexure-B-1) and order No. BSEC/ Enforcement/3409/2023/01 dated 01.01.2025 issued by respondent No.3 rejecting the Review Petition filed by the petitioners and thereby upholding its earlier decision and directing the petitioners to deposit the imposed penalty Tk.25,00,000/- (Taka Twenty Five Lacs) in favour of Bangladesh Securities and Exchange Commission within 15 (fifteen) days of issuance of this letter (Annexure-C-1) shall not be declared to have been made without lawful authority and is of no legal effect and/or pass such other or

further order or orders as this court may seem fit and proper."

Relevant Facts:

Relevant facts for disposal of the Rules are that respective petitioner is a citizen of Bangladesh and investor in stock market. It was alleged by the Securities and Exchange Commission (hereinafter referred as the Commission) that the respective petitioner has purchased huge number of shares within a very short span of time which resulted in manipulation in stock market and giving an impression to the ordinary buyers that the price of the purchase shared will be increased soon and as such the Commission has issued show cause notice upon respective petitioner. The Commission has also afforded the respective petitioner with personal hearing and after hearing the respective petitioner, the Commission has imposed penalty for violations of Securities and Exchange Commission's Ordinance.

Being aggrieved by and dissatisfied with the order of imposition of penalty, respective petitioner filed respective Review Petition before the Review Committee. After thoroughly examining the impugned order and considering the submissions of the respective petitioner the Review Petition was rejected and

as such the order of penalty was upheld. Being aggrieved by and dissatisfied with the order of penalty as well as the order passed in Review upholding the initial order of imposition of penalty the respective petitioner filed respective Writ Petition whereupon Rule Nisi was issued.

Arguments of Learned Counsels

Mr. ASM Abdur Razzaque appearing with Mr. Md. Rabiul Islam, learned Advocates for the petitioners (in Writ Petition No.603 of 2025), Mr. A M Masum, learned Senior Advocate appearing with Mr. Md. Farhad Bin Hossain, learned Advocate for the petitioner (in W.P. Nos. 3248 of 2025 to W.P.3634 of 2025), Mr. Md. Ekramul Hoque, learned Advocate appearing with Muhammad Ibrahim Khalil, learned Advocate with Mr. Muhammad Ullah, learned Advocates for the petitioners (in W.P. No. 6321 of 2025 to W.P. No. 6326 of 2025).

The learned counsels for the petitioners in all the writ petitions argued more or less in similar terms. It was argued on behalf of the learned counsels for the petitioners that if the petitioners are at all liable for violation of Securities and Exchange Commission laws, the Commission ought to have filed criminal case under section 24 of the Securities and Exchanged

Ordinance, 1969. They also argued that there is no bar either in this Ordinance or any other securities related laws or regulations regarding the amount of shares to be purchased or sold by any particular person. Therefore, there was no violation of law on behalf of the petitioners rather, the Commission most illegally and arbitrarily imposed penalty upon them. It was also argument of the learned counsels for the petitioners that the Review Petition was echo of the initial order of imposition of penalty and therefore; the Commission has not exercised its independent mind in Review Petition.

The Rules have been opposed by the Securities and Exchange Commission by filing Affidavit-in-opposition. Mr. Md. Asaduzzaman, learned Senior Advocate, appeared with Mr. Abul Kalam Azad, learned Advocate for respondent No.1. Dr Shahdeen Malik, learned Senior Advocate appeared on behalf of respondent No. 1 in Writ Petition Nos. 6321-6326 of 2025. The learned Senior Advocates for respondent No. 1 argued that under the Securities and Exchange Ordinance 1969 two options are open to the Commission for taking action against any individual for violation of Securities law. One is civil penalty to be imposed under section 22 of the Securities and Exchange Ordinance 1969

and another is criminal liability under section 24 of the said Ordinance. It is the discretion of the Commission and in exercise of such discretion the Commission decided to proceed under section 22 of the Securities and Exchange Ordinance 1969. He further argued that the entire Securities law in particular the Securities and Exchange Ordinance, 1969 have to be read together, rather than in isolation of any particular section as contended by the learned counsel for the petitioners. He also argued that if in any occasion a group of people purchases huge amount of shares which ultimately leads to manipulation in the share market, stern action should be taken against them. He further argued that there was no violation of the principle of natural justice inasmuch as in each and every case the Securities and Exchange Commission has issued show cause notice, personal hearing was afforded to the respective petitioner and after thorough hearing the Commission imposed penalty. He further argued that the respective petitioner also preferred Review Petition which was also heard by the Commission and ultimately the Review Petition was rejected. He also argued that unless there is no procedural irregularity or violation of natural justice the scope of judicial review is very limited. He further argued that

the impugned orders do not call for any interference by this Court as there is no violation of principle of natural justice or any law, or rules of the Securities and Exchange Commission.

Finding of the Court

Securities and Exchange Ordinance 1969

The Securities and Exchange Ordinance was promulgated in 1969. The preamble of the Ordinance provides as follows:

> "Whereas it is expedient to provide for the protection of investors, regulation of capital markets and issue and dealings in securities and for matters ancillary thereto."[1]

The object of the Ordinance is to protect investors, regulate the securities market, and prevent fraudulent and manipulative activities relating to securities transactions.

