

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

WRIT PETITION NO. 6537 of 2021

IN THE MATTER OF:

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

IN THE MATTER OF:

Paritosh Chandra Saha Saha

..... Petitioner.

-Versus-

The Government of Bangladesh,
represented by Secretary, Ministry of
Liberation War Affairs and others.

..... Respondents.

Mr. Md. Abdul Matin Sarder, Advocate

..... For the petitioner.

Mr. Mohammad Mohsin Kabir, DAG with

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

Ms. Shaheen Sultana, AAG with

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

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

..... For the respondents.

Heard and Judgment on: 14.12.2025.

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, this Rule Nisi was issued calling upon the respondents to show cause as to why the impugned decisions, vide Memo No.

48.02.0000.001.31.051.12.118 dated 25.10.2020 serial No.6 so far at it relates to the petitioner and civil Gazette of the petitioner as freedom fighter (Annexure-G & G-1) and the failure of the respondents to disburse the honorarium of the petitioner as Freedom Fighter 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 country in the liberation war, held in 1971. Due to his contribution in the liberation war, the Ministry of Liberation War Affairs issued provisional certificate in favour of the petitioner as freedom fighter (Annexure-A). His name was duly published/enlisted in the Indian list as freedom fighter (Annexure-A-2). After scrutinizing all the relevant documents of the petitioner the authorities under the Ministry of Liberation War Affairs published his name in civil gazette as a freedom fighter on 03.10.2013 being gazette No. 3303, page No. 8461 (Annexure-A-1) and thereafter his name was also published in the website of the Ministry of Liberation War Affairs (Annexure-A-3) as freedom fighter. In this background the Government of Bangladesh allowed monthly state honorarium in favour of the petitioner by issuing bhata book from July, 2013 (Annexure-B-1). Thereafter all on a sudden, the respondents without considering the documents of the petitioner mainly on the basis of a complaint made by a 3rd party by the impugned decisions being Memo No. 48.02.0000.001.31.051.12.118 dated

25.10.2020 together with Gazette notification abruptly canceled the Civil Gazette of the petitioner as freedom fighter (Annexure-G&G-1). Against which the petitioner filed appeal without any success.

Aggrieved thereby finding no other alternative way the petitioner has come before this Court and obtained the present Rule.

Mr. Md. Abdul Matin Sarder, the learned Advocate appearing for the petitioner submits, it is on record that the petitioner fought for this soil in the liberation war, held in 1971 and due to his contribution in the liberation war his name was published/enlisted in the Indian Freedom Fighters list as freedom fighter and so many authorities including the Ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as a freedom fighter. The learned Advocate further submits that the petitioner because of his contribution in the liberation war started to get state honorarium since July, 2013 through bhata book although the authority of JAMUKA without considering the case of the petitioner most illegally on the basis of a baseless allegation forwarded by a third party abruptly canceled the civil gazette of the petitioner by the impugned gazette notification (Annexure-G-1) pursuant to the decision taken by the JAMUKA on 25.10.202 (Annexure-G) and as such, the same is liable to be declared to have been made without lawful authority and is of no legal effect.

Mr. A.K.M. Rezaul Karim Khandaker, the learned Deputy Attorney General, on the other hand, 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, its annexures 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 Ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as a Freedom Fighter (Annexure-A) and his name also published/enlisted in Indian Freedom Fighter lists as a Freedom Fighter as well as in the website of the ministry of Liberation War Affairs as Freedom Fighter (Annexure-A-2&A-3). It further appears that the Government after scrutinizing all the relevant papers of the petitioner published his name in the civil gazette as freedom fighter (Annexure-A-1) and thereafter allowed state honorarium in favour of the petitioner as a freedom fighter from July, 2013 to September, 2020 through bhata book and bank account (Annexure-B,B-1&B-2). It further appears that the JAMUKA without any proper investigation into the matter mainly on the basis of an allegation made by a 3rd party abruptly canceled the civil Gazette No. 3303 of the petitioner by the impugned memo (Annexure-G&G-1) whereby stopping the payment of state honorarium to the petitioner although it is on record that after scrutinizing all the relevant documents of the petitioner published his name in civil gazette and thereafter he got state honorarium through bhata book.

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reasons as to why the respondents by the impugned decisions being Memo No. 48.02.0000.001.31.051.12.118 dated 25.10.2020 serial No.6 so far at it relates to the petitioner and Gazette notification (Annexure-G & G-1) cancelling the civil Gazette of the petitioner being No. 3303 (Annexure-A-1) and whereby stopping the payment of state honorarium to the petitioner as a freedom fighter. The state honorarium should not be cancelled 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 memo is not based on relevant factors. The impugned memo 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 decisions vide Memo No. 48.02.0000.001.31.051.12.118 dated 25.10.2020 serial No.6 so far at it relates to the petitioner and Gazette notification (Annexure-G & G-1) cancelling the civil Gazette of the petitioner being No. 3303 (Annexure-A-1) and whereby stopping the payment of state honorarium to the petitioner is

declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay monthly sate honorarium to the petitioner as a Freedom Fighter in accordance with law forthwith.

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

Communicate this order to the respondents at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.