দশ টাকা বাংলাদেশ কোর্ট ফি

Date: 16.8.26

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

5244
20.8.26

Present:
Mr. Justice Sikder Mahmudur Razi

IN THE MATTER OF:
Financial Institution No. 01 of 2019

Bangladesh Bank
...Petitioner.
-Versus-
People's Leasing and Financial Services Ltd., and others.
...Respondents.

Mr. Kazi Ershadul Alam, Adv.
...For Bangladesh Bank.
Mr. A K M Bodruddoza, Sr. Advocate with
Mr. Md. Mahfuzur Rahman Milon, Sr. Adv. with
Mr. Hindol Nondy, Adv.
...For the respondent No. 1.

The 16th August, 2026

1. This application has been filed by Bangladesh Bank seeking, inter alia, dissolution of the Court-appointed Board of Directors of People's Leasing and Financial Services Limited (hereinafter referred to as "PLFSL") and leave of this Court to proceed against the Company under the Bank Resolution Act, 2026.

Background Fact in Brief:

2. The instant proceeding has its origin in Financial Institution Matter No. 01 of 2019, which was filed by Bangladesh Bank under section 29 of the Financial Institutions Act, 1993 seeking winding up of PLFSL, inter alia, on the ground of its inability to pay the debts of its depositors. During the pendency of the proceeding, this Court, by Order No. 96 dated 12.07.2021, recalled the earlier arrangement of liquidation and constituted a Board of

Directors with the object of reconstruction and revival of the Company and protection of the interests of its depositors, creditors, shareholders and other stakeholders. Subsequently, Financial Institutions Act, 1993 has been repealed by Finance Company Act, 2023. However, while effecting such repeal, the legislature has specifically preserved the legal effect and continuity of actions and proceedings undertaken under the repealed enactment. Sub-section (2)(a) provides that, notwithstanding the repeal, any act done, measure taken, or proceeding initiated under the Financial Institutions Act, 1993 shall be deemed to have been done, taken, or initiated under the subsequent Act.

The Application in Brief:

3. It is the case of Bangladesh Bank that, notwithstanding the constitution and subsequent functioning of the Court-appointed Board, the financial condition of PLFSL has not sufficiently improved. The learned Advocate appearing for Bangladesh Bank has drawn the attention of this Court to the financial indicators of the Company and submits that the classified-loan ratio remained at 96.73% in 2024, the Capital Adequacy Ratio remained substantially negative and the Company continues to suffer from a considerable capital deficit. It has further been stated that, out of total loans amounting to Tk. 1,145.50 crore, approximately Tk. 1,108.04 crore stood classified as of 2024. Bangladesh Bank has, therefore, formed the opinion that PLFSL is no longer financially viable and should be brought within the resolution process contemplated under the Bank Resolution Act, 2026.

Bangladesh Bank has also relied upon certain investigative and inspection findings alleging deficiencies in corporate governance, unnecessary expenditure and irregularities in the appointment and payment of recovery agents. It has been further contended that, despite the opportunity afforded for reconstruction, the assets of the Company continue to be depleted while its liabilities are increasing and, therefore, continuation of the existing reconstruction process would ultimately prejudice the interests of the depositors.

The Opposition in Brief:

4. On the other hand, Respondent No. 1 has contested the application by filing an affidavit-in-opposition followed by a supplementary affidavit-in-opposition. The principal contention of Respondent No. 1 is that the reconstruction process undertaken pursuant to the orders of this Court has not failed and that the financial indicators relied upon by Bangladesh Bank present a static and incomplete picture of the present condition of the Company. According to Respondent No. 1, the Court-appointed Board has made substantial progress towards recovery of assets, repayment of depositors and restoration of the commercial activities of the Company.

It has been stated that approximately Tk. 200 crore has so far been recovered from defaulting borrowers and approximately Tk. 100 crore has been paid to depositors under the Court-approved arrangements, including payments on "Humanitarian Ground" and "Extreme Necessity". It has further been stated that trading of PLFSL shares resumed in March 2024 after remaining suspended since July 2019, thereby restoring marketability of the shares held by more than 25,000 shareholders. The Company has also held the six pending Annual General Meetings for the years 2019 to 2024 and thereafter held its AGM for the year 2025. The Court-appointed Board has regularly conducted the affairs of the Company and has already held about 80 Board Meetings and taken approximately 500 decisions relating to the affairs of the Company.

It has further been stated that the Company has resumed limited secured lending in Home Loan, Auto Loan and SME Financing and has undertaken investment in secured business. The respondent-company has also made new secured lending of approximately Tk. 25 crore and investment of approximately Tk. 60 crore in Government Treasury Bills. Respondent No. 1 contends that these developments, taken together, demonstrate that the reconstruction process remains active and has produced tangible results, although it is not disputed that the Company has yet to achieve complete financial recovery.

Respondent No. 1 has also placed considerable reliance upon the Special Forensic Audit conducted by MABS & J Partners. The said audit identified approximately Tk. 2,800 crore as recoverable from former Directors and other defaulting borrowers, of which approximately Tk. 1,400 crore is stated to be recoverable from four former Directors alone. It has been further stated that this Court, by order dated 28.05.2025, directed repayment of the liabilities identified against the concerned persons. Respondent No. 1, therefore, contends that the possibility of substantial further recovery remains open and that realization of even a part of such amount may materially improve the financial position of the Company. On that premise, it is contended that termination of the reconstruction process at this stage may adversely affect the prospects of recovery and revival.

