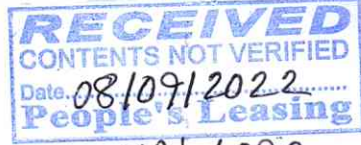


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N0. 6092

IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(STATUTORY ORIGINAL JURISDICTION)

Company Matter No. 206 of 2022

IN THE MATTER OF :

An application under section 81(2) read with 85(3) and 396 of Companies Act, 1994

AND

In the Matter of

Hasan Shaheed Ferdous

.....Petitioner

-Versus-

The Registrar of Joint Stock Companies and
Firms and others

.... Respondents

Ms. Farhana Siraj Ronnie, Advocate

.....For the Petitioner

The 21st August, 2022

Present

Justice Muhammad Khurshid Alam Sarkar

By filing this application under Section 81(2) read with 85(3) and 396 of the Companies Act, 1994 (briefly, the Companies Act), the applicant prays for permitting to call and hold the Annual General Meetings (AGMs) of the company, namely, People's Leasing and Financial Services Ltd. for the calendar years 2019, 2020 & 2021 upon condoning the delay thereof and, also, for exoneration from the fine incurred for default.

It is stated in the petition that the petitioner is the Member of the Court appointed Board of Directors (BoD) of the company, namely, People's Leasing and Financial Services Ltd. which was duly incorporated as a public limited company under the provisions of the

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Companies Act having its registered office at City Centre, Level 17th, 90/1, Motijheel C/A, Dhaka-1000. The principal activities of the company are to carry on businesses in the financial sector as the leasing firm, as otherwise more specifically elaborated in the MOA (Annexure- 'A'). Since its incorporation, the company regularly held its Annual General Meetings. The company has duly held its last AGM on 18.09.2018 for the calendar year 2018. In the said AGM, the audited financial statements for the financial year ended 30th June, 2018 were duly adopted by the shareholders. As per AoA and Section 81 of the Companies Act, the AGM for the calendar year 2019 was needed to be held within 31st December, 2019 to fulfill the requirement of one AGM in each calendar year and despite sincere and bona-fide intention on the part of the management to hold the company's AGM for the calendar year 2019 in compliance with Sections 81 and 85(3) of the Companies Act, it was not possible to do due to the reason that the then 'Board of Directors' of the Company became non-functional as the Company went to under liquidation process by the Order dated 14.07.2019 passed by this Court. Therefore, the AGM for the aforesaid years could not be held. Section 82 of the Companies Act makes the defaulting company and its responsible officer/s liable for a fine which may extend to ten thousand Taka and in case of continuing default, with a further fine which may extend to two hundred fifty taka for every day after the first day during which such default continues. However, no proceeding has been initiated yet against the company and/or any of its officials for not holding AGMs for imposing aforesaid fines against them thereof.



Ms. Farhana Siraj Ronnie, the learned Advocate for the petitioner submits that no proceeding has been drawn yet against company or any of its officials under Section 396 of the Companies Act for not holding AGMs of the company. He prays to this Court that if any penalty has been incurred for not holding AGMs within statutory time, it may kindly be exonerated, as there was no intentional latches on the part of the petitioner or any other officers of the company. He contends that despite sincere and bona-fide intention on the part of the management to hold the company's AGMs for the calendar year 2019 and subsequent AGMs in compliance with Sections 81 and 85(3) of the Companies Act, it was not possible to do due to reasons as stated above and the time period which was stipulated in order to hold AGMs had already lapsed by the time and, therefore, the Court may condone the delay. He next submits that this application is filed bona fide and no shareholder or Director would be prejudiced if delay is condoned for holding the AGM of the company for the calendar year 2019 and subsequent AGMs. He submits that as the petitioner-company and the concerned officials did not do the delay intentionally, the penalty under Section 82 of the Companies Act for not holding AGMs may kindly be exonerated. He contends that in view of the settled principle of law that the Company Court has the ample power to give ancillary directives in the matter of holding AGM under Section 85(3) of the Companies Act, this Court may Order to call and hold the AGMs for the calendar year 2019 and subsequent AGMs. In such view of the matter, an Order of direction to hold pending AGMs may kindly be passed for securing ends of justice.

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No one has appeared to oppose the petition.

Having considered the statements made in the substantive petition and the documents annexed therewith as well as the submissions of the learned Advocate for the petitioner, I am of the opinion that the delay in holding the pending AGMs of the company for the calendar year 2019 and subsequent AGM occurred due to the reason that the Company went to under liquidation process by the Court's Order and subsequently revived from the winding up process and the BOD has been formed by this Court and, thus, I find that the approach of the petitioner before this Court for filing this petition is bonafide. Therefore, this Court should pass necessary directions for calling and holding the AGMs for the calendar year 2019 and subsequent AGMs of the company.

Hence, I find merit in this petition. The delay, in the circumstance, should be condoned and, accordingly, this petition deserves to be allowed.

In the result, the petition is allowed.

Accordingly, the entire period of delay that has occurred in holding the Annual General Meetings of the company for the calendar year 2019 and subsequent AGMs is hereby condoned.

The Managing Director on behalf of the company is hereby entrusted with the power to call, conduct and hold the Annual General Meetings of the company for the calendar year 2019 and subsequent AGMs upon scheduling the date, time and place of the Annual General Meetings of the company for the calendar year 2019 and subsequent

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AGMs within 8 (eight) weeks from the date of drawing up of this Judgment and Order. The Managing Director of the company or any other person of the company who were liable to pay fine of Taka 250 (two hundred fifty) for each day's delay are relieved/exonerated from paying the said fine.

The Registrar of Joint Stock companies and Firms is directed to accept all Fillings and Returns accordingly, in connection with the said AGMs.

The applicant has expressed his willingness to spend an amount of Taka 1,00,000/- (one lac) only as part of company's CSR expenditure, through Pay Orders (which are to be deposited to the concerned company section) out of which (i) BDT. 50,000/- (fifty thousand) only to Dakkhin Deluabari Rahmania Jame Masjid, Fulchhari, Gaibandha and (ii) BDT. 50,000/- (fifty thousand) only to Uttar Pepulia Jame Masjid, Fulchhari, Gaibandha. On furnishing receipt of payment, the order may be drawn up, if so prayed for.

Muhammad Khurshid Alam Sarkar

Composed by: Saiful Islam

Read by:

Exd. by:

১.সই মহরী নকলের	
দরখাস্তের তারিখ	০৫.০৭.২২
২. অনুলিপি হিসাব	
নিবন্ধনের তারিখ	০৫.০৭.২২
৩. কোর্ট ফি স্ট্যাম্প	
জমাদানের তারিখ	০৫.০৭.২২
৪. নকল প্রস্তুত হওয়ার	
তারিখ	০৫.০৭.২২
৫. নকল সরবরাহের	
তারিখ	০৫.০৭.২০২২

অত্যন্ত অধিকার প্রতিপাদি

সহকারী রেজিস্ট্রার
বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ
(১৮-৭২ইং সনের ১নং আইনের
৭৬ ধারামতে ক্ষমতা প্রাপ্ত)

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