

*Before*

**Ali Azeem Ikram, Head of Department**

*In the matter of*

**Gulshan Spinning Mills Limited**

---

Dates of Hearings

October 2, 2020, November 27, 2020,  
December 15, 2020, January 21, 2021,  
February 12, 2021, February 26, 2021, March  
15, 2021 and March 18, 2021

---

**Order-Redacted Version**

Order dated March 26, 2021 was passed by Head of Department (Adjudication-I) in the matter of Gulshan Spinning Mills Limited. Relevant details are given as hereunder:

<b>Nature</b>	<b>Details</b>
1. Date of Action	Show Cause Notice dated April 23, 2020
2. Name of Company	Gulshan Spinning Mills Limited
3. Name of Individual*	The proceedings were initiated against Board of Directors of the Company.
4. Nature of Offence	Brief facts of the SCN are that examination of the notice of extraordinary general meeting ("EGM") of the Company, dated June 27, 2019 revealed that the Company scheduled its EGM to elect seven directors effective from July 18, 2019 for a period of 3 years. Review of the notice of EGM revealed that the Company did not annex statement of material facts in terms of section 134(3) of the Companies Act, 2017 (the Act), wherein relevant disclosure along with justification for choosing persons to be appointed as independent directors was required in terms of section 166(3) of the Act. The Commission sought a confirmation from Pakistan Institute of Corporate Governance (PICG) (the authorized institute to maintain databank of the independent directors), on August 19, 2019, with regard to name and date of enrollment of *** and ***, being independent directors of the Company, in the databank. The PICG vide its email dated August 20, 2019 confirmed that names of *** and *** were not present in the databank maintained by PICG. The Company, hence, <i>prima facie</i> , violated the applicable requirements of section 134(3) and section 166(1) and section 166(3) of the Act by not annexing statement of material facts with the notice providing justification for choosing the appointees as independent directors and by not electing the mentioned two independent directors from the databank maintained by PICG. Hence, the proceedings were initiated against mentioned

---

	<p>Respondents vide SCN dated April 23, 2020 in terms of section 134, section 166, section 169 and section 479 of the Act and they were called upon to show cause in writing as to why penalty may not be imposed under the afore-referred provisions of the Act.</p>
<p>5. Action Taken</p>	<p>Key findings are given as hereunder:</p> <p>I have gone through the facts of the case, submissions made in writing and relevant arguments made by the Authorized Representative during the hearing proceedings. The matter is summarized in the following manner:</p> <p>(i) In terms of section 166 of the Act the Company is required to have independent directors as specified therein. Moreover, it is also highlighted for reference that the Companies (Manner and Selection of Independent Directors) Regulations, 2018 which were notified in terms of section 166 and section 512 of the Act by the Commission through SRO 556(I) of 2018 dated April 26, 2018 have specified the manner for selection of persons to be elected or appointed as independent directors. In addition to above, in terms of SRO 73(I)/2018 dated January 25, 2018, PICG was also notified in terms of section 166 of the Act to maintain database of independent directors. In view of the given requirements the Company, being a listed company, needs to have independent directors to be selected from database maintained by a notified institute i.e. PICG, and to be elected or appointed as the case may be. As per available information, the persons elected as independent directors in EGM of July 18, 2019, namely *** and ***, were not registered in the data bank maintained by the authorized institute i.e. PICG. The stance that due to the financial hardship; the Company was not in a position to manage financial cost of independent directors whose names are registered with data bank is not acceptable. Hence, violation of section 166(1) of the Act is attracted.</p> <p>(ii) Election of directors of the Company was scheduled to be held on July 18, 2019 and the directors of the Company acting prior to the election were responsible to ensure the compliance of the requirements of section 134 and section 166 of the Act. The Respondents however failed to ensure compliance by not annexing statement of material facts in terms of section 134(3) of the Act wherein disclosure along with justifications for choosing persons to be appointed as independent directors was required in terms of section 166(3) of the Act. The Respondents preferred no reply in this regard. Hence, violation of section 134(3) and section 166(3) of the Act is attracted.</p> <p>Keeping in view, the Respondents have violated the requirements of section 134(3), section 166(1) and section 166(3) of the Act. Therefore, I, in terms of section 134 and section 169 of the Act, hereby impose a</p>

	<p>penalty of <b>Rs. 175,000/- only (Rupees one hundred and seventy five thousand)</b> on the Respondents.</p> <p>The Respondents are, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue. It may also be noted that the said penalties are imposed on the Respondents in personal capacity; therefore, they are required to pay the said amounts from personal resources.</p> <p>Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission, violation of the Act.</p>
6. Penalty Imposed	Rs. 175,000/-
7. Current Status of Order	The penalty was not deposited. The appeal was filed.