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

WRIT PETITION NO. 10877 of 2024

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Masood R. Sobhan
..... *Petitioner (in person).*
-vs-
Bangladesh Bank and others.
.....*Respondents.*
And

Mr. Masood R. Sobhan, Advocate
..... Petitioner (in person).
Mr. Md. Asaduzzaman, Senior Advocate with
Mr. Md. Ruhul Quddus (Kazal), Senior Advocate with
Mr. Munirujjaman, Advocate
..... For the respondent No.1
Mr. Fida M. Kamal, Senior Advocate with
Mr. Md. Anisul Hassan, Advocate and
Mr. Abdullah Al Mahmud, Advocate
..... For the respondent No.3
Ms. Quamrun Nessa, Advocate
..... For the respondent No.7.
Mr. Tanim Khan, D.A.G. with
Ms. Shamima Sultana (Dipti), D.A.G. with
Ms. Shadia Afrin Shapla, A.A.G. and
Mr. Siddiqur Rahman, A.A.G.
....For the Respondents-government.

Heard on: 27.11.2024, 04.12.2024, 05.12. 2024, 09.12.2024, 15.12.2024, 29.01.2025, 06.02.2025, 17.02.2025 and 27.02.2025
And judgment on:12.03.2025

Present:

Mrs. Justice Farah Mahbub
And
Mr. Justice Debasish Roy Chowdhury

Farah Mahbub, J:

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondent no.1, Bangladesh Bank has been called upon to show cause as to why it should not be directed to provide information regarding Beximco Pharmaceutical Limited, respondent no.3 including all other business concerns of Beximco Group of Companies of Salman F. Rahman, respondent no.4 and also, as to how much unpaid loan said respondent No.4 had obtained from all banks and financial institutions including the present status of loans and repayment thereof.

In the said Rule Nisi, the respondent no.1 was further directed to show cause as to why a receiver should not appointed to manage the companies of Beximco Group and attach all the properties belonging to the said Group of Companies.

Vide the interim order this Court directed the respondent no.1 to appoint a receiver in order to manage the companies of Beximco Group and to attach all the properties belonging to the said group of companies, however, for a prescribed period. At the same time, respondent no.1 has been further directed to recover the money obtained by the respondent no.4 as loan from different banks and to bring the money back to Bangladesh from abroad.

Respondent no.3, Beximco Pharmaceuticals Ltd., represented by its Managing Director, being aggrieved with the interim order of direction dated 05.09.2024 moved before the Hon'ble Appellate Division by filing Civil Petition for Leave to Appeal No.3174 of 2024. The Appellate Division upon hearing the contending parties stayed the operation of the interim order passed by this Court so far as it related to the appointment of a receiver in

respect of respondent no.3 only, till disposal of the Rule, with direction upon this Bench to hear and dispose of this Rule on merit, within a prescribed period and accordingly, had disposed of the said CPLA vide order dated 12.11.2024.

Instant writ petition has been filed at the instance of the petitioner, a practicing lawyer of the Supreme Court of Bangladesh with 45(forty five) years of standing, who volunteered a number of public interest litigations involving the issue of unconstitutional assumption of the office of the Care-taker Government by the then President of Bangladesh in addition to holding the office of the President including, among others, the issue of constitutional obligation of the Election Commission to hold the general election of Bangladesh within 90 (ninety) days.

In the present writ petition, the categorical assertion of the petitioner, however, is that Beximco Pharmaceutical Ltd., respondent no.3 obtained a loan which stood at over Tk. 5000,00,00,000/-(Taka five thousand crore) from different banks. Instead of paying back the loan amount the respondent no.4 managed to procure a notification from the Ministry of Finance providing him extraordinary relief stating, *inter alia*, that anyone having loan liability over five thousand crore taka would not have to pay the loan for the next 25(twenty five) years and that it would pay whatever amount it choose to pay after the expiry of the said period. Further assertion of the petitioner is that Beximco Group had obtained a loan of twenty two thousand crore from a scheduled bank and no payment was made to reimburse the said loan amount.

Meanwhile, respondent no.1, in compliance with the interim direction given by this Court at the time of issuance of Rule on 05.09.2024, filed

respective affidavits in compliance dated 27.11.2024, 04.12.2024, 15.12.2024, 23.01.2025 and lastly, on 02.03.2025 annexing the respective official documents on the update position of the case and the steps so far it has taken in the matter in question.

In the affidavit in compliance particularly dated 02.03.2025 it has been stated, *inter alia*, that after having been communicated about the order of directions passed by this Court said respondent had issued letter on 01.10.2024 to the Secretary, Ministry of Land for supplying the list of the immovable properties belonging to the companies of Beximco Group and the names of their directors, but had received no response thereof. Respondent no.1 also, had advised the banks and financial institutions through its respective departments, namely, Banking Regulation and Policy Department and the Department of Financial Institutions and Markets, not to allow any transfer of any immovable property, kept as mortgages/ security against loan or advances taken by the companies of Beximco Group and their directors, until further advices of Bangladesh Bank.

More so, respondent no.1 in compliance of the order of direction of this Court had appointed one of its Executive Directors as the Receiver for managing the companies of Beximco Group vide appointment letter dated 07.11.2024 (Annexure-III of the affidavit in compliance dated 02.03.2025) with fixed Terms of Reference and that after his joining he started his functions as Receiver of those companies.

In this regard, it has also been stated that in compliance of the direction given by this Court respondent no.1 has referred the issues of recovering and bringing the laundered money to different countries, if any, by the respondent no.4, back to Bangladesh. Fact remains, Bangladesh

Financial Intelligence Unit (BFIU) has not been able to send their reports, for, they were not party to this writ petition. Consequently, respondent no.1 was not able to make any progress on the steps taken to recover the money, in compliance of the direction of this Court.

Moreover, in response to the office letters, sent by the respondent no. 1, almost 60 (sixty) banks and financial institutions gave detailed informations with regard to the outstanding loan amount of the respective companies of Beximco Group. From the report it transpired that as on 30.09.2024, total outstanding loan amount of Beximco Group stood at Tk.48,150.28 (in core) and classified amount stood at Tk.22526.50 (in crore).

Bangladesh Bank had also, sent letters to the Registrar of Joint Stock Companies and Firms (RJSC) as well as Bangladesh Securities and Exchange Commission (BSEC) on 01.10.2024 asking for the list of the companies and firms of Beximco Group along with the names of the directors of those companies and firms. In response thereof, the RJSC has reported that there are133 (one hundred and thirty three) companies, which are part of Beximco Group; the commercial banks and financial companies have reported that 84 (eighty four) companies are part of Beximco Group. The Textile and Apparels Division of the Beximco Group has reported that 31 (thirty one) companies are under its Division. Thus, respondent no.1 has identified 188 (one hundred and eighty eight) distinct companies, out of which 169 (one hundred and sixty nine) are public/private companies and the rest 19 (nineteen) are in the category of associations/samities.

As of 30.09.2024, these 169 public/private companies of Beximco Group have liabilities of Tk.49,172.85 (Taka forty nine thousand one

hundred seventy two point eighty five) crore to the respective banks and financial institutions, out of which the total outstanding loan amount stood at Tk.48,082.19 crore and the respective banks and financial institutions have a claim of Tk.909.35 crore against the Bond/Sukuk.

