

this Division would always be loath to
with a case as a Court of appeal. It is well
which is no longer a resintegra. That being
 the irresistible conclusion that follows
 the Rule should be discharged being devoid of
 substance. *(Underlined by me)*

As a result, the Rule is discharge, however,
 in any order as to cost. The order of stay grant-
 ed by this Court is hereby recalled and vacat-

communicate at once.

HIGH COURT DIVISION
(Special Original Jurisdiction)

Zinat Ara J Abu Zafor Saddique J	Anwar Cement Limited & others.....Petitioners
	vs
Judgment 24th, 2011.	Bangladesh Bank and oth- ers.....Respondents*

Constitution of Bangladesh, 1972
 102(2)

The petitioner were/are not shown as
 borrowing borrowers in the CIB report and there
 is no scope to treat them as defaulting borrowers
 and cannot be refused to the petitioners by
 the bank on the ground that they defaulting bor-
 rowers though it may be refused due to some
 valid reasons.(9)

Amimuddin with Munshi Moniruzzaman, Advo-
 cate For Petitioners.

Munshi Rahman, Advocate—For the Respondent
 and 4.

Judgment

Zinat Ara J : In this Rule Nisi the petitioners
 in question the legality of publication of the
 writ Petition No.6016 of 2008.

names of the petitioners as loan defaulters against
 Borrower Code Nos. 92100, 92030 and 37581 res-
 pectively in the Credit Information Bureau (CIB)
 Report of Bangladesh Bank relating to the loan of
 respondent No. 5.

2. Facts necessary for disposal of the Rule
 nisi, in a nutshell, are as under:—

The petitioners are Private Companies
 incorporated under the laws of Bangladesh.
 Respondent No.5, Blue Bird Export and Import
 Company Limited is another company incorpo-
 rated under the Companies Act, 1994. Respon-
 dent No. 5 obtained loan from Dutch-Bangla
 Bank Limited, Local Office, Dhaka (hereinafter
 stated as the Bank). The petitioners are guaran-
 tors of the said loan obtained by respondent No.
 5 (the loanee) became a loan defaulter. The peti-
 tioner-companies are guarantors for the loan
 and these companies are not loan defaulters. So,
 there is no scope to consider the petitioners as
 loan defaulters under section 5(Ga Ga) and 27
 (Ka Ka) of the *বাংক কোম্পানী আইন, ১৯৯১* (the Act,
 in short). But the petitioners were treated as
 loan defaulters in the CIB report published by
 the Bangladesh Bank against Borrower Code
 No. 92100, 92030 and 37581. The BASIC Bank
 Limited on 7-2-2008 asked information from
 the petitioners about loan classification situa-
 tion of the petitioner-companies and it was
 informed by this bank that the petitioners are
 shown to have bad loan. The petitioners tried to
 collect the CIB report from respondent No. 2,
 Bangladesh Bank but failed. Hence, this writ
 petition.

3. Respondent No. 2, the General Manager,
 Credit Information Bureau of Bangladesh Bank con-
 tested the Rule by filing an affidavit-in-opposition
 denying the averments made in the writ petition
 contending, *inter alia*, that respondent No. 5
 obtained loan of Taka 115.80 million for a period of
 4(four) years but it failed to pay the loan inspite of
 repeated reminders. Therefore, the name of respon-
 dent No. 5, was reported as defaulting borrower
 (খেলাপী ঋণ গ্রহীতা) in the CIB report and the petition-

ers being guarantors for the loan have been included in the CIB report as guarantors of the loan obtained by respondent No. 5. Under Article 43(Chapter IV) of Bangladesh Bank Order, 1972 and CIB Circular No. 1/1994 dated 24th September, 1994 and CIB circular No. 1/2005 dated 8-1-2005 the guarantors' information is collected and published in the CIB report only as guaranties' and not as defaulting borrowers. Therefore, the petitioners were not classified by the Bangladesh Bank as defaulting borrowers. The petitioners being guarantors are not defaulting borrowers under the Act. So, there is no legal bar from obtaining loan by the petitioners as their names did not appear in the CIB report as defaulting borrowers. The allegation that the petitioners names have been published in the CIB report as defaulting borrowers (ঋণগ্রহীতা) is not true and therefore, the Rule is liable to be discharged.

4. Respondent No. 4, Dutch-Bangla Bank Limited also contested the Rule by filing an affidavit-in-opposition denying the materials averments made in the writ petition contending, *inter alia*, that the petitioners are guarantors for the loan obtained by respondent No. 5 and their names were sent as guarantors for the loan and not as defaulting borrowers. The petitioners name did not appear in the CIB report as defaulting borrowers and therefore, the allegation that the petitioners are unable to get loan from other banks as defaulting borrowers are not true. The CIB report is absolutely confidential and the petitioners are not legally entitled to get copy of the CIB report due to the legal bar under Article 46 of the Bangladesh Bank Order, 1972. This writ petition is misconceived, vague and the Rule was obtained by misleading the court. Thus, the Rule is liable to be discharged with costs.

5. Mr AM Aminuddin, the learned Advocate for the petitioners appearing with Mr Munshi Moniruzzaman contends that the petitioners are guarantors for the loan obtained by respondent No. 5 and therefore, the petitioners cannot be treated as defaulting borrowers under section 5 (Ga Ga) of the Act so, as to publish their names as defaulting borrowers.

6. However, on perusal of the affidavit-in-opposition, he contends that as respondent Nos. 2 and 4 stated that the petitioners were not shown as defaulting borrowers in the CIB report and shown as guarantors for the loan and that the legal bar in obtaining loan by the guarantors under Rule 5 may be disposed of with such observations.

7. In reply, Mr Forrukh Rahman, the learned Advocate for the respondent Nos. 2 and 4 contends that the petitioners were shown as defaulting borrowers (ঋণগ্রহীতা) in the CIB report and therefore, there is no scope to treat as defaulting borrowers if any application for loan of the petitioners is refused by any bank that must be due to some reasons. He next submits that the petitioners were shown as guarantors of a defaulting borrower and not as defaulting borrowers. He further submits that the petitioners failed to produce any papers to show that their prayer for loan was any refused by any bank as they were shown as defaulting borrowers in the CIB report. He next submits that information in the CIB report may be supplied by the banks with special permission only under CIB Circular No. 1/2005 dated 8-1-2005 but the petitioners failed to produce any papers. He lastly submits he has no objection is the Rule may be disposed of with the observations as prayed for by the petitioners. Aminuddin.

8. We have examined the writ petition, the affidavits-in-opposition and the connected documents on record.

9. It has been admitted by respondent Nos. 2 and 4 that the petitioner were/are not shown as defaulting borrowers in the CIB report and so there is no scope to treat them as defaulting borrowers. A loan cannot be refused to the petitioners by any banks on the ground that they defaulting borrowers though it may be refused due to some other reasons.

10. In view of the above, there is no scope to treat the petitioners being aggrieved by the CIB report.

Therefore, the Rule is disposed of with the above observations without any order as to costs.