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Does Section 43 of the Companies Act 1994 Extend Beyond Rectification of the Share Register?

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One of the recurring jurisdictional objections in company litigation under the Companies Act, 1994 is that Section 43 merely permits rectification of the register of members and does not empower the Company Court to adjudicate disputes concerning the validity of share allotments or the title to shares. This argument, however, overlooks both the express language of the statute and the judicial interpretation consistently adopted by the High Court Division.

Section 43 is undoubtedly a provision for rectification of the register of members. Nevertheless, subsection (3) significantly expands the scope of the Court's jurisdiction. It expressly authorizes the Company Court to "*decide any question relating to the title of any person"* whose name is sought to be entered in or omitted from the register. The provision further permits the Court to determine questions of title arising between members or alleged members whenever such determination is necessary for deciding whether the register requires rectification.

This statutory language makes it difficult to sustain the argument that the Company Court is confined to mechanically correcting entries in the register while ignoring the underlying legality of the shareholding itself. If the validity of an allotment determines whether a person's name has been entered "*without sufficient cause*" the Court cannot meaningfully rectify the register without first examining the legal basis of that entry.

The Bangladeshi courts have recognised this principle. In *Sirajul Haque v. Apollo Ispat Complex Ltd.* (18 BLC 704), the High Court held that the Company Court possesses the authority to determine questions relating to the title of shares while exercising jurisdiction under Section 43. Likewise, in *Shakhawat Hossain v.*

Rowshan Apparels (27 BLC 491), the Court reaffirmed that Section 43(3) empowers the Company Court to scrutinize the title of shares in order to determine whether a person's name should remain on or be removed from the register of members.

Another common objection is that disputes involving complicated facts or oral evidence fall outside the jurisdiction of the Company Court. Recent judicial developments, however, indicate otherwise. The High Court has repeatedly observed that nothing in the Companies Act prohibits the Company Court from recording oral evidence where necessary. Consequently, the presence of disputed facts does not automatically deprive the Company Court of jurisdiction under Section 43.

The practical implication is significant. Where an allotment of shares is alleged to have been made in violation of statutory pre-emption rights, the Articles of Association, or through an unauthorised corporate act, the Company Court is not restricted to merely observing the resulting entry in the register. Rather, it may examine the legality of the allotment itself insofar as that inquiry is necessary to determine whether the impugned shareholder's name ought to remain on the register. Contrary to the argument that proceedings under Section 43 are purely summary in nature, recent authorities recognise that the Company Bench is competent to record oral evidence and determine complex factual controversies where justice so requires. Decisions such as *Anwar Hossen v. Chittagong Club Ltd.*[1], *AKM Lutful Kabir v. Neeshorgo Hotel and Resort Ltd.*[2], and *Tabassum Kaiser v. Partex Cables Ltd.*[3] demonstrate that the Company Court is not rendered powerless merely because factual disputes arise.

Section 43 should therefore be understood not as a narrow procedural mechanism for correcting clerical mistakes, but as a substantive jurisdiction enabling the Company Court to determine questions of title that are inseparably connected with the rectification of the register of members. Such an interpretation gives full effect to the language of subsection (3) and preserves the effectiveness of the statutory remedy.

[1] 26 BLC 1 (2020) HCD
[2] 17 ALR (2019) 3 (HCD)
[3] 29 BLC 605 HC