

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

Present:
Justice Sheikh Abdul Awal
And
Justice S.M. Iftekhar Uddin Mahamud

Writ Petition No. 10342 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:

Mosammat Ambia Bewa.

..... Petitioners.

-Versus-

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

.....Respondents.

Ms. Sarker Tahmina Begum Sandha, Advocate
..... For the Petitioner

Mr. Md. Mohsin Kabir, D.A.G with
Ms. Shahin Sultana, A.A.G with
Mr. Md. Manowarul Islam Uzzal, A.A.G
... For the Government-Respondents.
Mr. Md. Fazle Rabby, Advocate
..... For the Respondent Nos. 8(a)-8(f)

Heard on 17.08.2025, 02.09.2025 and

Judgment on 03.09.2025

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 letter

as contained in Memo No. 48.00.0000.006.049.18.865 dated 06.12.2020 issued under the signature of the Assistant Secretary, Ministry of Liberation War Affairs, Bangladesh as well as the letter contained in Memo No. 41.01.49. 06.000.06. 017.19.154 dated 13.12.2020 issued under signature of the Upazilla Welfare Officer, Bhurungamari, Kurigram, should not be declared to have been made without lawful authority and is of no legal effect and as to why they should not be directed to pay the honorarium to the petitioner's husband as freedom fighter and/or such other or further order or orders passed as to this Court may seem fit and proper.

The relevant facts of the case in brief is that petitioner's husband late Abul Hossain was a freedom fighter, who fought for this country during the liberation war resulting so many authorities issued certificates in his favour including certificate issued by State Minister of Liberation War Affairs and his name also published in Lal Mukti Barta being serial number 316040609 as well as civil gazette being No.1513 and also enlisted his name as a freedom fighter in Indian freedom fighters' list being serial No. 40621. Due to contribution of petitioner's husband the petitioner got honorarium since 01.07.2006 to till 6.12.2020. In this background, one Md. Abul Hossain filed an application before the Thana Nirbahi Officer stating that- “ঢাকা থেকে আসার পর জানতে পারেন তাকে মৃত দেখিয়ে জনৈক আবু বক্করের স্ত্রী আশিয়া বেওয়া মুক্তিযোদ্ধার ভাতা উত্তোলন করছেন, যার সাথে তার কোন অংশীদারী সম্পর্ক নাই।”. Thereafter, investigation took place by S.M. Jobaidul Islam, Upazilla Social Service Officer (উপজেলা সমাজসেবা অফিসার), Bhurungamari, Kurigram, who submitted a

report on 25.3.2013 stating- “উল্লেখিত অভিযোগের তদন্তে ইহাই প্রতীয়মান হয় যে, মোঃ আবুল হোসেন, পিতা-মৃতঃ জালাল উদ্দিন শেখ, গ্রামঃ চর-ভূরুঙ্গামারী এবং মৃতঃ আবু বক্কর, পিতা-মৃতঃ আকবর আলী, গ্রামঃ চর-ভূরুঙ্গামারী দুইজনই প্রকৃত বীর মুক্তিযোদ্ধা। আবুল হোসেনের নাম তিন তালিকায় রহিয়াছে কিন্তু মৃতঃ আবু বক্কর পিতা আকবর আলীর নাম কোন মুক্তিযোদ্ধার তালিকায় নাই। মৃতঃ আবু বক্কর, পিতা-মৃতঃ আকবর আলীর নাম মুক্তিযোদ্ধা অর্ন্তভুক্তির জন্য জোর সুপারিশ করিতেছি।” And, thereafter the Additional District Magistrate (A.D.M.), Kurigram also investigated the matter and after completion of investigation submitted a report on 29.10.2020 as evidenced by “Annexure-D1” to the writ petition stating that: “সার্বিক তদন্ত কার্যক্রমে জবানবন্দী গ্রহণ, পর্যালোচনা ও ব্যক্তি বিশেষকে জিজ্ঞাসায় স্পষ্টরূপে অভিযোগের সত্যতা প্রতুষ্ঠিত হয়েছে। অভিযোগকারী-জনাব মোঃ আবুল হোসেন (বীরমুক্তিযোদ্ধা), পিতা-মৃত, জালাল উদ্দিন ওরফে বিন্দু শেখকে লাল মুক্তিবর্তায় মৃত হিসেবে দেখানো হলেও বাস্তবিক অর্থে তিনি জীবিত আছেন। বর্তমান অবস্থা নিরসনের জন্য ন্যায় বিচার নিশ্চিতকল্পে জরুরীভিত্তিতে প্রকৃত ও জীবিত বীরমুক্তিযোদ্ধা জনাব মোঃ আবুল হোসেন এর নামে ভাতা চালুর প্রয়োজনীয় ব্যবস্থা গ্রহণ করা আবশ্যিক ও সমীচীন মর্মে বিবেচিত হচ্ছে।”. Thereafter, by the notice dated 06.12.2020 issued by the Assistant Secretary, Ministry of Liberation War Affairs (respondent No.2) and notice dated 13.12.2020 signed by Upazilla Welfare Officer, Bhurungamari, Kurigram (respondent No.7) stopping payment of State honorarium to the petitioner and also asked the petitioner to deposit the withdrawal amount as honorarium to the Government treasury.