Respondent No. 1 has further denied certain allegations and materials relied upon by Bangladesh Bank in support of the application. In particular, it has been stated that the allegations concerning Mr. Prashanta Bhushan Barua and the Chief Executive Officer of PLFS Investments Limited do not reflect the present factual position, inasmuch as Mr. Barua had already been removed by order dated 03.12.2025 and replaced by Mr. Monowar Hossain, FCA, while the Chief Executive Officer of PLFS Investments Limited is stated to be Mr. Dipak Kumar Ghosh, who, according to Respondent No. 1, has no relation with Mr. P.K. Halder. It has also been stated that the appointments of Recovery Agents, which had been objected to by Bangladesh Bank, were subsequently cancelled. Respondent No. 1 thus contends that some of the grounds relied upon in the application either no longer subsist or require reconsideration in the light of subsequent developments.

It has further been stated that certain recent developments have opened up further possibilities for reconstruction of the Company. At the 104^{th} Board Meeting held on 11.06.2026, the Board resolved, subject to approval of this Court and the regulatory authority, to consider induction of sponsor shareholders and business partners of acceptable financial standing and ultimately to hand over management to a regular Board of Directors. Thereafter, representatives of the Depositors' Council and Mr. Mustafa Rafiqul Islam of Flora Group participated in discussions regarding a proposed Memorandum of Understanding for revival of the Company.

Expressions of Interest have also been received from prospective sponsor shareholders, while certain members of the Depositors' Council have expressed willingness to convert their deposits into shares and make further investment in the Company. Respondent No. 1 accordingly contends that these subsequent developments ought to be objectively examined before the existing reconstruction process is brought to an end.

A further objection raised in the supplementary affidavit concerns the basis and timing of the decision of Bangladesh Bank to bring PLFSL under the resolution process. It has been contended that the decision was taken while the affairs of PLFSL were already under the supervision of this Court through the Court-appointed Board and while the Show Cause Notices dated 11.12.2025 and 15.12.2025, concerning the entitlement of Bangladesh Bank to take steps towards liquidation or cancellation of the licence of PLFSL without prior permission of this Court, were pending. Respondent No. 1, therefore, contends that the decision to initiate the resolution process was taken without adequately considering the ongoing Court-supervised reconstruction, the recoveries already made, the payments made to depositors, the prospective recoveries identified by the Special Forensic Audit and the subsequent proposals for induction of investors and sponsor shareholders.

On the aforesaid premises, Respondent No. 1 contends that the application filed by Bangladesh Bank is premature and that the existing reconstruction process should not presently be discontinued. It has accordingly prayed that the Court-appointed Board be permitted to continue the reconstruction process under the supervision of this Court and that the proposals for induction of prospective sponsor shareholders and investors, including the Expressions of Interest and the proposed Memorandum of Understanding, be allowed to be examined in accordance with law and subject to the approval and regulatory scrutiny of the competent authorities.

5. From the assertions of the respective parties, it appears to this Court that the determination of the issue as to **whether the Court-supervised reconstruction proceeding can be reconciled with the resolution framework under the Bank Resolution Act, 2026** lies at the fulcrum of the entire matter.

Submissions of the Learned Advocates of the Respective Parties:

6. **Mr. Kazi Ershadul Alam**, learned Advocate appearing for Bangladesh Bank, submits that the legal position has materially changed following the enactment of the Bank Resolution Act, 2026, which has introduced a comprehensive statutory mechanism for dealing with distressed financial institutions. He submits that, upon reviewing the financial position of a number of finance companies, Bangladesh Bank selected nine institutions, including PLFSL, for resolution under the said Act. Since PLFSL is presently functioning under a Board constituted by this Court and the matter remains *sub judice*, Bangladesh Bank has approached this Court seeking leave to initiate the statutory resolution process, dissolve the existing Court-appointed Board and appoint an Administrator and/or Resolution Authority in accordance with law.

Mr. Alam further submits that the proposed appointment of an Administrator is intended to streamline the resolution process and would not necessarily foreclose the possibility of revival of PLFSL. Rather, according to him, the statutory mechanism under the Bank Resolution Act, 2026 would provide a more effective framework both for revival, if found feasible, and for protecting the interests of the depositors by facilitating prompt distribution of their money. In support of his submissions, he also relies upon the recent order passed by this Court in Company Matter No. 299 of 2019 concerning International Leasing and Financial Services Limited ("ILFSL"), wherein the Court-appointed Board was dissolved and Bangladesh Bank was permitted to proceed under the Bank Resolution Act, 2026. He, however, does not press the prayer for keeping the instant proceeding in abeyance.

6.1 Mr. Md. Mahfuzur Rahman (Milon), learned Senior Advocate appearing for Respondent No. 1, submits that the order passed in respect of International Leasing and Financial Services Limited cannot govern the present case because the factual position is materially different. He points out that, in International Leasing, serious disputes had arisen amongst the members of the Court-appointed Board, Board meetings could not be regularly held and an application had even been made for reconstruction of the Board; whereas, in the present case, the Court-appointed Board remains functional and has demonstrated positive signs towards recovery and revival.