However, out of the outstanding loan of Tk. 49,172.85 crore, Tk.23,120.51 crore have already become classified on 30.09.2024 and almost 100% of the total claim of the banks and financial institutions from the respective companies of Beximco Group shall be classified by the end of December, 2024.

On receipt of the list of informations of the respective companies of Beximco Group from the RJSC, the respondent no.1 duly sent letters to the Credit Information Bureau (CIB) of Bangladesh Bank for further information regarding loans and advances, but has not yet received any information to that effect.

Also, it has been stated that Textile and Apparels Division of Beximco Group of Companies has total 31 companies, out of which 16 companies are in operation and 15 have been closed down. As of 30.09.2024, 16 operating companies have a total outstanding liabilities of Tk.16,463.40 crore, out of which Tk.10,471.50 crore (63.60% of the total liabilities) are now, classified and that there is every likelihood that by the end of December 2024, the total amount of liabilities would become classified. Further, it has been asserted that 16 operational companies have exported products and that as of 27.11.2024, outstanding export proceeds of those 16 companies stood at Tk.2900.55 crore, out of which Tk. 716.08 crore (24.69% of the total export proceeds) are already overdue. In the given context, even if the total export proceeds are repatriated, only 17.62% of the

loan liabilities of the exporting companies would be recovered and Tk. 13,562.58 crore would remain unrecovered.

In addition to the above, 15 closed companies of Beximco Group have loan liabilities at Tk. 11,923.44 crore with Tk. 11,092.63 crore classified, i.e. 93.03% of the total liabilities. They have also outstanding export proceeds at Tk. 692.10 crore, out of which Tk. 663.25 crore remains overdue, i.e. 95.83% of the total export proceeds. As such, even if the whole proceeds are repatriated, only 5.805% of the total loan liabilities would be met leaving Tk.11,231.34 crore unrecovered.

Thus, in total, 31 companies of Beximco Textile and Apparels Division have liabilities of Tk.28,386.84 crore with Tk.21,564.13 crore classified, i.e. 57.84% of the total loan liabilities of Beximco Group of Companies. Total outstanding export proceeds from these 31 companies are Tk.3,592.65 crore, out of which Tk. 1,379.33 crore are overdue, i.e. 38.39% of the total export proceeds. Thus, even if the whole export proceeds are repatriated, only 12.66% of the loan liabilities of these 31 companies of Textile and Apparels Division will be met and Tk. 24,794.19 crore will remain unrecovered. In other words, the unrecovered liabilities as well as the overdue export proceeds of Beximco Textiles and Apparels Division pose a significant risk to the recovery of the public funds.

The salary issue of the Textiles and Aparrels Division of Beximco Group creates another difficulty in its present position. For the month of November 2024, the salaries for 1,712 management staffs for the 15 operating companies stood at Tk.14.17 crore and the wages for the 36,127 workers stood at Tk.55.94 crore, the total payroll of the companies stood at Tk.70.65 crore. Conversely, these companies have only Tk.2900.55 crore

export proceeds with Tk.716.08 crore overdue, which are severely inadequate to meet the needs for repayment of bank loans as well as the salary and wages of the employees. However, the companies of Beximco Group have been paying their salaries and wages of their employees for the last several months by borrowing money from the government as well as the banks and financial institutions.

Beximco Pharmaceuticals Ltd., respondent no.3, run by 10(ten) directors, has 60(sixty) affiliated companies. Resultantly, the Board Members of Beximco Pharmaceuticals Ltd. have control and influence over all other companies of Beximco Group as well their unpaid loans/liabilities. It has a total outstanding loan liability at Tk. 8,645.55 crore, out of which Tk.4,328.96 crore is classified (as of 30.09.2024). More surprisingly, at least one director is common to all the 60 other affiliated companies of Beximco Group.

Also, it has been detected from the reports submitted by the Department of Offsite Supervision (DOS) and the Department of Banking Inspection-1 (DBI-1) of Bangladesh Bank that in the year 2022, 4(four) companies of Beximco Group borrowed money from Janata Bank PLC, a government owned bank, exceeding Single Borrower Exposure Limit. In 2023, other 26 companies of Beximco Group, altogether 30, had exceeded the Single Borrower Exposure Limit while taking loan in clear violation of the Bank Companies Act, 1991. Furthermore, Beximco and its related parties did not repay the EDF Fund to Janata Bank PLC, at USD 117.88 on completion of the respective period.

Bangladesh Bank has also collected a list of the banks and other financial institutions who provided financial facilities to the respective

companies of Beximco Group in the form of loans, advances, L/Cs, bank guarantees etc. It is revealed therefrom that a total 16(sixteen) scheduled banks and 7(seven) financial institutions had granted loan facilities to the respective companies of Beximco Group (upto 30.09.2024) wherein Janata Bank PLC alone granted loan to 29 different companies of Beximco Group, IFIC Bank granted loan to 29 companies, National Bank PLC granted loan to 9 companies, Sonali Bank PLC granted loan to 4 companies, Agrani Bank PLC granted loan to 4 companies, AB Bank PLC granted loan to 6 companies, Exim Bank PLC granted loan to 5 companies and other banks granted loan to more than one companies belonging to Beximco Group. Said transactions go to indicate that the companies of Beximco Group in the garb of borrowing loans wanted to hide the actual beneficial owners that may lead to money laundering and tax evasion, contrary to the applicable laws of the country.

Accordingly, it has been contended that the respective companies of Beximco Group have violated the statutory provisions of law while receiving loans as well as in repayment of loans including advances taken from different banks and financial institutions on different occasions. For example, according to the report of the respondent no.1, Bangladesh Bank dated 31.12.2017, Beximco Ltd. committed irregularity by not paying the first installment as per the terms of the restructure of loan and has hidden the real status of classification of the loan at the time of opening L/Cs. More so, the loan of Beximco Computers Ltd. is not well covered by the collateral securities, nor adequate insurance has been provided against the investment.

Also, Credit Information Bureau (CIB) of Bangladesh Bank has reported that the total outstanding loans and liabilities of the companies of

Beximco Group stood at Tk. 50,098.3 crore (upto 30.11.2024) where the defaulted amount of loan has been recorded at Tk. 25,523.72 crore and classified loan was recorded at Tk. 31,075.67 crore.

However, due measures have been taken by Bangladesh Bank to rectify the illegalities and irregularities of the concerned banks being committed while dealing with the loan affairs of the respective companies of Beximco Group.

As being the regulatory authority the respondent no.1, Bangladesh Bank has also advised Sonali Bank PLC, among others, to take departmental action against the employees involved with the irregularities of the loan affairs of Beximco Group, to cover the loan of Beximco Computers Ltd. with adequate collateral securities, called for explanations from Padma Bank Ltd. as to why the loan status was changed during issuance of further loans, advised Janata Bank PLC to scrutinize the exaggerate information regarding production of a number of companies, asked for clarification from Rupali Bank Ltd. as to the reasons for causing violation of Section 26Kha of the Bank Companies Act, 1991 while granting loan to Beximco Group by exceeding the Single Borrower Exposure Limit. Bangladesh Bank further advised Sonali Bank PLC to rectify irregularities as identified in the inspection report of 2020. Bangladesh Bank has also asked for explanation from Janata Bank PLC regarding non-repatriation of the export proceeds amounting to Tk. 5,827.97 crore. It has also, informed Bangladesh Financial Intelligence Unit (BFIU) to inspect whether the offence of money laundering has been committed by the respective companies of Beximco Group. It has also advised National Bank Ltd. to classify the loan of Independent Television and GMG Airlines, and to seek explanation as to why the shares

of GMG Airlines were shown as securities, despite the fact that those were already used as the collateral security against the loan taken by other companies of Beximco Group.

