

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

**Present:**

**Mr. Justice Md. Nazrul Islam Talukder  
And  
Mr. Justice Khizir Hayat**

**WRIT PETITION NO. 14092 OF 2022**

**IN THE MATTER OF**

An application under Article 102 of the  
Constitution of the People's Republic of  
Bangladesh.

**-AND-**

**IN THE MATTER OF**

Most. Mariam Begum and others

**.....Petitioners**

**-VERSUS-**

The Sectary, Ministry of Muktijuddha Affairs,  
the Government of Bangladesh, Paribahanpool  
Bhaban, Secretariat Link Road, Dhaka and  
others

**.....Respondents.**

Mr. Dewan Md. Abu Obyed Hossain, Advocate

**.....For the Petitioners.**

Mr. Md. Saiefuddin Khaled, D.A.G with

Mrs. Afia Begum Swapna, A.A.G and

Mr. Sarwar Akthar Masud, A.A.G

**.....For the Respondents.**

**Heard on 30.08.2023, 22.11.2023 and**

**Judgment on: 22.11.2023**

**Md. Nazrul Islam Talukder,J:**

On an application under Article 102 of the  
Constitution of the People's Republic of Bangladesh,  
this Rule Nisi, at the instance of the petitioners,

was issued calling upon the respondents to show case as to why the dismissal orders/decisions dated 13.10.2022 passed in Appeal Nos.640, 1311, 387, 1093, 113/906, 2100, 1327, 1091, 1328 and 1326 under the signature of the Respondent Nos.3,4 and 5, Members of the Appeal Scrutiny Committee of JAMUKA dismissing the appeals of the petitioners (**Annexure-B**) to the writ petition, should not be declared to have been passed without lawful authority and are of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

The facts leading to issuance of the Rule are as follows:

It is stated in the writ petition that all the petitioners are law-abiding and peace loving citizen of Bangladesh and they are permanent residents of the country and residing at the addresses as mentioned in the cause title. All the petitioners are valiant freedom fighters and their contribution as valiant Freedom Fighters for the independence of our country during the liberation war will never be forgettable. The nation will remember their contribution forever; the Respondent

Nos.1 and 2 are the officers who represent the government of the Republic and ultimate regulatory authority of the freedom fighters organization namely “Jatio Muktijuddha Council”, Respondent No. 3 is the Member of National parliament (MP), Naogaon-2, president-Law, Justice and Parliament Affairs Ministry, Jatio Muktijuddha Council (JAMUKA), Jatio Scout Bhaban (12-13 floor), 60, Anjuman Mofidul Islam Shorok, Kakrail, Dhaka, Respondent No.4 is the Member , JAMUKA, Jatio Muktijuddha Council (Jamuka), Jatio Scout Bhaban (12-13 Floor), 60, Anjuman Mofidul Islam Shorok, Kakrail, Dhaka, Respondent No.5 is Director General (Additional Secretary), JAMUKA, National Scout Bhaban (12-13 Floor), 60, Anjuman Mofidul Islam Shorok, Kakrail, Dhaka, Respondent No.6 is the Bangladesh Muktijuddha Sangsad Central Command Council, represented by its Chairman/Convener, National Scout Bhaban (12-13 floor), 60, Anjuman Mofidul Islam Shorok, Kakrail, Dhaka, Respondent No.7 is the Assistant Director (Administration-2) JAMUKA, National Scout Bhaban (12-13 floor), 60, Anjuman

Mofidul Islam Shorok, Kakrail, Dhaka, and Respondent No.8 is the Deputy Commissioner (D.C) of District Pabna and all the respondents are performing their functions in connection with their respective jobs; the petitioners being valiant freedom fighters preferred the instant writ petition before the Hon'ble High Court Division of the Supreme Court of Bangladesh seeking a Rule and stay order of the impugned decisions dated 13.10.2022; all the petitioners are valiant freedom fighters and they fought for our independence as Muktiyuddha under sector No.07; after completion of all the legal procedures, the petitioners names were enlisted in the list of freedom fighters list and accordingly their names were also published in the Muktiyuddha gazette notification and they obtained provisional certificate from the Ministry of Muktiyuddha Affairs and since that time, they have been getting all the benefits and privileges from the government; suddenly the Respondent No.5 issued the impugned notice dated 11.08.2022 asking for personal hearing on 18.10.2022 without mentioning any legal provisions of law and raising crucial question as to

what under authority and how the Respondent No 5 issued the impugned notice for hearing; the petitioners challenged the said impugned notice; now at present situation due to burden of age and physical illness, the petitioners are not in position to face this difficulties like unnecessary harassment in the name of hearing without forming or constituting any competent inquiry committee for conducting inquiry into the alleged allegation as raised against them. Moreover, many of them have already been passed away; that the respondents without examining the papers documents of the petitioners dismissed the appeal of petitioners by cancelling their freedom fighters benefits. The ranking of one of Md. Ramjan Ali with those of the petitioners is discriminatory in the eye of law; after hearing the appellants appeal Nos. 1311; 387; 1093; 113/906; 2100; 640; 1327; 1091; 1328 and 1326, the JAMUKA Appeal Committee dismissed the appeals on 13.10.2022 without considering the papers/documents submitted by the appellants; all the petitioners have got their Freedom Fighter benefits in accordance with the provisions of law and in this old stage if the JAMUKA

authority cancel their benefits, they shall suffer irreparable loss and injury; the Respondent No. 5 issued the impugned notice dated 11.08.2022 in an arbitrary manner without mentioning any provisions of law, which is violative of the fundamental rights of the petitioners guaranteed under the provisions of the Constitution of the people's Republic of Bangladesh.

