

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

WRIT PETITION NO. 470 OF 2016

In the matter of:

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

And

In the matter of:

Md. Suruj Miah, son of late Haji Afizuddin
Prodhan, Proprietor of M/S Madanpur
Enterprise, 2/1, Nawab Street, Wari, Police
Station- Sutrapur, Dhaka.

... Petitioner

-Versus-

Bangladesh Bank, Head Office, Bangladesh
Bank Bhaban, Motijheel Commercial Area,
Dhaka represented by its Governor and others.

... Respondents

No one appears

...For the petitioner

No one appears

...For the respondent no. 4

The 6th August, 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 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Credit Information Bureau (CIB) in so far as it relates to the petitioner's liabilities to the respondent nos. 3 and 4 should not be declared to have been made without lawful authority and is a nullity and is of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.”

At the time of issuance of the rule, this court also restrained the respondents by an order of injunction from reporting/ circulating/ publishing the name of the petitioner in the Credit Information Bureau of Bangladesh Bank classifying the petitioner as loan defaulter against the loan taken for him for a period of 6 (six) months which was lastly extended on 23.01.2018 for 3(three) months.

Even though the matter has been appearing in the top of the list for hearing on a series of occasions, but neither the learned counsel for the petitioner nor the learned counsel for the respondents have bothered to turn up to press or oppose the rule.

Since the point-in-issue brought forward in the writ petition has already been set at rest by this division, so we feel it expedient to dispose of the rule on merit rather than discharging the same for default.

It is admitted position that the petitioner took loan on different occasions and accounts from respondent nos. 3 and 4, bank and since the said loan ultimately went outstanding and the petitioner became defaulting-borrower, the respondent no. 4 then sent the name of the petitioner to respondent nos. 1 and 2 classifying him as defaulting-borrower under section 27kaka of Bank Companies Act, 1991 for enlisting him in the Credit Information Bureau (CIB) report. However, challenging the said enlistment in the CIB report at Bangladesh Bank, the petitioner then filed this writ petition and obtained instant rule and order of injunction as has been stated hereinabove.

But Article 41(1) of Bangladesh Bank Order, 1972 put a legal bar to challenge anything to be done in pursuance of Article 36-40 or in pursuance of the provision provided under Chapter IV of the said Order. When Article 43(a)(b) of the said Order vested absolute authority to the Bangladesh Bank to collect credit information and then furnish such information to any banking company in accordance with the provision provided in Article 45 of the Order, 1972. In view of the said restrictive provision of law, the instant writ petition is not maintainable. The said legal proposition has already been fortified by various decisions of this division, including the decision reported in 73 DLR (HCD) 554.

Further, it has also been settled, that a court cannot pass any ad interim order which is tantamount to provide substantive relief to a person aggrieved but in the instant case by issuing restrain order in the form not reporting/circulating/publishing the name of the petitioner, the said settled legal proposition has been infringed. We find clear support of

that legal authority in the decision reported in 58 DLR (AD) 129. On those legal scores, we don't find any shred of merit in the rule.

On top of that, whether the petitioner name has rightly been sent by the creditor bank to Bangladesh Bank for enlisting in the CIB classifying him as defaulting-borrower or not is absolutely a disputed question of fact which can never be adjudicated in writ jurisdiction under judicial review.

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

The restrain order so granted at the time of issuance of the rule stands recalled and vacated.

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

Md. Bashir Ullah, J.

I agree.