Bangladesh Bank has also advised IFIC Bank PLC to classify the loans of Brightstar Ltd., Elton Trading, Skymark International, Vista International, Exis Business Ltd., Cosmos Commodities Ltd., Alfa Enterprise Ltd., Sunstar Business Ltd., Fareast Business Ltd., Everest Enterprise, Crystal Construction and Engineering, Serve Construction and Engineering Ltd. and Northstone Engineering and Construction Ltd., to take punitive actions under Section 109 of the Bank Companies Act, 1991 against the respective officers and employees of the said bank for violation of BRPD Circular No. 4 of 2016 and for not performing the Customer Due Diligence (CDD) in order to ensure the actual beneficiaries of the loans behind the companies concerned, for not ensuring proper utilization of the public fund which was borrowed, granting further loan facilities to the companies of Beximco Group without recovering the defaulted loan amount. The respondent Bangladesh Bank has also, referred the issue of illegalities being committed by IFIC Bank PLC while financing the above noted companies of Beximco Group, to the Anti Corruption Commission for investigation and for taking necessary steps in due compliance of law.

Beximco Group exported products to RR Global Trading, UAE, which is a sister concern of Beximco Group. Bangladesh Bank is apprehensive that the overdue export proceeds, which have been laundered, may not be repatriated in the future, for, meanwhile the stipulated time, as provided under the Guidelines of Foreign Exchange Regulation of Bangladesh Bank, has been overlapped.

According to Circular No.26 of Bangladesh Financial Intelligence Unit (BFIU) dated 16.06.2020, all scheduled banks were under obligation to perform the Customer Due Diligence (CDD) while issuing loan facilities in order to identify the actual borrowers and actual beneficiaries of the loans, in order to minimize the risk of money laundering; the banks are also, required to take special measures while extending loans to the influential as well as politically exposed persons. Said circular has also, instructed the banks not to issue any loan where obligation to perfrom CDD becomes impossible.

Moreover, under Section 27Ka of the Bank Companies Act, 1991, all banking and financial institutions are under obligation to send the defaulters' list to the CIB of Bangladesh Bank. But some of the banks, which had granted further loan to the respective companies of Beximco Group, had hidden the classified status of the companies' previous loans. They also, did not send clear picture of the loan status of those companies of Beximco Group to the CIB of Bangladesh Bank, which is a punishable offence under Section 31 read with Section 109 of the said Act, 1991.

Meanwhile, in compliance of the direction of this Hon'ble Court Bangladesh Bank has made requests to the Registrar of Joint Stock Companies on 19.01.2025 to supply the information in connection with Schedule X of total 189 companies of Beximco Group. Said information has not been supplied, till date.

Also, in compliance of the order of this Hon'ble Court Bangladesh Bank has appointed a receiver in Beximco Group of Companies vide office order dated 07.11.2024. Since then, the Receiver along with his team has been working towards managing the affairs of the companies with submission of reports dated 20.01.2025 regarding the steps so far have been

taken with a view to protect the public fund being invested in the companies of Beximco Group.

The respondent no.3 by filing affidavit in reply to the affidavit in compliances filed by the respondent no.1 stated, *inter-alia*, that the respondent no.3 has loan/credit facilities from 5(five) banks and 4(four) NBFIs and is regularly servicing these loans. However, as of today, classification status of these loans were and are regular.

It has also been stated that respondent no.3 achieved a net revenue of Tk. 3,690 crore for the period of July 2023 to June 2024, compared to Tk. 3,299 crore for the period of July 2022 to June 2023. During the period from July 2024 to December 2024 the respondent no.3 despite facing various legal constraints arising from false allegations has manufactured medicines, including life saving drugs, achieving domestic sales of Tk. 1824.41 crore and export sales of Tk. 170.76 crore to various countries including the USA. This contributed to the country's foreign currency earnings to the tune of USD 14.40 million for the said period. Furthermore, during this time, respondent no. 3 distributed dividends amounting to Tk. 178.44 crore to its 48,216 shareholders and GDR holders. These achievements were made possible due to its professional management and able guidance of the Board of Directors of the said company.

Further contention of the said respondent is that it is conducting business successfully and is generating profit. Only to justify the appointment of receiver, the respondent no.1 has come up with the baseless allegation of control and influence over other companies and the unpaid loans and liabilities of others. Based on surmise and conjecture, the respondent no.1, in support of the petitioner, is engaged in a fishing

expedition and is implicating the respondent no.3 and its Board of Directors in violation of law, the principles of natural justice and fundamental rights, as guaranteed under the Constitution of the People's Republic of Bangladesh.

Beximco Pharma API Ltd. is a 100% subsidiary of respondent no.3, which has no outstanding loan, as shown therein, whereas in Nuvista Pharma Ltd. and Synovia Pharma PLC respondent no.3 holds 1,00,13,474 and 19,63,241 shares respectively, and the loans of both the entities are regularly serviced.

For alleged loan default of a third party, on the basis of presumption, listed company like respondent No.3 or its subsidiaries cannot be subject to receivership, because such appointment under the law presupposes financial distress in the companies and has other significant ramifications, affecting its businesses and commercial contracts. Also, respondent no.3, the only company in Bangladesh listed with AIM of London Stock Exchange, risks suspension of trade. If respondent no.3 and its subsidiaries fail to do business, lose commercial contracts, face trade suspension, fail to supply life saving drugs, and consequently, fail to service existing loans and make profit for distribution to their respective shareholders, respondent no.1 along with the petitioner shall be held liable for such failure, damage and default.

The respondent no.3, however, came to know from news reports that Beximco Limited has sought Tk. 400 crore in cash credit (CC) short-term financing from state-owned Janata Bank PLC to cover operating expenses, along with the opportunity to open back-to-back letters of credit to keep its factories running. The report further stated that Beximco Limited urged respective banks for rescheduling the loans for 15 years and if they can do

business, they will make profit in 2025 and shall repay the loans accordingly. Respondent no.3 also came to know from a news report that an Advisory Committee has been formed specially for Beximco which has taken a decision of purported sell of shares of respondent no.3 and some other entity for Tk. 500-600 crore to settle wages and salaries. Such act shows the *malafide* of respondents nos. 1 and 2 who are keen on terminating the workers and employees for Tk. 600 crore, but not interested to allow an entity to recover from financial distress.

Mr. Masood R. Sobhan, the learned Senior Advocate, the petitioner appearing in person submits that no declaration by way of statement is required to be made whether the writ petition is in the nature of public interest litigation. In this regard referring to the statements so made in his affidavit in reply he submits that earlier he filed a writ petition in person against Bangladesh Biman regarding the purchase of 11(eleven) Air Bus from a French company at a cost of US$ 3.5 billion, on the ground that purchase of those Air Buses would have bankrupted the reserved and destroyed the economy of the country; however, after filing of the said writ petition Biman informed this Hon'ble Court that it would not proceed with the said purchase.