Having no other equally efficacious remedy, the petitioners filed this writ petition under Article 102 of the Constitution before this court.

At the very outset, Mr. Dewan Md. Abu Obyed Hossain, the learned Advocate for the petitioners, submits that the notice issued under the signature of Respondent No.5 on behalf of the Respondent No.2 is exfacie arbitrary, illegal and unlawful authority inasmuch as per Jatio Muktijuddah Act as well as rules framed thereunder, Respondent No.2 has no authority to issue such notice upon the petitioners on vague allegations made by local freedom fighters in order to verify the genuineness of petitioners freedom fighterships and as such, the impugned decisions dated 13.10.2022 being illegal are liable to be declared to

have been made without lawful authority and are of no legal effect.

He further submits that the petitioners names were notified in Bangladesh gazette and the same were published on 22.11.2005 in consideration of active participation in the liberation war in the year of 1971 and they got certificates in recognition of participating in the war as valiant freedom fighters and their freedom fighterships were earlier verified as well as justified by different government agencies following the relevant rules and regulations and all the petitioners have been getting freedom fighter allowances in every months and if their freedom fighterships are questioned at any time, then their freedom fighterships maybe verified by Muktiyuddha jachai Bachai Committee as empowered by the rules which is the only forum to verify the genuineness of freedom fighterships and thus Chairman of Jatio Muktiyuddha Council has got no power to issue the impugned notice dated 11.08.2022 to verify the

same in the garb of hearing and as such, the impugned notice being illegal is liable to be declared to have been issued without lawful authority and is of no legal effect.

He lastly submits that by the impugned notice having been issued for harassment and victimization of the petitioners in the society at large, their integrity is obviously questioned following a vague procedure and the petitioners have political differences in the locality and as such issuance of impugned notice is no doubt a colourable exercise of power by high-up's like Respondent No. 2 and as such, the impugned dismissal orders/decisions passed in Appeal Nos.640, 1311, 387, 1093, 113/906, 2100, 1327, 1091, 1328 and 1326 being illegal are liable to be declared to have been issued without no legal authority and is of no legal effect.

Mr. Md. Saiefuddin Khaled, the learned Deputy Attorney-General appearing for the Respondents, very strongly opposes the submissions of the petitioners to



provide and continue the Freedom Fighters benefits and submits that the Rule may be discharged for ends of justice.

We have gone through the writ petition and perused the materials annexed therewith. We have also heard the learned Advocate for the petitioner and the learned Deputy Attorney-General appearing for the respondents. We have also considered the submissions of the respective parties at length.

According to the submissions of the learned Advocate for the petitioners, the notice issued under the signature of Respondent No.5 on behalf of the Respondent No.2 is exfacie arbitrary, illegal and unlawful authority inasmuch as per Jatio Muktijuddah Act as well as rules framed thereunder, Respondent No.2 has no authority to issue such notice upon the petitioners on vague allegations made by local freedom

fighters in order to verify the genuineness of petitioners freedom fighterships.

Furthermore, the record of the writ petition shows that the petitioners names were notified in Bangladesh gazette and the same were published on 22.11.2005 in consideration of active participation in the liberation war in the year of 1971 and they got certificates in recognition of participating in the war as valiant freedom fighters and their freedom fighterships were earlier verified as well as justified by different government agencies following the relevant rules and regulations and all the petitioners have been getting freedom fighter allowances in every months and if their freedom fighterships are questioned at any time, then their freedom fighterships maybe verified by Muktijuddha jachai Bachai Committee as empowered by the rules which is the only forum to verify the genuineness of freedom fighterships and thus Chairman

of Jatio Muktijuddha Council has got no power to issue the impugned notice dated 11.08.2022 to verify the same in the garb of hearing.

It appears from the writ petition and the submissions of the learned Advocate for the petitioners that by the impugned notice having been issued for harassment and victimization of the petitioners in the society at large, their integrity is obviously questioned following a vague procedure and the petitioners have political differences in the locality and as such issuance of impugned notice is no doubt a colourable exercise of power by high-up's like Respondent No. 2 and as such, the impugned dismissal orders/decisions passed in Appeal Nos.640, 1311, 387, 1093, 113/906, 2100, 1327, 1091, 1328 and 1326 appear to be illegal and without lawful authority.

Considering the facts and circumstances of the case and the submissions made by the respective parties, we find substance in this Rule.

**Accordingly, the Rule is made absolute.**

In consequence thereof, the impugned dismissal orders/decisions dated 13.10.2022 passed in Appeal Nos.640, 1311, 387, 1093, 113/906, 2100, 1327, 1091, 1328 and 1326 under the signature of the Respondent Nos.3,4 and 5, Members of the Appeal Scrutiny Committee of JAMUKA dismissing the appeals of the petitioners (**Annexure-B**) to the writ petition, are declared to have been passed without lawful authority and are of no legal effect.

However, the concerned respondents are directed to provide and continue the Freedom Fighters benefits with all arrears to the petitioners by restoring their MIS

Code in their respective names in the website of the respondents namely “mis.molwa.gov.bd” immediately.

Communicate the judgment and order to the concerned respondents, at once.

**Khizir Hayat, J:**

I agree