Being aggrieved by the aforesaid impugned letters dated 06.12.2020 and 13.12.2020 issued under the signature of Respondent Nos. 2&7 respectively the petitioner Mosammat

Ambia Bewa preferred this Writ Petition and obtained the present Rule.

Ms. Sarker Tamina Begum Sandha, the learned Advocate appearing for the petitioner submits that as per freedom fighters list of India (being serial No. 40621), list of Lal Mukti barta being No. 316040609, civil gazette being serial No. 1513, the petitioner's husband late Abul Hossain was a real freedom fighter, who died on 19.02.1991 and thereafter, as only wife of the said freedom fighter, the petitioner has been withdrawing the State honorarium as widow of Abul Hussain and it is on record that on receiving a complaint filed by one Abul Hussain investigation was held by Upazilla Welfare Officer, Bhurungamari, Kurigram, who after completion of investigation submitted his report stating that the petitioner's husband, late Abul Hussain was a valiant freedom fighter and he correctly got State honorarium and thereafter, second investigation was held by the Additional District Magistrate, Kurigram, who submitted a report stating that the petitioners husband was not an actual freedom fighter and thereafter, the Ministry of Liberation War Affairs stopped payment of State honorarium to the petitioner. The learned Advocate further submits that the second investigation report is a perfunctory one, which is inconsistent with all other reports including report submitted by Upazilla Muktiduktijoddha Sangshad, Bhurungamari Upazilla Command, District- Kurigram and thus, in the facts and circumstances of the case it can safely be said that the petitioner's husband was a freedom fighter and the petitioner as only widow of Freedom Fighter, late Abul

Hossain is entitled to get State honorarium in his favour and the honorarium has been stopped on the basis of a perfunctory report submitted by Additional District Magistrate without any proper investigation whatsoever and as such, the impugned letters/orders are liable to be declared to have been passed without lawful authority and is of no legal effect.

Mr. Md. Fazla Rabby, the learned Advocate appearing for the Respondent Nos. 8(a)-8(f), on the other hand, vehemently opposes the submission of the learned Advocate for the petitioner. He submits that his client Respondent No. 8, Abul Hossain is a actual freedom fighter and the petitioner's husband Abul Hossain is a fake freedom fighter and the respondent No.8 as real freedom fighter is entitled to get state honorarium. He further submits that since the petitioner's husband is not a freedom fighter, the petitioner as widow is not entitled to get any honorarium and the respondent Nos. 2&7 committed no wrong by issuing the impugned letters stooping payment of state honorarium to the petitioner (wife of Abul Hossain).

Mr. Md. Bodiuzzaman Tapadar, the learned Deputy Attorney General, on the other hand, after taking several adjustments obtained a report through WhatsApp sent by Upazilla Nirbahi Officer, Bhurungamari, Kurigram and referring the same submits that as per the latest report sent by Upazilla Nirbahi Officer, Bhurungamari, Kurigram the petitioner's husband was an actual freedom fighter.

Having heard the learned counsels for the parties and the learned Deputy Attorney General and having gone through the

available materials on record including the latest report submitted by Upazilla Nirbahi Officer through WhatsApp.

It is found that petitioner's husband, late Abul Hussain was a freedom fighter, who fought for this country in the Liberation war held in 1971 resulting his name has been published in official gazette as well as Lal Mukti Batta and the petitioner's husband also got so many certificates from the authorities including the State Minister and accordingly the petitioner as widow of freedom fighter late Abul Hussain got monthly state honorarium since 01.07.2006 to till 6.12.2020. It is also found that on the basis of a complaint that the petitioner under the camouflage of freedom fighter Abul Hussain's wife has been receiving State honorarium although she is not wife of any actual freedom fighter and thereafter investigation took place and after completion of investigation Upazilla Welfare Officer, Bhurungamari, Kurigram submitted his report stating that both Abul Hossain are freedom fighter and thereafter another investigation was held by Additional District Magistrate, Kurigram, who found the petitioner's husband Abul Hossain was not an actual freedom fighter.