Mr. Rahman further submits that the application of Bangladesh Bank is founded upon materials and considerations relating principally to November 2025 and January 2026, whereas the Bank Resolution Act, 2026 came into force subsequently on 10.04.2026. He, therefore, contends that the question of viability ought to have been considered afresh after enactment of the new law. He also submits that no comprehensive Rules/Regulations touching various issues required to be dealt with by such Rules/Regulations have yet been framed under section 73 of the Act and therefore, uncertainty over its mechanism persists. According to him, introduction of an Administrator at this stage, while a functioning Court-appointed Board is already in place, may create further administrative complication rather than facilitate reconstruction.

Referring to sections 14 and 18 of the Bank Resolution Act, 2026, Mr. Rahman further contends that the statutory conditions preceding resolution have not been exhausted. He submits that the stay contemplated by section 18 concerns proceedings against a bank or financial institution and cannot be read as automatically displacing the very winding-up proceeding filed by Bangladesh Bank itself, in which this Court is already seized of the affairs of PLFSL. According to him, winding up or dissolution under the new statutory regime would arise under section 42 only upon failure of the resolution process. On these premises, he submits that the present application is misconceived and that, during pendency of the present proceeding, Bangladesh Bank cannot introduce a parallel statutory process in the absence of an express provision authorizing such course.

6.2 Mr. A.K.M. Badrudduza, learned Senior Advocate appearing for the Court-appointed Board, adopts a similar position and submits that, in a pending winding-up proceeding, appointment of an Administrator is not contemplated in the manner sought by Bangladesh Bank. He further submits that the statutory steps contemplated by sections 9 to 14 are required to be observed before appointment of an Administrator and that those steps have not been demonstrated to have been undertaken in the present case.

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The learned Senior Advocate further submits that the existing Board remains functional and that prospective investors, existing depositors and other stakeholders have approached the Board with proposals directed towards making PLFSL viable. He submits that steps are also being under process for recovery of approximately Tk. 1,400 crore from former Directors pursuant to previous orders of this Court and that the Board expects to place a proposal for its reconstruction with participation of prospective investors and existing shareholders of sound financial standing. According to him, if revival in the positive sense is one of the objects of resolution, governance of the Company through a single Administrator may not necessarily provide a better mechanism than a properly constituted and functioning Board. He therefore submits that, in the changed circumstances, PLFSL deserves a further opportunity, subject to regulatory scrutiny, to demonstrate whether revival is realistically possible.

6.3 In reply to the objections regarding non-compliance with section 14 of the Bank Resolution Act, 2026, Mr. Alam submits that the said provision begins with a non-obstante clause and empowers Bangladesh Bank, upon being satisfied that a bank or financial institution is non-viable, to take a decision for resolution in accordance with the Act. He further submits that even after appointment of an Administrator the possibility of revival remains open and interested investors or other persons may participate in such revival process. According to him, the present proceeding is not a proceeding under section 42 of the Act; rather, the mechanism contemplated by section 42 operates in addition to the winding-up or liquidation regimes under the Companies Act, 1994, the Bank Company Act, 1991 and, as

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submitted by him, the Finance Company Act, 2023. He also submits that unless Bangladesh Bank is permitted to proceed under the Bank Resolution Act, 2026, the Government fund intended for the resolution process cannot be utilized.

6.4 In answer to the submission concerning Government funding, both the learned Senior Advocates Mr. A.K.M. Bodruddoza and Mr. Mahfuzur Rahman submit that no such fund has presently been allocated or constituted and submit that no fund under section 16 of the Bank Resolution Act, 2026 has yet been created.

Thus, apart from the factual controversy regarding the present viability of PLFSL, the parties have also raised questions concerning the relationship between the pending Court-supervised proceeding and the newly enacted statutory resolution mechanism.

7. As **Mr. Probir Neogi**, learned Senior Advocate, was present before this Court in connection with the hearing of another application arising out of the same matter filed by respondent no. 3, this Court considered it appropriate to seek his assistance on the issue under consideration and accordingly requested him to express his views thereon.

7.1 **Mr. Probir Neogi**, learned Senior Advocate, upon being requested to assist this Court, submits that the Financial Institutions Act, 1993 was the exclusive statutory framework under which the winding-up of PLFSL was initiated. Section 29 of the Act, 1993 (now repealed and replaced by the Finance Company Act, 2023) provided the specific mechanism for winding up of financial institutions. The subsequent enactment of the Bank

Resolution Act, 2026 does not, by its terms or by necessary implication, repeal or supersede the jurisdiction of the High Court Division already seized of proceedings under the Act, 1993.

He further submits that the Act of 2026 has introduced a distinct statutory mechanism of 'resolution', which is conceptually different from an ordinary winding-up proceeding pending before this Court. In this regard, he particularly draws the attention of this Court to section 69(1) of the Bank Resolution Act, 2026, whereby the legislature has expressly provided for continuation under the Act of 2026 of certain resolution measures or processes previously initiated by Bangladesh Bank. According to him, when the legislature expressly provided for continuation and conversion of such pending resolution measures, but did not make any corresponding provision for conversion of a pending judicial winding-up proceeding, the omission cannot be regarded as insignificant. In support of such construction, he invokes the principle *expressio unius est exclusio alterius*.