Also, a writ petition was filed by this petitioner in the nature of *quo-warranto* against the incumbent President Dr. Iajuddin Ahmed in 2007 for alleged violation of the constitutional provision when he declared himself to be the Head of the Care-taker Government and consequent thereupon, a care taker government had to be appointed which took over the responsibility of running the country; another writ petition was filed by him against the Election Commission of Bangladesh for not fulfilling its constitutional

obligation by not holding the parliamentary election within 3(three) months after the formation of the Care-taker Government. After hearing the parties this Hon'ble Court disposed of the Rule with direction upon the Election Commission to hold the parliamentary election within the prescribed period.

In another writ petition, filed in the nature of public interest litigation, he submits, this Hon'ble Court directed RAJUK to demolish an amusement park, located in the heart of Gulshan, known as the "Wonderland Park" measuring 18 bighas of land, which was illegally possessed by one individual for over 15 (fifteen) years without any permission from RAJUK. The judgment and order passed by the High Court Division was subsequently upheld by the Hon'ble Appellate Division. Also, a 2(two) bighas of land was given by a Norway based NGO to establish a school for retarded/special care children in Eskaton, Dhaka after it left Bangladesh. The Association in charge of running the school gave the said land to a developer to construct multistoried buildings. Special need children required the space for their learning and that the playground was absolutely necessary for their wellbeing. The petitioner challenged the agreement signed with the developer and after hearing the parties concern this Hon'ble Court made the Rule absolute treating the application as PIL, which was ultimately upheld by the Appellate Division. In Writ Petition No. 9551 of 2001 the petitioner in his capacity as a citizen of Bangladesh sought for a direction upon the government to recognize the contribution of several international personalities for their substantial contribution to the cause of the people of Bangladesh during their plight and struggles during the liberation war in 1971, particularly Senator Edward M. Kennedy and George Harrison who drew the world attention and brought massive financial aid for the

Bangladeshi refugees in 1971. The Hon'ble High Court Division after hearing the petitioner made necessary direction to that effect.

In connection with the instant writ petition, he submits that pursuant to the interim order passed by this Hon’ble Court it has been disclosed through the affidavits in compliance filed by the respondent no.1 Bangladesh Bank, that more than 50(fifty) thousands crores, given to Beximco Group as loan by different banks and financial institutions, have become classified. Unfortunately no information was given by the said respondent as to the steps taken to recover those loans under the law of the country. Rather, after the filing of the instant writ petition the respondent Bangladesh Bank seems to have started taking steps with regard to the classified loans of Beximco Group.

In the given context, he goes to contend that the Receiver, so has been appointed pursuant to the order of this Hon’ble Court, is required to continue to function to protect the interest of the shareholders of the said Group of Companies and that no shares are transferred or assets are sold without due compliance of law.

He further submits that this Hon’ble Court has been given ample power to verify any statement so made in any letter addressed to the Hon’ble Chief Justice of Bangladesh or any other Judge or the Court or Registrar or any report published in a newspaper, by issuing a Rule Nisi upon the respondents in view of Rule10, as contained in Chapter XIA of the Supreme Court of Bangladesh (High Court Division) Rules, 1973. He also submits that at the time of hearing of the *Rule Nisi* this Hon'ble Court has power to direct the parties concerned to submit evidence in order to determine the dispute involved in the application/petition [Rule 17 of Chapter XIA].

In this regard, he goes to argue that the respondent no.3 in its affidavit in opposition did not deny with substance any of the allegations made against it; rather, it's ultimate goal is to oust the writ petition on hyper-technicality. At this juncture, he contends that this petition has been placed before this Hon'ble Court, to show a glaring instance of abuse of power of the concerned banks and financial institutions, while disbursing loan to the respective companies of Beximco Group violating all rules and regulations of banking sectors. He also submits that because of the proceedings of this writ petition the people of Bangladesh have now, come to know about the failure of Bangladesh Bank to take necessary steps in its overall supervisory capacity to protect public money involving more than Taka Fifty three thousand crore, which have become classified with no scope to recover.

Accordingly, he submits that the issue being raised by the petitioner by filing the instant writ petition on behalf of the people of Bangladesh, whose hard earned money, deposited in the respective banks and financial institutions, being disbursed in favour of the respective companies of Beximco Group as loan without due process of law and the failure of Bangladesh Bank and other banks and financial institutions to take necessary steps for recovery thereof in accordance with law, is, of course, in the nature of public interest litigation. On the face of the context of the present case, as such, it cannot be knocked down on the plea of hyper-technicality, for, the writ petitioner has filed the instant writ petition as being the conscience citizen of the country having *locus standi*.

In view of the informations so have been gathered by Bangladesh Bank pursuant to the directions of this Hon'ble Court, Mr. Md. Asaduzzaman, the learned Attorney General appearing on behalf of the

respondent no.1 submits that Bangladesh Bank apprehends that Beximco Pharma's current solvency may be the result of the use of intra-group resources of benefits from loans taken by other companies within Beximco Group of Companies. In the given context, the appointment of Receiver in Beximco Group of Companies is justified in order to ensure transparency in financial dealings and clarity as to whether its prosperity is genuinely independent or tied to group-level financial practices. Moreover, he submits, as a part of the Group, Beximco Pharma may be indirectly exposed to the financial liability of other group entities through shared liabilities, cross guarantees or fund transfers. Considering the present circumstances, the Receiver, who has been appointed pursuant to the order of this Hon'ble Court, would safeguard the companies' assets and prevent their potential misuse, to support the struggling affiliates and also, shall ensure lawful and ethical governance of the companies. Further, the Receiver can be a shield to the operational risks linked to the group level controversies.

More so, he goes to argue, currently the companies of Beximco Group are not in a position to pay salaries and wages, which goes to show the inability of the Group to repay the loan liabilities. In such a situation, the Receiver is the most suitable person who can ensure assessing capacities, capabilities and possibly start repayment of the loan liabilities of different banks and financial institutions owed by Beximco Group.

Also, he contends that Beximco Pharmaceuticals Ltd. has 10 directors who are the common directors of 60(sixty) other companies of the Group and in order to inspect the liability of those companies regarding the loans and liabilities, which they availed from different banks and financial

institutions, the Receiver so appointed should be allowed to function in order to ensure recovery of the loans of those companies.

Moreover, he goes to argue that Baximco Group has a large number of companies but not all the companies have started their operations nor all companies have availed loan facilities from the banks and financial institutions. Thus, a clear information of the beneficial owners of the borrowing companies as well as the reasons for creation of the paper based companies are necessary to be identified for ensuring the recovery of public money. In this regard referring to Circular No.26 of BFIU dated 16.06.2020 he submits that the lending banks possess the responsibilities including maintenance of complete and correct information of the borrowers; in default, the banks shall be liable under the Money Laundering Act, 2012, as well as the Bank Companies Act, 1991. Accordingly, he submits that the appointment of the Receiver is justified and is liable to be mandated as lawful.

Ms. Quamrun Nessa, the learned Advocate appearing on behalf of the added respondent no.7 Bangladesh Financial Intelligence Unit (BFIU), in support of the statements so made in its affidavit in opposition submits that a review of BFIU shows that respondent no.4 including other institutions associated with Beximco Group have a total outstanding loan (funded and non funded) of Tk.53,100 crore (Taka fifty three thousand and one hundred crore) in various scheduled banks.