It is also found that over the aforesaid dispute as to actual freedom fighter, Abul Hussain, husband of the petitioner a resolution was taken by the Upazilla Muktijoddha Sangshad, Bhurungamari, Kurigram, as evidenced by "Annexure-C 3" to the writ petition stating that- "৪৯ বছর পর একই নামে মোঃ আবুল হোসেন, পিতা: বিন্দু সেখ, গ্রাম: দেওয়ানের খামার, পো: ভূরুঙ্গামারী, উপজেলা: ভূরুঙ্গামারী, জেলা: কুড়িগ্রাম। সে দাবি করে উপরোক্ত আবুল হোসেন মুক্তিযোদ্ধা নয় ওর নাম আবু বক্কর, সুতরাং আমি মুক্তিযোদ্ধা। ভূয়া মুক্তিযোদ্ধা আবুল হোসেন জেলা প্রশাসক কুড়িগ্রাম বরাবরে

১টি আবেদন করে সে প্রেক্ষিতে জেলা প্রশাসক মহোদয় তাঁর কার্যালয়ের একজন প্রতিনিধি তদন্ত কর্মকর্তা হিসেবে ভূরুঙ্গামারী উপজেলায় প্রেরণ করেন। অতীব দুঃখ জনক তিনি ইউনিয়ন কমান্ড ও উপজেলা কমান্ডকে না জানিয়ে একতরফা ভাবে ভূয়া আবুল হোসেনের লোকজনকে ডেকে শুনামেলা করে তিনি চলে যান। পরবর্তিতে রিপোর্ট আসে প্রকৃত মুক্তিযোদ্ধার স্ত্রী মোছাঃ আশ্বিয়া বেওয়ার সম্মানী ভাতা বন্ধ এবং এ যাবৎ যে সরকারী টাকা প্রতিস্থাপন হিসেবে স্বামীর নামীয় সম্মানী ভাতা ভোগ করেছে তাহা সমুদয় ফেরৎ দিতে হবে। এহেন চিঠির প্রেক্ষিতে চলতি সভার সকল সদস্যগন স্তম্ভীত এবং মর্মান্বিত। তাহলে মুক্তিযোদ্ধা বিষয়ে ৪৯ বৎসরে আমরা কি জানলাম।”

On going through the civil gazette being serial No. 1513 dated 02.03.2019 page No. 7417 and so many certificates including the certificate issued by State Minister of Liberation War Affairs, Lal Mukti Barta and Indian freedom fighters book-list being serial No. 40621 together with investigation reports as well as resolution taken by Upazilla Muktijoddha Sangshad, Bhurungamari, Kurigram along with the latest report sent by Upazilla Nirbahi Officer, Bhurungamari, Kurigram through WhatsApp message, we find no reason to hold that the petitioner's husband was a fake freedom fighter rather we find sufficient cogent reason to hold that the petitioner's husband late Abul Hossain was a actual freedom fighter.

Considering all the facts and circumstances of the case as revealed from the materials on record, we find no cogent reason as to why the respondent No.2 and 7 by the impugned letters dated 06.12.2020 and 13.12.2020 issued under the signatures of Respondent Nos. 2&7 respectively stopping to pay the State honorarium to the petitioner. Therefore, we are of the view that the impugned letters are not based on relevant factors. The letters were issued without considering the proper, appropriate,

and important considerations. This lack of basis in relevant factors indicates the impugned letters were arbitrary, malafide, and potentially discriminatory, making it legally flawed and subject to be declared without lawful authority.

In the result, the Rule Nisi is made Absolute. The impugned Memo No. 48.00.0000.006.049.18.865 dated 06.12.2020 issued under the signature of the Assistant Secretary, Ministry of Liberation of War Affairs, Bangladesh as well as the letter contained in Memo No. 41.01.49. 06.000.06. 017.19.154 dated 13.12.2020 issued under signature of the Upazilla Welfare Officer, Bhurungamari, Kurigram are hereby declared to have been passed without lawful authority and is of no legal effect. There is, however, no order as to costs.

In the facts and circumstances of the case as revealed from the materials on record, the petitioner as only widow of late freedom fighter, Abul Hussain is entailed to get monthly State honorarium.

Communicate this order at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.