He further submits that the Act of 2026 cannot be given retrospective operation so as to destroy or displace a judicial proceeding validly commenced long before its enactment unless such legislative intention appears expressly or by necessary implication. In this regard, he also relies upon section 6 of the General Clauses Act, 1897. According to him, the Finance Company Act, 2023 and the Bank Resolution Act, 2026 should therefore be construed harmoniously and the jurisdiction already assumed by this Court should not be treated as having been ousted merely by implication.

Consideration and Findings of this Court

8. I have carefully considered the submissions of the learned Advocates, the application filed by Bangladesh Bank, the affidavit-in-opposition as well as supplementary affidavits filed by Respondents and the materials placed before this Court.

8.1 There can be no doubt that the financial indicators relied upon by Bangladesh Bank disclose a matter of serious concern. A classified-loan ratio exceeding 96%, a substantially negative capital adequacy position and a considerable capital deficit cannot be treated lightly. Bangladesh Bank, being the statutory regulator possessing the necessary institutional and technical expertise, must ordinarily be accorded due weight in assessing the financial condition and viability of a financial institution.

There can also be no dispute that the Bank Resolution Act, 2026 has brought about a significant change in the legal framework by introducing a comprehensive statutory mechanism for dealing with distressed banks and financial institutions.

8.2 At the same time, the existence of a statutory resolution mechanism does not necessarily mean that every financially distressed institution must be dealt with in an identical manner without examining its particular factual position. The question whether an existing Court-supervised reconstruction should immediately be brought to an end must necessarily depend upon the facts and circumstances of the institution concerned as well as upon the issue under determination.

8.3 It is at this point that a material distinction emerges between the case of International Leasing and the case presently before this Court.

In Company Matter No. 299 of 2019 which was filed against International Leasing this Court found not only that International Leasing remained in an extremely fragile financial condition but also that the Court-appointed Board itself had become dysfunctional. Five out of seven Court-appointed Independent Directors complained that regular Board meetings were not being convened. The depositors and creditors complained of serious and irreconcilable differences amongst the members of the Board and, significantly, even the learned Advocate appearing for the Company conceded that serious differences had arisen and that the functioning of the Board had virtually come to a standstill. This Court accordingly recorded that no meaningful Board meeting had reportedly been held after 17.02.2026.

Thus, in the case of International Leasing, apart from its deteriorating financial condition, the very mechanism through which this Court had attempted reconstruction had substantially ceased to function. The Court-appointed Board had itself become incapable of achieving the purpose for which it had been constituted.

The factual position presently placed before this Court regarding PLFSL is materially different. More importantly the said proceeding against International Leasing was initiated at the instance of some of its Creditors namely MM Structural and Holding Ltd and others, while the present winding up Proceeding has been initiated at the instance of Bangladesh Bank itself. This is a significant distinction between the two matters which cannot be ignored.

8.4 The Court-appointed Board of PLFSL is functioning. Nothing has been placed before this Court to demonstrate any comparable division amongst its members resulting in administrative paralysis. On the contrary, the materials on record disclose that the Board has been regularly conducting the affairs of the Company, holding Board Meetings and AGMs, recovering money from defaulting borrowers, making payments to depositors and undertaking limited secured business. Approximately Tk. 200 crore has already been recovered and approximately Tk. 100 crore has been paid to depositors. Some lending and investment has also been made and its shares have resumed trading on the Stock Exchange.

8.5 More importantly, the possibility of further recovery cannot at this stage be altogether ruled out. The Special Forensic Audit is stated to have identified approximately Tk. 2,800 crore as recoverable from former Directors and defaulting borrowers, including approximately Tk. 1,400 crore from four former Directors. In addition, proposals have recently emerged for induction of sponsor shareholders, participation of outside investors and conversion of certain deposits into equity.

Of course, the Court cannot proceed on the assumption that such proposals will necessarily materialize. Expressions of Interest, proposed investments or a draft Memorandum of Understanding cannot be treated as accomplished facts. Their financial credibility, source of funds, commercial feasibility and regulatory acceptability have yet to be objectively examined.

Nevertheless, when these developments are considered together with the recoveries already made, repayment already made to depositors, functioning of the Board, holding of AGMs, resumption of share trading and commencement of limited secured business, I am unable to hold, at this stage, that the reconstruction process has reached the same point of complete failure which existed in the case of International Leasing.

Therefore, the order passed in International Leasing cannot, by itself, compel an identical result in PLFSL when the factual foundation upon which the earlier order rested is materially distinguishable.

8.6 This Court is, therefore, faced with two competing considerations. On the one hand, the financial indicators relied upon by Bangladesh Bank disclose a distressed financial institution, and the concerns of the regulator. On the other hand, the Court-appointed mechanism is still functioning, some tangible recoveries have been made, payments have been made to depositors and certain fresh possibilities of participation in the capital and reconstruction have recently emerged as well as the applicability of the Act, 2026 in the present case.

