

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

WRIT PETITION NO. 9230 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:

Rafia Begum.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. M.G. Mahmud with

Mr. Sohel Rana, 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 and Judgment on: 11.12.2025.

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 of the People's Republic of Bangladesh, this Rule Nisi was issued calling upon the respondents to show cause as to why the

Proggapon (প্রোগপন) No. 48.00.0000.004.37.004.20.2528 dated 05.01.2021 so far as it relates to petitioner's husband serial No. 30 published in Bangladesh Gazette on 05.01.2021 by the respondent No.1 cancelling the gazette of husband of the petitioner as freedom fighter as contained in "Annexure-H" 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 husband of petitioner, Md. Abdul Gafur Khan as freedom fighter fought for this country in the liberation war, held in 1971. Due to his contribution in the liberation war General Muhammad Ataul Gani Osmani (M.A.G. Osmani) and Ministry of Liberation War Affairs issued a certificate in favour of Md. Abdul Gafur Khan, the husband of the petitioner, (Annexure-B) recognizing him as freedom fighter and so many authorities including fellow freedom fighters also issued certificates in favour of the husband of the petitioner recognizing him as freedom fighter (Annexure-B-1 series). In this background his name was published in Civil Gazette dated 29.05.2005 being Serial No. 239 as freedom fighter, which also published in the website of the Ministry of Liberation War Affairs (Annexure- C&C-1) and his name also published in Lal Muktibarta (Annexure-D). Thereafter, the husband of the petitioner started to get state honorarium since June, 2010. In this background Jatio Muktijoddha Council (JAMUKA) without assigning any reasons on the basis of a complaint made by a 3rd party abruptly canceled the Civil Gazette of the husband of the petitioner as freedom fighter by the impugned gazette notification dated 05.01.2021 (Annexure-H).

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 05.01.2021 (Annexure-H) the petitioner has come before this Court and obtained the present Rule.

Mr. M.G. Mahmud, the learned Advocate appearing for the petitioner submits that the husband of the petitioner, late Abdul Gafur Khan 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 Commander of Defence Forces during liberation war in Bangladesh, General Muhammad Ataul Gani Osmani and ministry of Liberation War Affairs issued certificates in favour of the husband of the petitioner recognizing him as a freedom fighter and accordingly his name was duly published in civil gazette and he also got state honorarium since June, 2010 to till March, 2021 and it is on record the Ministry of Liberation War Affairs without any proper investigation into the matter and without considering the relevant papers on the basis of an allegation made by 3rd party abruptly canceled the civil gazette of the petitioner by the impugned gazette notification dated 05.01.2021 and as such, the same is liable to be declared to have been made without lawful authority and is of no legal effect. Finally, the learned Advocate submits that as per section 2(10) of the Jatio Mukti Juddha Council Ain, 202 (as amendment up 2025) the husband of the petitioner late Md. Abdul Gafur is an actual freedom fighter and as such, the petitioner as wife of the deceased freedom fighter is entitled to get state honorarium in accordance with law.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, in the facts and

circumstances of the case has ultimately found it difficult to oppose the Rule on the ground upon which Rule was obtained.

On a scrutiny of the record, it appears that in this case the husband of 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 certificates in his favour recognizing him as a Freedom Fighter (Annexure-B & B-1 series) and his name also published in the civil gazette as well as website of the Ministry of Liberation War Affairs (Annexure- C&C-1). It also appears that the name of the husband of the petitioner has been published in Lal Muktibarta (Annexure-D), who was also a voter of Bangladesh Mukti Joddha Sangshad (Annexure-D-1). It further appears that without any proper investigation or without considering the papers issued by the so many authorities including the Government of Bangladesh, the respondent No.1 canceled civil gazette of husband of the petitioner without assigning any cogent reasons whatsoever. It further appears that the petitioner has been received state honorarium as wife of the deceased Freedom Fighter.

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 respondent No.1 by the impugned notification dated 05.01.2021 (Annexure-H) canceled the civil gazette so far as it relates to late Md. Abdul Gafur the husband of the petitioner as freedom fighter. 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 Proggapon (প্রেজ্যাপন) No. 48.00.0000.004.37.004.20.2528 dated 05.01.2021 so far as it relates to Md. Abdul Gafur, the husband of the petitioner in serial No. 30 published in Bangladesh Gazette on 05.01.2021 by the respondent No.1 cancelling the gazette of the petitioner's husband as freedom fighter (Annexure-H) 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 wife of a deceased 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 authority at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.