In this connection, she goes to argue that on careful scrutiny and examination of the informations and documents it appears to BFIU that money laundering and other predicate offences like corruption, fraud and forgery, covered under the Money Laundering Prevention Act, 2012, may

have occurred in the financial transactions of Beximco Group. In the given context, BFIU has already sent official letters dated 07.01.2025 to Bangladesh Police, CID, Dhaka, Anti Corruption Commission, Directorate of Customs Intelligence and Investigation and Bangladesh Securities Exchange Commission for thorough inquiry into the allegations and to take necessary steps in due compliance of law.

Mr. Fida M. Kamal, the learned Senior Counsel appearing with Mr. Md. Anisul Hasan, the learned Advocate for the respondent no.3 at the very outset submits that instant writ petition is not maintainable as the petitioner has no *locus standi*, for, he filed the same based on surmise and conjecture. To fortify his argument he goes to contend that the petitioner has failed to identify any public injury or public wrong or infraction of a fundamental right affecting an indeterminate number of people leading to common injury or common invasion in common with others under the principles, as laid down by this Hon'ble Court earlier. More so, he goes argue, neither in paragraph No.1 nor in paragraph No.2 of the writ petition the petitioner explained his standing before this Hon'ble Court, for, writ jurisdiction can be invoked only by a person aggrieved by some action or inaction of a public functionary, not on presumption.

So far appointment of Receiver is concerned he submits that the constitutional requirement of Article 102 of the Constitution is to specify the particular legislation under which the public functionary is obligated to act and its public duties. Instant writ petition has failed to refer to or identify or invoke any particular provision of law under which a receiver can be appointed by Bangladesh Bank to manage and/or attach properties of private entities. It is the settled principle of law that a statutory functionary cannot

assume a jurisdiction that is not vested in it by a statute. Accordingly, he submits that since there is no law which vests the power on Bangladesh Bank to appoint a receiver, this Hon'ble Court cannot, even in public interest litigation, direct Bangladesh Bank to do something which it has no statutory authority to do.

He further submits that the terms of reference of the Receiver, (Annexure III of the affidavit-in-compliance dated 27.11.2024) is nothing but an interference in the internal management of the companies of Beximco Group. Moreover, as per the purported terms of reference the Receiver shall enjoy the powers and benefits without the responsibilities; thus, ensuring his immunity. In this regard, he goes to contend that since the terms of reference itself violates different laws of the country hence, his immunity cannot be weaponized to protect his acts when his appointment as receiver is unlawful.

He again submits that a receiver works to realise the assets of a company to maximise the benefit for the secured creditors. More so, receivership is initiated by those creditors or banks that believe that the business cannot pay its debts. In the instant case, there was no threat to any creditor so far respondent no.3 is concerned. Further, there is no specific allegation of mismanagement or damage to any property of respondent no.3. As such, without any allegation of jeopardy, wastage or destruction to property, appointment of receiver and attachment of property based on mere apprehension cannot be mandated as lawful.

He again goes to argue that question of appointment of a receiver can arise when the lender remains insecure. In this regard, the relevant laws provide ample rights to the lenders and also, under the contracts to ascertain any claim against any borrower including the respondent no.3. No third

party can agitate before the court any grievance to which he is not privy. In addition, any party coming with any grievance must substantiate his claim. In the instant writ petition, these rudimentary principles of laws were clearly ignored and/or not observed.

He also submits that the vagueness and uncertainty of the Rule itself has caused reputational damage to the respondent no.3 as a solvent going concern and exposed it to the risk of forced acquisition of its properties, which also, threatens international/foreign investors; as such, it is violative of the principles of fair and equitable treatment to foreign investment as there are GDR holders along with local shareholders of respondent no.3.

Learned Senior Counsel again submits that the instant writ petition must also fail as being not in form, for, the petitioner has failed to comply with the rules as provided in the Supreme Court of Bangladesh (High Court Division) Rules, 1973 (in short, Rules, 1973), namely, the respective provisions as contained in Chapter IV and the general rules for applications and affidavits, as incorporated in Chapter IVA and XIA respectively .

Referring to the case of ***Vice-Chairman, E.P. Enemy Property Management, Board, Dacca and others*** Vs. ***Shah Gulam Nabi and others, 27DLR(AD)156,*** he submits that in the said case the apex court has categorically observed, *inter alia,* that in view of Order 19 of the Code of Civil Procedure (in short, the Code), the governing principle for all affidavit evidence is that, a deponent shall state facts, which he is able to prove of his own knowledge, and in interlocutory applications, the deponent can make statements of his belief, and that they may be admitted provided the grounds thereof are stated. The proper approach is to say that affidavit must conform to the verification rule as contained in Order 19 of the Code and also the

provision of special rule, if there be any. If the source of information is not disclosed or the grounds not supplied, the Court shall not act on such affidavit evidence.

The purpose of verification of affidavit, he goes to contend, is to enable the court to find out which of the facts can be said to be proved by affidavit evidence of rival parties. In this regard he argues that facts may be true to knowledge, or true to information received from a person, or may be based on some record or document. However, unless the source is separately disclosed, it is difficult for the court to test, either the truth, or authenticity, or genuineness of the allegation made in the affidavit. The aim is to make the deponent responsible for the allegation made by him. In the absence of proper verification, affidavit cannot be admitted into evidence. Further, the compliance of verification rule is mandatory, and its breach in substance, will make so much of the statement in the affidavit as is not in compliance with verification rule, inadmissible.

In addition, he argues, Rule 3 of Chapter-XIA of the Rules, 1973 provides that every application/petition under Article 102 of the Constitution shall set out concisely the facts upon which the petitioner relies, the grounds upon which the Court is asked to issue the direction, order or declaration, his legal right in the matter in question, his demand of justice and the denial thereof and shall conclude with a prayer stating, as clearly as the circumstances permit, the exact nature of the relief or relieves sought for.

In the present writ petition, he submits, the cause title failed to refer to the impugned cause of the writ petition. More so, there is no reference to any law which is alleged to have been violated by a public functionary in exercise of its public duties so as to invoke the powers of this Hon’ble Court

under Article 102 of the Constitution to issue writ of *mandamus* even in a public interest litigation. Instead of reference to an impugned cause or violation of law that a public functionary/statutory body failed to comply, the cause title refers to several directions on public functionary/statutory body about a private sector entity and an individual.

Also, the instant writ petition, he goes to contend, is a two paragraph statement of facts which are not only vague, unspecific, uncertain but also are based on wild conjectures and surmises with no specifics, particulars or even annexures. More so, the prayer is vague and in relation to unspecified and indeterminate number of entities under the guise of "companies of Beximco Group of Companies". In the given context, issuance of Rule and passing interim order pursuant to such vague prayer is not only a violation of the basic principles of natural justice, but the same, on the face of it, is not grounded on any substance. In support he has referred the decision of the case of ***Ashok Paper Mills Kamgar Union v. Union of India and another*** reported in ***(2000) 7 SCC 326 (329).***

Accordingly, he ends his argument by submitting that this writ petition is not maintainable in its present form and manner. If the Hon'ble Court allows such petition, it would not only make the Rules, 1973 redundant, it would open flood gates that the luminaries of the Bench once cautioned about. The necessity of discipline by following the Rules, 1973 in filing a writ petition is not only to ensure sanctity of the Courts but also, to ensure that there is no abuse of process, thereby causing injustice and that there is no violation of the principles of natural justice of the person alleged of some wrong doing.