8.7 However, the resolution of these two competing considerations necessarily depends upon the determination of the nature, scope and legal effect of the Bank Resolution Act, 2026 itself.

An Examination of the Bank Resolution Act, 2026: Resolution and Liquidation

9. Under the Bank Resolution Act, 2026, "resolution" has been expressly defined in section 3(37) to mean the application by Bangladesh Bank of one or more of the measures specified in section 15 upon a scheduled bank for achieving the purposes stated in section 9. The statutory definition itself, therefore, indicates that resolution is not synonymous with liquidation.

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Rather, it is a statutory mechanism through which Bangladesh Bank may intervene in the affairs of a bank which has become, or is likely to become, non-viable, with a view to achieving the purposes contemplated by the Act. References herein to a scheduled bank shall, where applicable by virtue of section 71, be read to include a finance company.

The purposes of resolution, as enumerated in section 9, include maintaining financial stability and continuity of critical banking functions; protecting depositors; minimizing the use of public funds; preventing unnecessary deterioration of the value of assets and consequent losses to creditors; minimizing the overall cost of resolution; and maintaining public confidence in the financial system. The statutory scheme thus indicates that resolution is primarily intended to address financial distress through appropriate corrective and restructuring measures rather than treating liquidation as its immediate or inevitable consequence.

9.1 Commencement and exercise of resolution powers

Section 14 prescribes the circumstances in which Bangladesh Bank may decide to place a scheduled bank under resolution. Broadly stated, such decision may be taken where Bangladesh Bank is satisfied that the bank has become, or is likely to become, non-viable and that there is no reasonable prospect of restoring it to viability in the circumstances contemplated by the said section. Non-viability may arise, inter alia, from serious failure or likely failure to comply with regulatory, capital or liquidity requirements, insolvency or likely insolvency, inability or likely inability to meet liabilities as they fall due, or fraudulent misuse of assets or funds resulting in serious weakening of the institution.

Upon taking a decision for resolution, Bangladesh Bank is required to notify the bank and may thereafter exercise one or more of the powers provided in section 15. Such powers include appointment of an Administrator, recapitalization through existing or new shareholders, transfer of shares, assets or liabilities to a third party, establishment of a Bridge Bank, write-off or conversion of capital and eligible liabilities, restructuring of the business and removal or replacement of persons responsible for its management. Bangladesh Bank may exercise these powers directly or through an Administrator and may formulate an appropriate scheme for conducting the resolution process.

9.2 Valuation, funding and recapitalization

The exercise of resolution powers is supported by the valuation mechanism contemplated in section 17. Bangladesh Bank may cause a realistic valuation of the assets, liabilities or shares of the institution to be undertaken for determining, amongst other matters, the losses suffered, the amount of recapitalization required and the appropriate treatment of shareholders and creditors.

Section 16 further provides for constitution of a separate Bank Restructuring and Resolution Fund for achieving the purposes of resolution and facilitating implementation of the statutory framework. The Fund may be financed from the sources specified in that section and utilized, subject to the statutory requirements, for financing resolution proceedings.

Of particular relevance is section 25, which enables Bangladesh Bank, on the basis of valuation under section 17, to determine the losses suffered and additional capital required and thereafter invite existing or new shareholders to subscribe for additional shares. The provision also excludes persons responsible for the failure of the institution from participating in such recapitalization and permits losses to be imposed upon shareholders and other specified capital holders. Section 25 therefore demonstrates that the resolution framework itself contemplates recapitalization and induction of new shareholders as possible means of restoring the financial position of a distressed institution.

9.3 Resolution and liquidation

A significant feature of the Act is that commencement of resolution does not, by itself, result in liquidation. Bangladesh Bank may employ the statutory resolution tools to restore viability, recapitalize the institution, transfer its business or preserve its critical functions through a Bridge Bank or Finance Company.

The transition from resolution to liquidation is principally governed by section 42. Liquidation may be initiated where Bangladesh Bank concludes that, notwithstanding the application of resolution tools, the purposes specified in section 9 cannot be achieved; where a partial transfer leaves a residual entity requiring liquidation; or where, during resolution, Bangladesh Bank concludes that there is no prospect of effective resolution. Section 42 thus marks the statutory transition from an attempted resolution to liquidation.

Even at that stage, liquidation does not follow merely from an administrative decision of Bangladesh Bank. Upon cancellation of the licence, section 43 requires Bangladesh Bank to approach the High Court Division for commencement of liquidation proceedings. The High Court Division is required to consider, amongst other matters, whether Bangladesh Bank acted lawfully and reached a reasonable decision and, subject thereto, its technical assessment concerning satisfaction of the conditions for liquidation. If liquidation is ordered, a Liquidator nominated by Bangladesh Bank is appointed by the High Court Division under section 44, following which the liquidation proceeds under the statutory framework, including preparation of a liquidation plan, realization and distribution of assets and protection of depositors and creditors.

9.4 Effect upon pending proceedings

Section 18 provides a mechanism by which Bangladesh Bank may apply to the competent Court for stay of legal proceedings against a bank undergoing resolution. Similarly, once liquidation has commenced pursuant to a liquidation order, section 47 creates a collective mechanism under which commencement of new proceedings is restricted and existing proceedings remain stayed, subject to the statutory provisions and any conditions imposed by the Court.

