

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

WRIT PETITION NO. 1277 of 2024

IN THE MATTER OF:

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

IN THE MATTER OF:

Md. Ismael Hossein alias Jhontu Karmaker.

.....Petitioner.

-Versus-

The Chairman, Jatio Muktijoddha Council (JAMUKA) and others.

..... Respondents.

Mr. Ashoke Kumar Paul with

Mr. Khairul Alam, Advocate.

..... For the petitioner.

Mr. Mohammad Mohsin Kabir, DAG with

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

Ms. Shaheen Sultana, AAG and

Mr. Md. Manowarul Islam Uzzal, A.A.G with

Mr. Md. Mukhlesur Rahman, A.A.G.

..... For the respondents.

Heard on 13.11.2025, 24.11.2025 and

Judgment on: 27.11.2025.

Present:

Mr. Justice Sheikh Abdul Awal

And

Mr. Justice S.M. Iftekhar Uddin Mahamud

Sheikh Abdul Awal, J.

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule Nisi was issued calling upon the respondents to show cause as to why Gazette Notification dated 18.07.2023 (Annexure-H) cancelling the name of the petitioner as Freedom Fighter published in Civil Gazette dated

12.05.2005 (Annexure-C) without considering the relevant papers and documents should not be declared to have been made without any lawful authority and is of no legal effect and/or such other or further order or orders passed as to this Court may seem fit and proper.

The facts of the case as stated in the writ petition briefly are that the petitioner as freedom fighter fought for this soil in the liberation war, held in 1971. Due to his contribution in the liberation war General Muhammad Ataul Gani Osmani (M.A.G. Osmani) issued a certificate in favour of the petitioner (Annexure-A) recognizing the petitioner as freedom fighter and Hon'ble Minister, Ministry of Liberation War Affairs and other fellow freedom fighters as well as local authorities also issued certificates in favour of the petitioner recognizing him as freedom fighter (Annexure-B, K, K-2, M, N, N-1, N-2 and O). His name also published in Saptahik Muktibarta as Freedom Fighter (Annexure-C-1). Later on, the petitioner's name was published in Civil Gazette dated 12.05.2005 being Gazette No. 1663 as freedom fighter (Annexure-C) and his name also published in the website of Ministry of Liberation War Affairs as Muktijoddha No. 01500002674 (Annexure-D). Thereafter, the petitioner started to get state honorarium since 2005. In this background, Jatio Muktijoddha Council (JAMUKA) without considering the report of Jacai-Bachai mainly on the basis of a complaint made by a 3rd party abruptly canceled the Civil Gazette of the petitioner as freedom fighter by the impugned gazette notification dated 18.07.2023 (Annexure-H).

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 18.07.2023 (Annexure-H) the petitioner has come before this Court and obtained the present Rule.

Mr. Ashoke Kumar Paul, the learned Advocate appearing for the petitioner submits that the petitioner is an actual freedom fighter, who fought for this country during the liberation war and due to his contribution in the liberation war so many authorities including General Muhammad Ataul Gani Osmani (M.A.G. Osmani) and ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing the petitioner as freedom fighter and accordingly his name was duly published in civil gazette and he also got state honorarium since 2005 although the authority of JAMUKA without considering the case of the petitioner as well as report of Jacai-Bachai Committee most illegally on basis of a baseless allegation forwarded by a third party canceled the name of the petitioner from the official civil gazette of the petitioner by the impugned gazette notification dated 18.07.2023 (Annexure-H) and as such, the same is liable to be declared to have been made without lawful authority and is of no legal effect.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, in the facts and circumstances of the case simply opposes the Rule.

Having heard the learned Advocate for the petitioner and the learned Deputy Attorney General and having gone through the writ petition and other relevant documents as placed before this Court.

On a scrutiny of the record, it appears that in this case the petitioner as a Freedom Fighter fought in the liberation war, held in 1971 and thereafter, the Government of Bangladesh as well as so many authorities including the Commander of Defence Forces General Muhammad Ataul Gani Osmani issued a series of certificates in his favour recognizing him as a Freedom Fighter (Annexure-B, K, K-2, M, N, N-1, N-2 and O) and his name also published in civil gazette as well as website of Ministry of

Liberation War Affairs (Annexure- C&D). Thereafter, the petitioner got state honorarium and other benefits as freedom fighter. It further appears that in this case jacai-bachai committee submitted a report on 28.02.2021 stating that the petitioner could not submit relevant documents as to prove that he is a real freedom fighter although it appears from the record that the petitioner submitted all the necessary papers and the authority concerned after scrutinizing and considering all the documents of the petitioner published his name in the civil Gazette and the petitioner also got state honorarium since 2005 to December, 2022.

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reason as to why the Ministry of Liberation War Affairs by the impugned gazette notification dated 18.07.2023 (Annexure-H) canceled the civil gazette so far as it relates to the name of the petitioner as freedom fighter. The law is by now firmly well settled that an honorarium should not be canceled without sufficient cause, as this principle aligns with professional courtesy and contractual fairness. State honorarium is a payment for special or occasional work, and canceling it arbitrarily would be a breach of the implied or explicit agreement between the payer and the recipient. Therefore, we are of the view that the impugned notification is not based on relevant factors. The notification was issued without considering the proper, appropriate, and important considerations that should have guided its creation. This lack of basis in relevant factors indicates the notification was arbitrary, malafide, and potentially discriminatory, making it legally flawed and subject to being declared without lawful authority.

In the result, the Rule Nisi is made absolute. The impugned gazette dated 18.07.2023 (Annexure-H) so far as it relates to the petitioner cancelling the gazette of the petitioner dated 12.05.2005 as freedom fighter (Annexure-C) is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay monthly state honorarium to the petitioner as a Freedom Fighter in accordance with law.

In the facts and circumstances of the case there will be no order as to costs.

Communicate this order to the concerned Respondents at once.

S.M. Iftakhar Uddin Mahamud, J:

I agree.