As such, he submits that this Rule is liable to be discharged with costs.

Our apex court while giving answer to the core question, whether the expression "*any person aggrieved*", as occurring in Article 102(1) and (2)(a) of the Constitution of the People's Republic of Bangladesh, should be liberated from the traditional view so far attributed to it, has observed, *inter alia,* in the case of ***Kazi Mukhlesur Rahman Vs. Bangladesh: 26 DLR(SC) 44***

> *"It appears to us that the question of locus standi does not involve the Court's jurisdiction to hear a person but of the competency of the person to claim a hearing, so that the question is one of discretion which the Court exercises upon due consideration of the facts and circumstance of each case."*

In the said case the Appellate Division ultimately settled the following general principles:

> *(1) the High Court Division does not suffer from any lack of jurisdiction under Article 102 to hear a person;*
> *(2) The High Court Division will grant locus standi to a person who agitates a question affecting a constitutional issue of grave importance, posing a threat to his fundamental rights which pervade and extend to the entire territory of Bangladesh;*
> *(3) If a fundamental right is involved, the impugned matter need not affect a purely personal right of the applicant touching him alone. It is enough if he shares that right in common with others;*
> *(4) In interpreting the words "any person aggrieved", consideration of "Fundamental Rights" in Part III of the Constitution is a relevant one;*
> *(5) It is the competency of the person to claim a hearing which is at the heart of the interpretation of the words "any person aggrieved";*
> *(6) It is a question of exercise of discretion by the High Court Division as to whether it will treat that person aggrieved or not; and*

> *(7) The High Court Division will exercise that jurisdiction upon due consideration of the facts and circumstances of each case."*

In ***Dr. Mohiuddin Farooque Vs. Bangladesh*** reported in ***49DLR (AD)1,*** the Appellate Division while giving interpretation to the expression "*any person aggrieved*" approximates the test of "*sufficient interest*", by observing, *inter alia*, "*Any person other than an officious intervenor or a wayfarer without any interest or concern beyond what belongs to any of the 120 million people of the country or a person with an oblique motive, having sufficient interest in the matter in dispute is qualified to be a person aggrieved and can maintain an action for judicial redress of public injury arising from breach of public duty or for violation of some provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision. Now what is 'sufficient interest' will essentially depend on the co-relation between the matter brought before the Court and the person who is bringing it. It is not possible to lay down any strait-jacket formula for determining sufficient interest which may be applicable in all cases. Of necessity the question has to be decided in the facts of each case ..... "*

Further, it has been observed in the said case that "*This is not to say that Article 102 has nationalised each person's cause as every other person's cause. The traditional view remains true, valid and effective till today in so far as individual rights and individual infraction thereof are concerned. But when a public injury or public wrong or infraction of a fundamental right affecting an indeterminate number of people is involved it is not necessary, in the scheme of our Constitution, that the multitude of individuals who has been collectively wronged or injured or whose collective fundamental rights*

have been invaded are to invoke the jurisdiction under Article 102 in a multitude of individual writ petitions, each representing his own portion of concern. Insofar as it concerns public wrong or public injury or invasion of fundamental rights of an indeterminate number of people, any member of the public, being a citizen, suffering the common injury or common invasion in common with others or any citizen or an indigenous association, as distinguished from a local component of a foreign organisation, espousing that particular cause is a person aggrieved and has the right to invoke the jurisdiction under Article 102.

It is, therefore, the cause that the citizen-applicant or the indigenous and native association espouses which will determine whether the applicant has the competency to claim a hearing or not. If he espouses a purely individual cause, he is a person aggrieved if his own interests are affected, If he espouses a public cause involving public wrong or public injury, he need not be personally affected. The public wrong or injury is very much a primary concern of the Supreme Court which in the scheme of our Constitution is a constitutional vehicle for exercising the judicial power of the people."

In the instant case, the respondent no.3 has assailed the bonafides as well as the fitness of the petitioner for invoking the discretionary jurisdiction of the High Court Division under Article 102 of the Constitution claiming to have embarked on a "fishing expedition'' for information basing on wild conjecture, vague, unspecified statements without any supporting documents, nor is well-founded on any material facts, matters and circumstances, as provided under Chapter IV, IVA and XIA of the Supreme Court of Bangladesh (High Court Division) Rules, 1973; hence, it is devoid

of any substance whatsoever for consideration by this Court and accordingly, it is liable to be discharged.

In the light of the observations and findings of the Appellate Division, as quoted above, let us now examine while exercising constitutional jurisdiction of this Court under Article 102 of the Constitution, the fitness of the petitioner, in other words, his "*locus standi*" claiming hearing on the issue of public cause involving public wrong or public injury.

The petitioner, a practicing lawyer of this Court for several decades, known for espousing the cause of public issue involving compliance of the constitutional obligation by the State, including public wrong or public injury, has filed the instant writ petition in the nature of *mandamus* seeking direction upon Bangladesh Bank, respondent no.1, to provide "information" on respondent No. 3 and all other affiliated business concerns of Beximco Group of Companies of respondent No.4 on how much "unpaid" loan respondent No.4 had obtained from all banks and financial institutions, present status of loans and repayment and to appoint a 'Receiver' to manage the Beximco Group of Companies and also, to attach all properties belonging to the said Group of Companies.

However, at the time of issuance of the Rule Nisi, vide an interim order dated 05.09.2024 this Court directed Bangladesh Bank, respondent no.1 to appoint a receiver to manage the respective companies of Beximco Group and to attach all its properties (belonging to said Group of Companies), but, for a prescribed period. Respondent no.1 was also directed to recover the money back to Bangladesh obtained by the respondent no.4 from different banks.

Said interim order was subsequently modified by the Appellate Division in CPLA No.3174 of 2024 vide order dated 12.11.2024 retaining the order of appointment of receiver and attachment of the properties of Beximco Group of Companies except respondent no.3, till disposal of the Rule.

In compliance of the said interim order Bangladesh Bank by filing 5(five) sets of affidavits of compliance in particular dated 02.03.2025 has provided before this Court detailed informations on the present position of loan, taken by the respective companies of Beximco Group and their financial status, by annexing supporting documents.

Bangladesh Bank had also, sent letters to the Registrar of Joint Stock Companies and Firms(RJSC) as well as Bangladesh Securities and Exchange Commission(BSEC) on 01.10.2024 asking for the list of the companies and firms of Beximco Group and the names of Directors of those companies and firms. In the meanwhile, RJSC has reported that 133 companies are part of Beximco Group; however, the commercial banks and financial institutions have reported 84 companies are part of Beximco Group. The Textile and Apparels Division of Beximco Group has reported that 31 companies are in its Textiles and Apparels segment. Accordingly, Bangladesh Bank has identified 188 distinct companies, belonging to Beximco Group, out of which 169 are public/private companies and the rest 19 are Associations/Samities.

These 169 public/private companies of Beximco Group have liabilities to the banks and financial institutions of the country where the total claim of the respective banks and financial institutions (as of 30.09.2024) stood at Tk.49,172.85 crore (Taka Forty-nine thousand one

hundred seventy two point eighty five crore) out of which the total outstanding loan stood at Tk.48,082.19 crore and the Bond/Sukuk, as claimed by the respective banks and financial institutions, stood at Tk.909.35/- crore.