The overall statutory scheme therefore reveals a discernible sequence: determination of non-viability, commencement of resolution, application of appropriate resolution tools, and, only where effective resolution is no longer achievable or the statutory circumstances otherwise arise, transition to liquidation under sections 42 and 43. Resolution and liquidation, though forming parts of the same statutory framework for dealing with distressed institutions, are thus legally distinct stages with different purposes and consequences.

10. Accordingly, it is manifest that the Act is designed primarily to preserve financial stability, critical functions and depositor confidence, and, where feasible, to achieve those objectives through reconstruction, recapitalization, transfer or other resolution measures rather than by treating liquidation as the automatic consequence of financial distress. This is apparent from the statutory objectives in section 9, the requirement for advance resolution planning under sections 12–13, powers to be exercised under resolution under section 15, the management of resolution fund under section 16 as well as the resolution framework/tools under section 25.

10.1 The scheme of the Bank Resolution Act, 2026 establishes a clear distinction between 'resolution' and 'liquidation'. Resolution is the statutory mechanism through which Bangladesh Bank first seeks to deal with the non-viability of a bank by protecting its critical functions, depositors and financial stability through restructuring, transfer, recapitalization or other resolution tools. Liquidation becomes relevant only when Bangladesh Bank reaches one of the conclusions contemplated by section 42. Even then, Bangladesh Bank does not itself liquidate the bank merely by administrative decision; after cancellation of the licence, it must approach the High Court Division under section 43, and the liquidation thereafter proceeds pursuant to a judicial liquidation order and through a Court-appointed Liquidator.

10.2 Therefore, in the absence of any specific statutory provision to that effect, whether a financial institution can be referred for resolution during the pendency of a winding up proceeding previously initiated at the instance of Bangladesh Bank itself, and not by any other person, gives rise to a serious question of law and remains open to considerable legal contestation.

10.3 In this regard, it is of considerable significance to have a closer examination of the decision taken by Bangladesh Bank on 27.01.2026 at its 446th Board Meeting (1st Meeting of 2026). The said decision was placed before this Court by the learned Advocate appearing for Bangladesh Bank in response to a query of the Court as to the justification for filing the present application. Although such material ought to have been brought on record by way of an affidavit, but the same was not done. The relevant paragraph of the said resolution reads as follows:

> “উপরিল্লিখিত ফাইন্যান্স কোম্পানীসমূহকে রেজল্যুশন প্রক্রিয়ায় এনে সাধারণ ব্যক্তি আমানতকারী, ফাউন্ডেশন, ইন্স্যুরেন্স কোম্পানী, কো-অপারেটিভ ফান্ড, কর্পোরেট আমানত (ব্যাংক ও ফাইন্যান্স কোম্পানী ব্যতীত), পিএফ ফান্ড এবং বিভিন্ন ট্রাস্ট এর আমানতের বিপরীতে ঋণ সমন্বয় করে অন্ততঃ সমন্বিত আসল অংশ ফেরৎ দিয়ে **কোম্পানীগুলোকে অবসায়নের ব্যবস্থা করা হলে** একদিকে আমানতকারীদের দুর্দশা লাঘব হবে, অন্যদিকে আর্থিক খাতে শৃঙ্খলা ফিরে আসবে এবং এ খাতের প্রতি জনগণের আস্থা পুনঃপ্রতিষ্ঠিত হবে। এ প্রক্রিয়ায় মোট ৪,৯৭৮.০০ কোটি টাকা প্রয়োজন হবে। বর্ণিত অবস্থায়, ৫,০০০.০০ (পাঁচ হাজার) কোটি টাকা সংস্থান করা হলে সমস্যাগ্রস্ত ৯টি ফাইন্যান্স কোম্পানীর সাধারণ আমানতকারীদের দুর্দশা লাঘব করা সম্ভব হবে।

(*Bold supplied by me*)

A plain reading of the aforesaid decision indicates that the possibility of reconstruction or revival of the Company, which ought to constitute an important consideration at the threshold of the resolution process, was not given due consideration by Bangladesh Bank. Rather, the tone of the decision suggests that the resolution process was approached substantially as being synonymous with, or necessarily culminating in, liquidation.

However, upon a meticulous reading of the Bank Resolution Act, 2026, it appears that the Act contemplates **resolution and liquidation as legally distinct stages** and does not necessarily equate the commencement of the resolution process with the inevitable liquidation of the institution concerned.

(*Bold supplied by me*)

11. The present proceeding was initiated in 2019 under the statutory regime then prevailing and this Court assumed jurisdiction over the matter in accordance with the law then in force. Thereafter, various orders were passed and, instead of immediately proceeding towards winding up of PLFSL, this Court adopted measures intended to explore the possibility of reconstruction and restoration of the Company. Therefore, the present proceeding cannot be viewed merely as an administrative measure initiated by Bangladesh Bank which, upon enactment of a subsequent law, may automatically assume a different statutory character.

