

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

Present:

Justice Sheikh Abdul Awal

And

Justice S.M. Iftexhar Uddin Mahamud

Writ Petition No. 9193 of 2021

In the matter of:

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

And

In the Matter of:

Md. Samad Ali

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. Hamidur Rahman, Advocate with

Mr. Md. Shahinuzzaman, Advocate

..... For the Petitioner.

Mr. Mohammad Mohsin Kabir, D.A.G.

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

D.A.G with

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

Ms. Shaheen Sultana, A.A.G.

... For the Government-Respondents.

Heard on 11.12.2025 and judgment on 15.12.2025

Sheikh Abdul Awal, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the decision of the Jatio Muktijoddha Council (JAMUKA),

respondent No. 2 taken vide resolution dated 19.11.2020 in its 70th meeting so far as it relates to Agendum No. 3 recommending for cancelling the Sanad (Certificate) and Gazette of the petitioner as freedom fighter (Annexure-H) and notification dated 22.12.2020 issued by the respondent No.5 as published in the Bangladesh Gazette dated 05.01.2021 so far as it relates to cancellation of the Freedom Fighter Sanad (Certificate) and Gazette of the petitioner (Annexure-I) should not be declared to have been issued without lawful authority and is of no legal effect and why the respondents should be directed to reinstate the petitioner in the official web side as well as in Bangladesh Gazette as freedom fighter and/or pass such other or further order or orders as to this Court may seem fit and proper.

The relevant facts as stated in the writ petition briefly are that the petitioner was valiant freedom fighters, who fought for this country during the liberation war, held in 1971. Due to contribution in the liberation war, General Ataul Gani Osmani, Commander of Bangladesh Armed Forces and M.A.Aziz Regional Commander of Sector-11 Jointly issued a certificate (Annexure-B) and Ministry of Liberation War affairs also issued a Certificate on 09.06.2014 (Annexure-B-1) recognizing the petitioner as freedom fighter and other co-freedom fighters also issued certificates recognizing him as a freedom fighter (Annexure-C, C-1 and C-2) and thereafter, the name of the petitioner was published in the Bangladesh Gazette on 09.12.2013 at Serial No. 2982 as freedom fighter (Annexure-D) and also published in the official website of the Ministry of

liberation War Affairs (Annexure-D-1 and D-2). In this background Ministry of Liberation War Affairs started to pay state honorarium to the petitioner as freedom fighter. Thereafter on 19.11.2020 Jatio Muktijoddha Council (JAMUKA) in 70th meeting recommended for canceling the certificate/Sanad and gazette of the petitioner as freedom fighter (Annexure-H) and as per the decision taken in the aforesaid 70th meeting of the Jatio Muktijoddha Council (JAMUKA), the Deputy Secretary, Ministry of Liberation War affairs, Respondent No. 5 on 22.12.2020 issued a Notification by canceling Certificate/Sanad as well as Gazette of the petitioner (Annexure-I) as Freedom Fighter and stopped the State honorarium of the petitioner.

Finding no other alternative the petitioner preferred this writ petition and obtained the present Rule.

Mr. M.G. Mahmud (Shaheen), the learned Advocate, appearing for the petitioner submits that the petitioner fought for this Country and got a series of certificates from the authority concerned and ultimately his name was published in the Bangladesh Gazette on 09.12.2013 at Serial No. 2982 as freedom fighter (Annexure-D) and also published in the official website of Ministry of liberation War Affairs (Annexure-D-1 and D-2) though the Chairman of Jatio Muktijoddha Council (JAMUKA) himself conducted inquiry and without having any recommendation or report from the Jachai Bachhai Committee (Scrutinizing Committee) and without issuing any notice regarding the hearing of the allegation brought against the petitioner, the Jatio Muktijoddha Council (JAMUKA) most illegally took the decision canceling the Freedom Fighter Sanad

and Gazette of the petitioner and as such the impugned decision and notification cancelling the Sanad and gazette of the petitioner by the respondents is a clear violation of the principle of natural Justice and which is liable to be declared to have been issued without lawful authority and is of no legal effect.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, simply opposes the Rule. He could not show any cogent reasons as to why the Ministry of War Affairs cancelled the Sanad and gazette of the petitioner as freedom fighter.

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 scrutiny of the record, it appears that the petitioner as freedom fighter fought for this country during the liberation war, held in 1971. Due to his contribution the Government and so many authorities concerned issued certificates recognizing the petitioner as freedom fighter. Thereafter, the name of the petitioner was published in the Bangladesh Gazette and also in the official website of the Ministry of liberation War Affairs and thereafter, Ministry of Liberation War Affairs started to pay state honorarium to the petitioner as freedom fighter. It further appears that on the basis of recommendation of Jatio Muktijoddha Council (JAMUKA) Ministry of Liberation War affairs abruptly canceled the Freedom Fighter Sanad as well as Gazette of the petitioner without assigning any cogent reasons and stopped the State honorarium of the petitioner without

issuing any show cause notice whatsoever. The abrupt cancellation of a Government gazette notification and cessation of state honorarium without a show cause notice is a clear violation of the principles of natural justice and due process.

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 respondents by the impugned decision and notification cancelled the freedom fighter Sanad and gazette of the petitioner. 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 cancelling 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/memo is not based on relevant factors. The notification/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 is made absolute and the impugned decision of Jatio Muktijoddha Council (JAMUKA) vide resolution dated 19.11.2010 recommending for cancelling the Sanad (Certificate) and Gazette of the petitioner (Annexure-H) and notification dated 22.12.2020 issued by the respondent No.5 as published in the Bangladesh Gazette dated 05.01.2021

so far as it relates to cancellation of the Sanad (Certificate) and Gazette of the petitioner (Annexure-I) as freedom fighter is declared to have been issued without lawful authority and is of no legal effect and the respondents are directed to reinstate the petitioner's name in the official web side as well as in Bangladesh Gazette as freedom fighter.

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.