The Ordinance provides for imposition of penalty as well as criminal prosecution for violation of its provisions. The relevant provisions of the Securities and Exchange Ordinance, 1969 are reproduced below:

> "**17. Prohibition of fraudulent acts, etc.** No person shall, for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his

[1] [1] The words "regulations of capital markets and issue" were substituted for the words "regulations of markets" by section 3 of the Securities and Exchange (Amendment) Act, 1993 (Act No. XVI of 1993)

advantage, the sale or purchase of any security, directly or indirectly,-

(a) employ any device, scheme or artifice, or engage in any act, practice or course of business, which operates or is intended or calculated to operate as a fraud or deceit upon any person; or

(b) make any suggestion or statement as a fact of that which he does not believe to be true; or

(c) omit to state or actively conceal a fact having knowledge or belief of such fact; or

(d) induce any person by deceiving him to do or omit to do anything which he would not do or omit if he were not so deceived; or

(e) do any act or practice or engage in a course of business, or omit to do any act which operates or would operate as a fraud, deceit or manipulation upon any person, in particular-

(i) make any fictitious quotation;

(ii) create a false and misleading appearance of active trading in any security;

(iii) effect any transaction in such security which involves no change in its beneficial ownership,

(iv) enter into an order or orders for the purchase and sale of security which will ultimately cancel out each other and will not result in any change in the beneficial ownership of such security;

(v) directly or indirectly effect a series of transactions in any security creating the appearance of active trading therein or of raising of price for the purpose of inducing its

purchase by others or depressing its price for the purpose of inducing its sale by others;

(vi) being a director or an officer of the issuer of a listed equity security or a beneficial owner of not less than ten percent of such security who is in possession of material facts omit to disclose any such facts while buying or selling such security."

22. **Penalty for certain refusal or failure**.- (1) If any person-

(a) refuses or fails to furnish any document, paper or information which he is required to furnish by or under this Ordinance; or

(b) refuses or fails to comply with any order or direction of the [Commission] made or issued under this Ordinance; or

(c) contravenes or otherwise fails to comply with the provisions of this Ordinance;

22A. **Restriction in respect of filing of suit**.- Notwithstanding anything contained in any other law for the time being in force, no legal proceeding before any Court can be brought challenging an order of penalty imposed by the Commission unless an amount of 15% (fifteen percent) of such penalty is deposited in the Commission.]

24. **Penalty.-** (1) Whoever contravenes the provisions of section 17 shall be punishable with imprisonment for a

term which may extend to [five years, or with fine (which shall not be less than five lakh taka)] or with both.

(2) Where the person guilty of an offence referred to in sub-section (1) is a company or other body corporate, every director,"

The Securities and Exchange Ordinance was promulgated in 1969 to prevent manipulation in the share market and the ultimate purpose of the law is to protect the ordinary buyers so that they do not lose all their savings. The securities laws cannot and should not be read in isolation of one another and specifically a particular section cannot be read in isolation of other sections. We have to look into the entire purpose of the law. Therefore we do not find any substance in the submission of the learned Advocate for the petitioners that the appropriate step should be criminal prosecution under section 24 of the Ordinance. It is the discretion of the Commission either to impose civil penalty or institute Criminal proceeding. [2]

Whether there was Violation of Principle of Natural Justice

One of the principles of natural justice is *audi alteram partem* i.e. nobody should be condemned unheard before taking any punitive

[2] The distinction between civil liability arising out of regulatory violations and criminal liability has also been recognised in securities jurisprudence. In *Securities and Exchange Board of India v. Kishore R. Ajmera*, MANU/SC/0212/2016, the Supreme Court of India observed that adjudication of civil liability arising from violation of securities laws is based on the standard of preponderance of probabilities, whereas criminal prosecution requires proof beyond reasonable doubt

action or any action detrimental to that person. In the case of *Ridge v Baldwin*[3] a police chief was fired without notice or a hearing. The House of Lords ruled that any official body making a decision that affects a person's rights or status must give them notice and an opportunity to defend themselves. In the US, natural justice is generally known as Procedural Due Process, which is protected by the 5th and 14th Amendments to the Constitution. In the case of *Goldberg v Kelly*[4] New York tried to cancel welfare benefits without giving recipients a prior hearing. The US Supreme Court ruled that before the government takes away "property" (like welfare benefits or wages), it must provide a person with adequate notice and an oral hearing. In the case of *The University of Dacca through its Vice-Chancellor and the Registrar, University of Dacca vs. Zakir Ahmed* [5] the Supreme Court of Pakistan affirmed the High Court's judgment, holding that the principle of natural justice had been violated because Zakir Ahmed was not given an opportunity to present his defense before the University made the severe decision to expel him.

Now let us examine whether the Commission issued show cause notice and afforded the petitioners for personal hearing before imposing penalty.