11.1 In this context, section 69(1) of the Bank Resolution Act, 2026 assumes particular significance. The legislature was evidently conscious that, prior to commencement of the Act, Bangladesh Bank might already

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have initiated measures or processes having the character of resolution. It therefore expressly provided for the continuation of specified pre-existing resolution measures or processes under the framework of the Act of 2026. The provision thus demonstrates that the legislature specifically addressed the transitional consequences of the new resolution regime in respect of process or measures which it intended to carry forward under the new Act. However, where the legislature has expressly dealt with the transitional treatment of one category of pre-existing process or measures but has made no corresponding provision for conversion or displacement of a distinct category of pending judicial proceeding, the Court should be slow to create such a mechanism by implication.

11.2 What is significant for the present purpose is that no corresponding transitional provision has been brought to the attention of this Court whereby a judicial winding-up proceeding, validly commenced and pending before the High Court Division prior to the enactment of the Act of 2026, is to stand converted into a resolution proceeding, or whereby such pending proceeding may be displaced or superseded upon a subsequent decision of Bangladesh Bank to invoke the resolution framework. This omission assumes greater significance in the present case because the proceeding was not merely pending when the Act of 2026 came into force; jurisdiction had already been assumed by this Court and substantive orders had been passed thereunder for reconstruction and restoration of the Company. Moreover, the continuity of the proceeding instituted under the repealed Financial Institutions Act, 1993 had already been statutorily preserved under the subsequent legislative regime.

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11.3 The same conclusion is supported by the principles governing retrospective operation and harmonious construction. There is nothing in the Bank Resolution Act, 2026 which has been shown to this Court expressly providing that a winding-up proceeding validly commenced under the previous statutory regime, and thereafter preserved by law, shall upon commencement of the Act stand extinguished, converted or superseded by a resolution proceeding. Nor does such consequence arise by necessary implication merely because the later Act has conferred upon Bangladesh Bank extensive powers for resolution of distressed financial institutions.

11.4 Where two enactments operate upon related subject-matters, the Court should, as far as possible, construe them harmoniously so that each is permitted to operate within its legitimate field. Equally, jurisdiction already lawfully assumed by a competent Court should not be regarded as displaced by a subsequent enactment unless such legislative intention is manifested by express words or arises by clear and necessary implication. The continuation of the present proceeding and the existence of the resolution powers conferred upon Bangladesh Bank are, therefore, not necessarily inconsistent in themselves.

11.5 The difficulty in the present case arises from the particular relief sought. Bangladesh Bank seeks dissolution of the Court-appointed Board and leave to proceed against PLFSL under the resolution framework, the practical effect of which would be to displace the Court-supervised reconstruction mechanism presently operating within the subsisting winding-up proceeding. Yet no enabling or transitional provision has been identified which authorizes such displacement or conversion in the manner presently sought. In the absence of such statutory authority, this Court cannot supply the missing procedural and jurisdictional bridge by interpretation alone.

11.6 Accordingly, harmonious construction does not require this Court to hold, as an abstract proposition, that the Bank Resolution Act, 2026 can never have any application to an institution which is already the subject of a pending judicial proceeding. It is sufficient for the present purpose to hold that the existing statutory framework does not demonstrate how this particular winding-up proceeding, validly commenced and preserved under the earlier law, may be displaced, converted or superseded by the resolution process in the manner sought by Bangladesh Bank.

11.7 In this regard, it is also necessary to consider whether section 18 of the Act, 2026, which provides for the stay of pending proceedings against a bank or finance company, has any application in the present context. A plain reading of the said provision does not appear to support such a proposition. Section 18 contemplates the stay of proceedings in respect of a bank or finance company in relation to which the resolution process has already been initiated or undertaken. It does not appear to contemplate the stay of an existing judicial proceeding merely for the purpose of facilitating or enabling the initiation of a resolution process. In other words, the stay contemplated under section 18 appears to operate as a consequence of the commencement of resolution, rather than as a mechanism for creating the conditions necessary for its commencement. This construction also finds some support from the stance taken by the learned Advocate appearing for Bangladesh Bank, who ultimately did not press the prayer for keeping the present proceeding in abeyance.

12. In view of the foregoing discussion, this Court is constrained to hold that, so long as the present winding-up proceeding remains pending and continues to subsist under the jurisdiction validly assumed by this Court, no statutory foundation has been demonstrated upon which the present proceeding may be displaced, converted or superseded by resort to the resolution mechanism under the Bank Resolution Act, 2026 in the manner presently sought by Bangladesh Bank. The Act does not expressly provide for conversion of a pending judicial winding-up proceeding into a resolution proceeding, nor has any provision been identified authorizing Bangladesh Bank, by an administrative decision or by filing an application in the pending proceeding, to alter the legal character of a proceeding which had commenced before enactment of the Act.

12.1 To my understanding, the Act itself treats resolution as a mechanism distinct from liquidation and contemplates the application of various resolution measures before liquidation becomes necessary. Sections 42 and 43 further demonstrate that, where the statutory conditions for liquidation are ultimately satisfied, Bangladesh Bank is required to approach the High Court Division and liquidation thereafter proceeds under judicial supervision. Thus, the statutory scheme does not support the proposition that resolution and liquidation are interchangeable processes or that an existing liquidation proceeding may, without an express statutory mandate, be brought within the resolution regime in substitution for the judicial proceeding already pending before the Court.

