

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)**

WRIT PETITION NO. 2351 OF 2019

In the matter of:

An Application under article 102 of the
Constitution of the People's Republic of
Bangladesh.

And

In the matter of:

Online Properties Ltd

... Petitioners

-Versus-

Bangladesh Bank represented by its Governor,
head Office, Bangladesh Bank Bhaban, Police
Station: Motijheel, District: Dhaka and others.

... Respondents

None appears

...For the petitioner

Mr. Mahabub Hasan Chowdhury, Advocate

...For the respondent nos.2

Heard and Judgment on 14.08.2025

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

Md. Mozibur Rahman Miah, J.

On an application under article 102 of the Constitution of the
People's Republic of Bangladesh, a Rule Nisi was issued calling upon the
respondents to show cause as to why the letter being No. FAS/R and

L/OPL/0238/2019/1849 (Annexure-D to the writ petition) dated 10.01.2019 issued by Senior Vice President, Mir Mosharraf Hossain and Senior Officer, Mr. Rabiul Islam, attached with respondent no. 2 refusing to accept the proposal of payment of total outstanding loan amounting to Tk. 750.00 lakh by 120 months and for keeping the amount of Tk. 750.00 lac in an interest free block account asking the petitioner to regularize and settle the loan money immediately should not be declared to have been passed without lawful authority and is of no legal effect and why the respondent Nos. 2-3 should not be directed to renew the period and as to why the respondent Nos. 2-3 should not be directed to allow the petitioner to adjust the loan money by 120 months equally with 12 months grace period and/or pass such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the rule, a direction has been made to the respondent nos. 2 and 3 to allow the petitioner to pay the loan money by 06(six) installments within 1 year and also directed further not to encash the T.D.R No. 111/Agr/0238/IN/13 of Tk. 563,33,334.00 before maturity.

It is worthwhile to mention here that, after issuance of the rule, an application was filed by the petitioner for modification of the interim part of the rule issuing order dated 14.03.2019 and this court by allowing the said application, vide order dated 30.04.2019 directed the petitioner to pay the loan liabilities by 36 installments within one and a half year.

The fact leading to issuance of the instant rule in precise are:

An amount of taka 10,000,0000/- (1000.00 lakh) was approved in favour of the petitioner in the year 2013 as of term loan and the said

amount of loan was disbursed on 18.09.2013 which was supposed to be repaid in 60 monthly installments for taka 26.66 lakh each. Subsequently, as per the request of the petitioner, firstly the respondent no. 2 extended the facility of said loan to the petitioner in the form of reduction of interest rate and then rescheduled the loan liability to the petitioner on 28.06.2016 and 13.12.2017. But in spite of such reschedulements, the petitioner failed to repay the said rescheduled amount rather the petitioner paid only taka 5,00000/- in December 2018. Subsequently, the petitioner on 08.01.2019 made a proposal to settle the loan liability on payment of taka 750.00 lakh in 120 installments out of the outstanding dues at taka 1163.14. But vide impugned letter dated 10.01.2019 the said reschedulement proposal was turned down by the respondent no. 2 challenging which the petitioner filed the instant writ petition and obtained rule and directions as has been stated herein above.

Though the matter has been appearing in the list for hearing with the name of the learned counsel for the petitioner on several occasions yet the learned counsel did not bother to turn up to press the rule.

On the contrary, Mr. Mahabub Hasan Chowdhury, the learned counsel appearing for the respondent nos. 2 at the very outset submits that, the writ itself is not maintainable since no writ can lie against any step taken by a private Bank or non-bank financial Institution (NBFI) as under article 102 of the Constitution, the respondent no. 2 NBFI is neither a statutory body nor a local authority and since the respondent no. 2, FAS Finance and Investment Ltd is just a non-Bank financial institution not established through any statute, so writ itself is not maintainable. In

support of his such submission the learned counsel has then placed his reliance in the decision reported in 65 DLR 138 where the said point has been set at rest in the following manner:

Constitution of Bangladesh, 1972 Article 102(2)

“The question whether writ petition is maintainable against the private bank is a settled issue. The question is no longer a res integra. The writ petition is not maintainable against the private Bank and the Government has been inducted in the petition only to attract Article 102 of the Constitution as a method of cunning device.”

We have considered the said legal submission so placed by the learned counsel for the respondent no. 2 and don't find any shred of merit in the rule. More often than not, it is totally incomprehensible to us, how the rule let alone direction can be made upon a non-bank financial institution only on the refusal to give reschedulement of loan facilities to its borrower, (herein the petitioner) whose creation is not rooted to any statute when the matter has long been settled in the decision reported in 49 DLR (AD) 38 in the light of Article 102 of our Constitution. We are simply taken aback by finding such abrupt divergence from such settled legal proposition.

As a result, the rule is discharged however without any order as to costs.

The direction so made at the time of issuance of the rule dated 14.03.2019 and subsequently modified on 30.04.2019 stands recalled and vacated.

Let a copy of this judgment and order be communicated to the respondents forthwith.

Md. Bashir Ullah, J.

I agree.