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[3] [1964]AC40
[4] 397 U.S. 254 (1970)
[5] PLD 1965 Supreme Court 90

Show Cause Notice and Personal Hearing

It appears from the writ petitions the Commission issued show cause notices, the petitioners gave reply in writing and personal hearing was given prior to imposition of penalty by the Commission. Since there is a number of writ petitions only one writ petition (Writ Petition No. 603 of 2025) has been mentioned to avoid repetition. From Annexure-A (W.P.No.603 of 2025) that the Commission issued show causes notice on May 14, 2023 stating the allegations against the concerned petitioner. From Annexure-B (W.P.No.603 of 2025) that the concern petitioner gave reply in writing on June 11, 2023. The concerned petitioner also wrote that they may be a mistake on their part. From the impugned order (Annexure-B-1) (W.P.No.603 of 2025) it appears that the Commission thoroughly discussed the arguments of the petitioner and after thorough hearing penalty was imposed upon the petitioner. For clarity the order of imposition of penalty in W.P.No.603 of 2025 is reproduced below:

> ‘‘ -য-হতু, কমিশ-নর বি-বচনায়, সিকিউরিটিজ আইন ও বিধি-বিধান পরিপাল-ন আ-লাচ্য ব্যর্থতার জন্য, পুঁজিবাজা-রর শৃংখলা, স্বচ্ছতা এবং জনস্বা-র্থ আ-লাচ্য Ms. Roksana Amzad and her associate-কে জরিমান করা প্র-য়াজন ও সমীচীন;

অতএব, সে-হতু, কমিশন উল্লিখিত যাবতীয় বিষয় বি-বচনাপূর্বক, Securities and Exchange Ordinance, 1969 (Ordinance No.XVII of 1969) এর section 22 [যা The Securities and Exchange (Amendment) Act, 2000 দ্বারা সং-শাধিত] এ প্রদত্ত ক্ষমতাবলে-

Ms. Roksana Amzad ও তাঁর সহ-যাগী-কে ২৫.০০ (পঁচিশ) লক্ষ টাকা অর্থদন্ড ধার্য্য করল যা অত্র আদেশের ৩০ (ত্রিশ) দিনের মধ্যে 'বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন' এর অনুকু-ল ইস্যুকৃত ব্যাংক ড্রাফট/-প-অর্ডা-রর মাধ্য-ম জমা প্রদান কর-ত হ-ব, অন্যথায় সিকিউরিটিজ আইন মোতা-বক পরবর্তী আইনানুগ ব্যবস্থা গ্রহণ করা হ-ব। ”

From Annexure-C it is evident that the petitioners also filed Review Petition. From Annexure-C-1 (order in Review Petition) it is evident that the Review Petition was rejected. The relevant portion of order of review is reproduced below:

“This refers to your request letter dated 21 November 2024 against the penalty imposed by the Commission's penalty order No. BSBC/Enforcement/3409/2023/822 dated October 22, 2024.

> The Commission has considered your request letter dated 21 November 2024 as a review petition under Section 26 of the Securities and Exchange Ordinance, 1969 and has decided to uphold its earlier decision. Therefore, you are hereby requested to deposit the imposed penalty of Tk. 25.00 Lakh in favour of Bangladesh Securities and Exchange Commission' within 15 (fifteen) days of issuance of this letter
>
> If you fail to comply the Commission's Order under reference, the Commission will take necessary measures as per laws."

It is fundamental principle of law that nobody should be condemned unheard before taking any punitive action or any action detrimental to any person that person. However, we have found that the Securities and Exchange Commission has issued show cause notice and the respective petitioner has given reply in writing and after thoroughly examining the respective petitioner's case penalty was imposed. Thereafter the respective petitioner filed review petition under section 26 of the Securities and Exchange Ordinance, 1969. The respective Review Petition was rejected upholding earlier decision of the Securities and

Exchange Commission. As such we do not find any procedural irregularity.

Disputed Question of Fact

The petitioners contended that they acted bona fide and their purchase of shares did not actually manipulate the market, whereas the Securities and Exchange Commission contended that by such huge purchase within a short span of time, the petitioners manipulated the share market. These are all questions of facts.

In the case of *Director, HBRI vs Darus Salam Co-operative Society*[6] it was held that matter seriously contentious in nature requiring adjudication on the basis of evidence of detail nature cannot be decided in writ jurisdiction. In the case of *Abdul Hamid vs Miah Nurul Islam* [7] the Appellate Division held that in writ petition disputed facts cannot be decided.

Therefore whether the petitioners acted bona fide, whether there was manipulation in the share market being disputed questions of facts are not amenable to writ jurisdiction.

In the facts and circumstances stated above, we find no merit in these writ petitions.

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[6] 2002BLD(AD)134
[7] 42DLR(AD)49

Accordingly, all the Rules are discharged without any order as to costs.

The interim orders of stay are recalled and vacated.

All pending applications for supplementary Rule and all other connected applications stand dismissed.

(Kazi Zinat Hoque, J:)

I agree

(Aynun Nahar Siddiqua, J:)

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