12.2 Section 69 of the Act, 2026 does not cure this difficulty. While the legislature expressly preserved specified resolution measures or processes initiated before commencement of the Act, it made no corresponding provision for a winding-up proceeding already pending before a competent Court. This Court cannot, under the guise of interpretation, introduce into the statute a transitional mechanism which the legislature has not enacted. To do so would amount not to interpreting the statute, but to supplanting the legislative scheme by judicial construction.

12.3 It must, however, be made clear that the conclusion reached above does not amount to a determination that the Bank Resolution Act, 2026 can never have any application to a financial institution merely because such institution is already the subject of a pending judicial proceeding. The question before this Court is narrower and must be answered in the context of the particular relief sought in the present application. What is presently absent from the statutory framework is an enabling or transitional mechanism by which this pre-existing winding-up proceeding, which was validly commenced, subsequently preserved by law and within which substantive orders for reconstruction have already been passed, may be displaced, converted or superseded by the resolution process in the manner now sought by Bangladesh Bank.

12.4 Accordingly, in the absence of any enabling or transitional provision authorizing such displacement or conversion, this Court finds no legal basis for permitting Bangladesh Bank, in the manner presently sought, to invoke the resolution mechanism in substitution for, or in derogation of, the Court-supervised mechanism presently operating within this proceeding. To hold otherwise would require the Court to attribute to the Act a retrospective effect upon an existing and preserved judicial proceeding, infer a displacement of jurisdiction already lawfully assumed, and create a procedural mechanism for transition from one statutory regime to another, none of which has been expressly provided by the legislature or arises by clear and necessary implication from the statutory scheme. Such a course would travel beyond the permissible limits of statutory interpretation.

12.5 On the materials and statutory provisions presently before the Court, Bangladesh Bank has, therefore, failed to demonstrate any enabling or transitional provision authorizing displacement of this pre-existing winding-up proceeding by the resolution process in the manner presently sought. The present application cannot, therefore, be allowed on the statutory basis advanced before this Court. If the legislature intends that a pending winding-up proceeding of the present nature may be converted into, superseded by, or otherwise brought within the resolution framework introduced by the Bank Resolution Act, 2026, an express transitional or enabling provision would remove the present statutory impediment and place the matter beyond ambiguity. In the absence of such legislative provision, the Court cannot, in the circumstances of the present case, supply the missing statutory bridge through judicial interpretation.

12.6 Before parting with the matter, it may be observed that disposal of the present application shall not preclude Bangladesh Bank, in exercise of its statutory and regulatory authority, from considering any concrete and duly formulated proposal for reconstruction and recapitalization of PLFSL, including reconstitution of its Board, that may be placed before it. As already noticed, materials have been placed before this Court indicating the possibility of induction of sponsor shareholders and prospective investors, as well as willingness on the part of certain depositors to convert their deposits into equity. At the same time, this Court has already observed that such proposals cannot be treated as accomplished facts and that their financial credibility, source of funds, commercial feasibility and regulatory acceptability require objective examination.

12.7 Having regard to the fact that the Court-supervised reconstruction process has not, on the materials presently before this Court, been shown to have reached a point of complete failure, it would be appropriate for Bangladesh Bank, being the statutory regulator possessing the necessary technical and institutional expertise, to consider any such proposal, if placed before it, on its own merits and in accordance with law. In making such assessment, Bangladesh Bank shall remain at liberty to examine the financial capacity and suitability of the proposed investors or sponsor shareholders, the source of funds, proposed capital structure, treatment of depositors and creditors, feasibility of the proposed business plan and compliance with all applicable statutory and regulatory requirements.

12.8 It is, however, made clear that this Court has neither expressed nor shall be understood to have expressed any opinion as to the viability or acceptability of any particular proposal, investor or proposed composition of the Board. The ultimate decision in that regard shall remain within the statutory and regulatory domain of Bangladesh Bank and shall be taken independently, objectively and in accordance with law.

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13. In the result, the application filed by Bangladesh Bank seeking dissolution of the Court-appointed Board of Directors of PLFSL and leave to proceed against the Company under the Bank Resolution Act, 2026, in the manner presently sought, cannot be allowed. The application is accordingly disposed of with the observations and directions made hereinabove.

Communicate the order to all concerned at once.

Sikder Mahmudur Razi

Composed by: Zahangir. 20.08.26

Read by: 20.08.26

Exd. by: 20.8.26

১. সই মহরী নকলের দরখাস্তের তারিখ 20.8.26
২. অনুলিপির হিসাব নিবন্ধনের তারিখ 20.8.26
৩. কোর্ট ফি ষ্ট্যাম্প জমাদানের তারিখ 20.8.26
৪. নকল প্রস্তুত হওয়ার তারিখ 20.8.26
৫. নকল সরবরাহের তারিখ 20.8.26

প্রত্যায়িত অবিকল অনুলিপি

20.8.26

সহকারী রেজিষ্ট্রার
বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ
(১৮৭২ইং সনের ১নং আইনের ধারামতে ক্ষমতা প্রাপ্ত)

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