However, out of total claim of Tk. 49,172.85 crore by the respective banks and financial institutions, Tk.23,120.51 crore have already become classified, as of 30.09.2024 and almost 100% of the total claim of the banks and financial institutions from the respective companies of Beximco Group shall be classified/defaulted by the end of December, 2024.

Also, it has been stated that Textile and Apparels Division of Beximco Group of Companies has total 31(thirty one) companies, out of which 16(sixteen) companies are in operation and 15 have been closed down. 16 (sixteen) operating companies have a total liabilities of Tk.16,463.40 crore, as of 30.09.2024, to the respective banks and financial companies, out of which Tk.10,471.50 crore (63.60% of the total liabilities) are now, classified and that there is every likelihood that by the end of December 2024,the total amount of liabilities would become classified.

Again, it has been asserted that 16(sixteen) operational companies have exported products and that outstanding export proceeds of those companies stood at Tk.2900.55 crore (as of 27.11.2024), of which Tk. 716.08 crore (24.69% of the total export proceeds) are already overdue. In the given context, even if the total export proceeds are repatriated, only 17.62% of the loan liabilities of the exporting companies would be recovered and Tk. 13,562.58 crore would remain unrecovered.

In addition to the above, 15 closed companies have loan liabilities of Tk. 11,923.44 crore with Tk. 11,092.63 crore as classified (that is 93.03% of

the total liabilities). They also have outstanding export proceeds at Tk. 692.10 crore with an amount of Tk. 663.25 crore as overdue, i.e. 95.83% of the total export proceeds. As such, even if the whole proceeds are repatriated , only 5.805% of the total loan liabilities would be met leaving Tk.11,231.34 crore unrecovered.

Thus, in total, 31 companies of Beximco Textile and Apparels Division have the liabilities of Tk.28,386.84 crore with Tk.21,564.13 crore classified, i.e. 57.84% of the Beximco Group's total liabilities to the banks and financial institutions . The total outstanding export proceeds from these 31 companies are Tk. 3,592.65 crore, out of which Tk. 1,379.33 crore is overdue, i.e. 38.39% of the total export proceeds. Thus, even if the whole export proceeds are repatriated, only 12.66% of the loan liabilities of these 31 companies of Textile and Apparels Division will be met and Tk. 24,794.19 crore will remain unrecovered.

In other words, the unrecovered liabilities as well as the overdue export proceeds of Beximco Textiles and Apparels Division pose a significant risk to the recovery of public funds.

So far Beximco Pharmaceuticals Limited, respondent no.3 is concerned it has been stated, *inter alia*, that this company has 10 directors at the moment, according to the documents and information furnished by the RJSC. The RJSC has further sent a list of 60(sixty) affiliated companies of Beximco Pharma, who have a total outstanding loan liability of Tk. 8,645.55 crore, out of which Tk.4,328.96 crore is classified (as of 30.09.2024). More so, at least one director is the common director of the said 60 affiliated companies of Beximco Group. Resultantly, the Board Members of Beximco Pharmaceutical Limited have control and influence over other companies of

Beximco Group as well their unpaid loans/liabilities involving public money and is at stake towards its recovery.

It is also disclosed from the reports filed by the Department of Offsite Supervision (DOS) and the Department of Banking Inspection-1 (DBI-1) of Bangladesh Bank that in the year of 2022, 4 companies of Beximco Group borrowed money from Janata Bank PLC, a government owned bank, exceeding Single Borrower Exposure Limit; in 2023, other 26 companies of the said Group of Companies have also exceeded the Single Borrower Exposure Limit while taking loan in flagrant violation of the Bank Companies Act, 1991. Furthermore, Beximco and its related companies did not repay the EDF Fund to Janata Bank PLC, at USD 117.88 on the completion of the respective period.

Bangladesh Bank has also, collected a list of the banks and financial institutions who provided financial facilities to the respective companies of Beximco Group in the forms of loans, advances, L/Cs, Guarantees etc. It is revealed therefrom that 16(sixteen) scheduled banks and 7(seven) financial institutions have granted loan facilities to the companies of Beximco Group (upto 30.09.2024) wherein Janata Bank PLC alone has granted loan to 29 companies of Beximco Group, IFIC Bank granted loan to 29 companies, National Bank PLC granted loan to 9 companies, Sonali Bank PLC granted loan to 4 companies, Agrani Bank Ltd. granted loan to 4 companies, AB Bank Ltd. granted loan to 6 companies, Exim Bank Ltd. granted loan to 5 companies and other banks granted loan to more than one companies belonging to Beximco Group. Thus, it goes to indicate that the respective companies of the said Group wanted to hide the actual beneficial owners that may lead to money laundering and tax evasion, in contrary to the prevailing

laws of the country. This practice of hiding the actual beneficial owners might have accelerated the breach of Single Borrower Exposure Limit, the limit which the banks always maintain to adhere in the light of Section 26Kha of the Bank Companies Act, 1991. As per the report of Bangladesh Bank dated 31.12.2017, Beximco Limited committed irregularity by not paying the first installment as per the terms of the restructure of loan and had hidden the real status of classification of loans at the time of opening L/Cs; the loans of Beximco Computers Limited is not well covered by the collateral securities and no adequate insurance against the investment was found. Other illegalities and irregularities were found in different companies of Beximco Group and following those irregularities, a good number of recommendations were offered for reimbursement but, Beximco Group did not pay any heed to those recommendations.

Accordingly, it has been averred that on many occasions the companies of Beximco Group have violated laws and the respective circulars of Bangladesh Bank in receiving loan and as well as in repayment of loan including advances taken from different banks. Resultantly, it has produced a larger amount of classified loan in the country.

Those assertions of Bangladesh Bank have not been controverted by the respondent no.3 with supported official documents, rather, its core contention is based on hyper-technicality of the writ petition and *locus standi* of the petitioner.

So far appointment of the Receiver is concerned it has been stated by the respondent no.1 that in compliance of the order of this Court an Executive Director of Bangladesh Bank has been appointed as Receiver by the Bangladesh Bank vide order dated 07.11.2024 (Annexure-III of the

Affidavit in Compliance dated 02.03.2025) with the respective Terms of Reference.

However, fact remains, in the affidavit-in-compliance, filed by the Bangladesh Bank, neither any averment has been made nor any document has been produced to show the steps so far have been taken by the respective scheduled banks and financial institutions, who have extended loan facilities to the respective companies of Beximco Group, for realization of the defaulted loan amount, which involved huge amount of public money. Bangladesh Bank has also not come forward to show that it took any step whatsoever under the Bangladesh Bank Order, 1972 against the concerned banks and financial institutions for their failure to conduct their banking business in the interest of its/their depositors while granting loan to the respective companies of Beximco Group.

The facts, as stated in the affidavit in compliance on the position of regular loan along with defaulted and classified amount of huge loan being enjoyed by the respective companies of Beximco Groups, clearly involves public cause. At the same time, it also manifests/exhibits the failure of Bangladesh Bank to discharge its respective duties and functions in its regulatory and supervisory capacity over the respective scheduled banks and financial institutions to take necessary steps in accordance with law for realization of the defaulted and classified loan amount. Thus, causes public wrong as well as public injury, for, those loan at the end of the day is public money being deposited by the public at large in the respective banks and financial institutions. Resultantly, a serious threat is being posed towards recovery of the said public fund.

