

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

Present:
Justice Sheikh Abdul Awal
And
Justice Md. Mansur Alam

Writ Petition No. 16139 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:

Abdul Matin

..... Petitioner.

-Versus-

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

.....Respondents.

Mr. Ashoke Kumar Paul with
Mr. Md. Khairul Alam, Advocate

..... For the Petitioner

Mr. Md. Bodiuzzaman Tapadar, D.A.G
with

Ms. Salma Sultana (Soma), D.A.G with
Mr. Md. J.R. Khan Robin, A.A.G with
Mr. A.B.M. Ibrahim Khalil, A.A.G with
Mr. Md. Manowarul Islam Uzzal, A.A.G
... For the Government-Respondents

**Heard on 09.07.2025, 15.07.2025,
13.08.2025 and Judgment on 17.08.2025**

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 impugned Memo No. 48.02.0000.001.06.098.2022.1239 dated 05.12.2022 issued under the signature of the respondent No.2 making recommendation to cancel all types of Freedom Fighter Certificate of the petitioner appended in serial No. 4 of the memo (Annexure-D) should not be declared illegal, without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.

Material facts relevant for disposal of this Rule, briefly, are that the petitioner is a valiant freedom fighter, who participated in the liberation war as a front fighter and out of his contribution all the authorities of liberation war issued a series of certificates on behalf of him as contained in “Annexure A-1, A-2, A-3, A-4 and A-5” of the Writ Petition respectively. Due to contribution of the liberation war of the petitioner the Government enlisted his name in the list of Freedom Fighters of Sylhet Division bearing serial No. 94 and accordingly a certificate was given to him by the Ministry of Liberation War Affairs and also a digital identity card was issued by the same ministry, who managed the online portal. His name has been published in the official gazette bearing No. 4581 dated 24.11.2005 and it is on record that he has been getting honorarium since 2011 to 05.12.2022. It may be mentioned that out of land dispute as well as civil and criminal cases, 3 persons namely, Md. Moin Uddin, Abdus Samad and Intaz Ali lodged an application before the Hon’ble State Minister, Liberation War Affairs under the caption- “ভূমি

মুক্তিযোদ্ধাকে মুক্তিযোদ্ধার তালিকায় অন্তর্ভুক্তি করার অভিযোগ প্রসঙ্গে।” and thereafter investigation was held and one Assistant Secretary submitted investigation report and finally the JAMUKA by the impugned decision being memo No. 48.02.0000.001.06.098.2022.1239 dated 05.12.2022 (Annexure-D) held that- “অভিযুক্ত ব্যক্তি সাক্ষ্য আনতে ব্যর্থ হয়েছেন। তাই মুক্তিযোদ্ধা হিসাবে প্রমাণিত নন। গেজেট ও সনদ বাতিলের জন্য জামুকার সভায় পেশ করা যায়।” And, in the end cancelled the gazette and certificates of the petitioner as Freedom Fighter.

Being aggrieved by the aforesaid impugned memo dated 05.12.2022 issued under signature of the Respondent No.2, the petitioner filed this Writ Petition and obtained the Rule Nisi.

Mr. Ashoke Kumar Paul, the learned Advocate appearing for the petitioner submits that the findings of the Jatio Muktijoddha Council (JAMUKA) that the petitioner could not bring any witness as to prove his Freedom Fightership certificate is not correct inasmuch as the petitioner on several occasions took witnesses before the JAMUKA along with Mr. Monir Miah, a wounded heroic Freeom Fighter (যুদ্ধাহত বীর মুক্তিযোদ্ধা) bearing his card No.1292, Registration No. 2768 dated 01.10.2015 as witness but the authority of JAMUKA with malafide intention refused to examine him.

Mr. Md. Bodiuzzaman Tapadar, the learned Deputy Attorney General, on the other hand, ultimately in the facts of the case found it difficult to refute the contentions as raised by the learned Advocate for the petitioner.

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 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 the concerned authority after full-fledged inquiry issued certificates in his favour as Freedom Fighters and his name also enlisted and published in Laal Mukti Barta and other valuable documents as Freedom Fighter and finally his name also published in the civil gazette in 2005 and he got honorarium since 2011 to 2022. It further appears that on the basis of a complaint made by a third person the respondent No.2 cancelled the petitioner's civil gazette without assigning any cogent reason whatsoever. It is also found that there are a number of civil and criminal cases pending in between the petitioner and the complainant party.

In the case of Chairman, Bangladesh Freedom Fighters Welfare Trust and others Vs. Mominul Haque Bhuiyan and others reported in 14 BLC (AD) 41 it has been held that-

Curtailment of Honorarium/Rastrio Sammani Bhata of recognised freedom fighters without affording opportunity to place their case is in total disregard of the universally accepted principle of natural justice-The learned Counsel for the petitioners could not refer to any materials or, in other words, from the materials as are in the paper books of the respective Petitions for Leave to Appeal nor could produce any materials to establish that before taking the action in respect of the writ petitioners, who established their right to receive Honorarium/Rastrio Sammani Bhata as Freedom Fighters after being listed in the list of Freedom Fighters published in the official gazette and enjoyed the said right for the last 32 years without interruption

or question from any corner. In the afore state of the matter, the High Court Division was not in error in making the Rules absolute upon arriving at the finding that the writ petitioners of the respective writ petitions were deprived of their established right of receiving the Honorarium/Rastrio Sammani Bhata in a whimsical and captitious manner and that action impugned i.e. cancellation/curtailment/reduction/stoppage/non-payment of the Honorarium was a malafide action of the writ-respondents and same manifests from the nature and kind of the action complained of and is evident from the materials on record. The materials in the paper books clearly demonstrate that the action was anything but not fair since the writ petitioners were deprived of the benefits, which they acquired upon establishment of the fact of their being freedom fighters and they were paid for the 32 years, of receiving Honorarium/Rastrio Sammani Bhata in total disregard of the universally accepted principle of natural justice or, in other words, without hearing them or affording and opportunity to place their case, and the action impugned was taken to their prejudice keeping them in the dark. Accordingly, petitions are dismissed.

From the above, we find a clear view of law as it stands today that curtailing the honorarium or “Rastrio Sammani Bhata” of recognized freedom fighters without due process is a violation of natural justice is a widely recognized legal principle, particularly relevant in Bangladesh.

In this case, it appears to us the JAMUKA without applying its judicial mind into the facts and circumstances of the case and law bearing on the subject most illegally cancelled the petitioner’s gazette notification and all certificates by the impugned order so far as it relates to serial No. 4, which does not deserve to be sustained.

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 by the impugned Memo No. 48.02.0000.001.06.098.2022.1239 dated 05.12.2022 making recommendation to cancel all types of Freedom Fighter Certificate of the petitioner appended in serial No. 4 of the memo (Annexure-D). 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 Memo No. 48.02.0000.001.06.098.2022.1239 dated 05.12.2022 making recommendation to cancel all types of Freedom Fighter Certificate of the petitioner appended in serial No. 4 of the memo (Annexure-D) published under the signature of the respondent No.2 is declared to have been made without lawful authority and is of no legal effect. There is, however, no order as to costs.

Communicate this judgment and order to the concerned authority at once.

Md. Mansur Alam, J:

I agree.