

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

WRIT PETITION NO. 7319 of 2022

IN THE MATTER OF:

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

IN THE MATTER OF:

Md. Tofazzal Hossain Bhuiyan alias Tofazzal Hossain.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. M.G. Mahmud, 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 04.12.2025 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 of the People's Republic of Bangladesh, this Rule Nisi was issued calling upon the respondents to show cause as to why Proggapon No. 48.00.0000.004.37.015.2020/438 dated

22.12.2020 so far as it relates to the petitioner published in Bangladesh Gazette on 05.01.2021 by the respondent No.1 cancelling the gazette of the petitioner as freedom fighter (Annexure-F) 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 General Muhammad Ataul Gani Osmani (M.A.G. Osmani) issued a certificate in favour of the petitioner (Annexure-H as contained in supplementary affidavit) recognizing the petitioner as freedom fighter and Bangladesh Muktijoddha Sangshad, Sonargaon Upazilla Command, Narayangonj issued a certificate recognizing the as a genuine freedom fighter and so many authorities including Ministry of Liberation War Affairs and other fellow freedom fighters also issued certificates in favour of the petitioner recognizing him as freedom fighter (Annexure-B, K, K-1, K-2 and K-3). In this background his name was published in Civil Gazette dated 29.05.2005 being Serial No. 892 as freedom fighter, which also published in the website of the Ministry of Liberation War Affairs (Annexure- A& A-1) and thereafter the petitioner started to get state honorarium from July, 2010 to till January 2021. In this background Jatio Muktijoddha Council (JAMUKA) without assigning any reason or without issuing any show cause notice to the petitioner Jatio Muktijoddha

Council (JAMUKA) canceled the Civil Gazette of the petitioner as freedom fighter by the impugned gazette notification (Annexure-F).

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 05.01.2021 (Annexure-F) 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 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 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 petitioner recognizing the petitioner as freedom fighter and accordingly his name was duly published in civil gazette and he also got state honorarium since 2010 to till 2021 but JAMUKA without any proper investigation into the matter and without issuing any show cause notice upon the petitioner 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 passed 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 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 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 certificate in his favour recognizing him as a Freedom Fighter (Annexure-B, K, K-1, K-2, K-3 and H) and his name also published in the civil gazette (Annexure- A&A-1). It further appears that without any proper investigation or without issuing any show cause notice upon the petitioner, the respondent No.1 canceled the petitioner's civil gazette without assigning any cogent reason whatsoever. It further appears that the petitioner having received state honorarium as freedom fighter till January, 2021.

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-F) canceled the civil gazette so far as it relates to the name 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 No. 48.00.0000.004.37.015.2020/438 dated 22.12.2020 so far as it relates to the petitioner published in Bangladesh Gazette on 05.01.2021 by the respondent No.1 cancelling the gazette of the petitioner as freedom fighter (Annexure-F) 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 authority at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.