It is the categorical findings of our Appellate Division that exercise of discretion by the High Court Division to treat the petitioner aggrieved or not depends upon the facts and circumstances of each case. Accordingly, this Court can grant *locus standi* to the petitioner to maintain the writ petition for judicial redress of public injury arising from breach of public duty or for violation of the respective provisions of the Constitution or the law and seek enforcement of such public duty and or observance of such constitutional or legal provision .

Basing on the affidavit in compliance, in particular dated 02.03.2025 furnished by Bangladesh Bank, there is no doubt to find that Bangladesh Bank as well as the respective scheduled banks and financial institutions have miserably failed to perform their statutory/legal obligations towards disbursement of loan in due compliance of law as well as realization of the defaulted and classified loan amount from the respective companies of Beximco Group.

In the given facts and circumstances of the case, we find that the petitioner has *locus standi* to maintain the instant writ petition filed on public cause involving public wrong as well as public injury.

No doubt, instant writ petition does not reflect strict compliance with the respective provisions of the Supreme Court of Bangladesh (High Court Division) Rules, 1973, but when an issue is brought to the judicial notice of this Court, the guardian of the Constitution, by filing writ petition under Article 102 of the Constitution involving public cause, which ultimately led to disclosure of public wrong or public injury, the same cannot be throttled down on the ground that the petition suffers from procedural defect or is not

in form. In other words, this writ petition maintains/survives in the eye of law considering the given facts and circumstances of the instant case.

Generally, question of appointment of the Receiver comes into play for preservation of the subject matter of the litigation pending judicial determination of the rights of the parties concerned. However, in the instant case, the appointment of the Receiver by the respondent no.1 pursuant to the interim order of this Court, has not been made within the framework of the respective statute, rules, regulations or circulars of Bangladesh Bank. Said interim order has been passed by this Court considering the exigency of the present context of the respective companies of Beximco Group which involves huge outstanding loan of Tk.53,100 crore, sanctioned by different scheduled banks and financial institutions and Tk. 23,120.51 crore being classified as of 30.09.2024. Thus, posing significant threat to recovery of the said public fund.

Moreover, the Appellate Division while passing the order dated 12.11.2024 in CPLA No.3174 of 2024 modifying the ad-interim order dated 05.09.2024 passed by this Court in the instant writ petition, did not interfere with the interim order of appointment of the Receiver and attachment of the properties of the respective companies of Beximco Group save and except respondent no.3.

In view of the facts and circumstances of the case, appointing a receiver by Bangladesh Bank pursuant to the interim order passed by this Court and having not been interfered with by the Hon'ble Appellate Division, is found lawful under the doctrine of necessity as embodied in the m*axim, salus populi est suprema lex (public welfare is the hightest law).*

Consequently, all acts, steps, decisions taken by the said Receiver in good faith, to protect public fund being disbursed to the respective companies of Beximco Group by allowing loan beyond the sanctioned limit including the loan which has now, become classified, also the loan amount which is at the verge of being classified and to protect, among others, unlawful transfer of properties or assets of those companies, are mandated as lawful for the greater interest and welfare of the people concerned.

The technical defect, however, being raised on behalf of the respondent no.3 as to filing vokatnama on behalf of the respondent no.1 subsequent to filing the affidavits in compliance, is cured with the filing of affidavit in compliance dated 02.03.2025, which is subsequent to filing power, containing all the informations and steps so far have been taken by Bangladesh Bank in compliance of the interim direction given by this Court along with necessary documents.

Considering facts and circumstances, observations and findings of this Court following decisions have been taken:

1. *The petitioner has locus standi to maintain the instant writ petition on public cause involving public wrong and public injury;*
2. *Basing on the affidavit in compliance furnished by the respondent no.1 Bangladesh Bank dated 02.03.2025 there is no doubt to find that Bangladesh Bank as well its respective scheduled banks and financial institutions have miserably failed to perform and or observe their statutory or legal obligations towards disbursement of loan as well as realization of the defaulted and classified loan amount from the respective companies of Beximco Group, the*

consequence of which shall ultimately be borne by the public in general;

3. *When an issue, involving public cause leading to disclosure through records of public wrong or public injury, has been brought to the judicial notice of this Court, the door to justice cannot be closed on the ground that the respective petition suffers from procedural defect/ or is not in form;*
4. *The appointment of the Receiver in the instant case has not been made within the framework of the respective statues, rules, regulations or circulars of Bangladesh Bank, but considering the exigency of the present context of Beximco Group of Companies, involving outstanding loan of Tk.53,000 crore and Tk.23,120.51 crore being classified as of 30.09.2024.*

In the given facts and circumstances, appointing a receiver by the respondent no.1, Bangladesh Bank pursuant to the interim order passed by this Court and having not been interfered with by the Hon'ble Appellate Division, except respondent No.3, is found lawful under the doctrine of necessity as embodied in the maxim, salus populi est suprema lex (public welfare is the highest law).

Consequently, all acts, steps, decisions taken by the said Receiver in good faith to protect the public fund being disbursed to the respective companies of Beximco Group by allowing loan beyond the sanctioned limit, including the loan which has now become classified; also, the loan amount which is at the verge of being classified and to protect, among others, unlawful transfer of

properties and assets of those companies, are mandated as lawful for the greater interest and welfare of the people concern;

5. *All actions, steps, decisions taken by the respondent no.1, Bangladesh Bank and the Government of Bangladesh pursuant to the interim order passed by this Court in connection with the instant writ petition are found lawful for the safeguard of public money;*

6. *The conducts of Bangladesh Bank, respondent no. 1 and all concerned scheduled banks and financial institutions towards sanctioning loan facilities to Beximco Group of Companies violating banking rules and regulations have become questionable;*

In the given context, respondent no. 1 and other concerned authorities are hereby directed to take necessary steps against the person(s) and/or institution(s) concerned, who are responsible for sanctioning said questionable loan facilities to the respective companies of Beximco Group of Companies, in accordance with law;

7. Bangladesh Bank, respondent no.1 as being the regulatory and supervisory authority over the respective scheduled banks and financial institutions, is hereby directed to take all necessary steps towards realization of the defaulted and classified loan amount of Beximco Group of Companies within the bound of law;

8. Bangladesh Bank, respondent no.1, Bangladesh Financial Intelligence Unit, respondent no.7 and other concerned authorities of the government are hereby directed to complete the process of investigation/enquiry, if any, so has/have been initiated on the issue in

question and on completion thereof, if found substance, to take necessary steps in accordance with law; and

9. Considering the interest of thousands of workers, staffs and employees, Beximco Group of Companies is allowed to run the management and affairs of its respective companies in strict compliance of law under the constant monitoring of the concerned departments of the Government of Bangladesh including Bangladesh Bank and other concerned statutory bodies.

In view of the above directions, the interim order of appointment of the Receiver and attachment of properties of Beximco Group of Companies being redundant is hereby vacated.

With the above, this Rule is accordingly disposed of without any order as to costs.

Communicate the judgment and order to the respondents concerned at once.

Debasish Roy Chowdhury **, *J:***

I agree.

Montu, B.O