

**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. 7533 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:

Md. Zinnat Ali Zinnah being dead his legal heirs Mst. Lal Banu and others.

..... Petitioners.

-Versus-

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

.....Respondents.

Mr. A.F.M. Hakim, 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.

Heard on 01.09.2025 and Judgment on 02.09.2025 .

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 impugned circular being No. 48.00.0000.004.37.001.22.1080

dated 24.05.2025 (Annexure-A) 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 brief fact relevant for disposal of this Rule is that the petitioner is a valiant freedom fighter, who fought for the independence of this country in 1971. He participated in front line battle for the independence of this country in 1971 resulting he got testimonial from ministry of Liberation War Affairs (Annexure-B-1) and a certificate issued by Bangladesh Muktijoddha Songshad, Central Command Council (Annexure-B-2), certificate issued by the Company Commander, Sector-11, Muktagacha, Mymensingh (Annexure-B-4) and his name has been published in civil gazette on 03.10.2013 showing him as a Freedom Fighter at page No. 8492, serial No. 5234 as evidenced by “Annexure-C” to the writ petition. Due to his contribution in the liberation war the Government enlisted his name for paying state allowance/ state honorarium and accordingly a vata bohi has been issued to pay the monthly honorarium in favour of the petitioner as Freedom Fighter (Annexure-D) and in this way the petitioner having received honorarium since 25.01.2010 till 31.05.2022. By the way, it may be mentioned that earlier on receipt of a complaint an investigation took place by Upazilla Welfare Officer, Muktagacha, Maymensingh to detect the true position of the petitioner during liberation war, 1971 and the said officer after thorough investigation submitted a report on 28.10.2014 stating that- “উপর্যুক্ত বিষয় ও সূত্রের প্রেক্ষিতে মহোদয় কর্তৃক আদিষ্ট হয়ে সরজমিনে তদন্ত কাজ

সম্পন্ন করা হয়। তদন্তকালীন সময়ে স্থানীয় মুক্তিযোদ্ধা, মুক্তিযোদ্ধা প্রতিনিধির বক্তব্য গ্রহণ করা হয় এবং একই সাথে বিভিন্ন রেকর্ডপত্র যাচাই করা হয়। দেখা যায় জনাব জিন্নত আলী জিন্নাহ, পিতামৃত- সদর আলী সরকার, গ্রাম:- তারাটি গৌরীপাড়া, ডাকঘর :-তারাটি, মুক্তাগাছা, স্ময়মনসিংহকে মাননীয় জেলা প্রশাসক, ময়মনসিংহ মহোদয় কর্তৃক ০৪/০৬/১৯৯৮ খ্রিঃ অমুক্তিযোদ্ধার অভিযোগের তদন্ত প্রতিবেদনে মুক্তিযোদ্ধা হিসেবে প্রমাণিত হয়। ১৯/১১/২০০৯ খ্রিঃ বিত্ত বিচারক, হাইকোর্ট বিভাগ, আপীলের রায়ে জনাব জিন্নত আলী জিন্নাহকে মুক্তিযোদ্ধা হিসাবে ঘোষণা করেন। মাননীয় প্রধানমন্ত্রী, শেখ হাসিনা, গণপ্রজাতন্ত্রী বাংলাদেশ সরকার কর্তৃক প্রতিস্বাক্ষরিত সুনদ গ্রহণ করেন 'হার নং-২৮১৯৩, তারিখ:-১৭/০৬/২০০০খ্রিঃ। মাননীয় প্রতিমন্ত্রী, মুক্তিযোদ্ধা বিষয়ক মন্ত্রণালয়, গণপ্রজাতন্ত্রী বাংলাদেশ সরকার কর্তৃক প্রতিস্বাক্ষরিত সনদ গ্রহণ করেন যাহার নং-১২৮৩২৭, তারিখ:-১৬/০৯/২০০৩ খ্রিঃ। সর্বশেষ মুক্তিযুদ্ধ বিষয়ক মন্ত্রণালয় কর্তৃক প্রকাশিত অতিরিক্ত গেজেটে অন্তর্ভুক্ত হয় যাহার গেজেট নং-৫২৩৪, প্রকাশের তারিখ:- ০৩/১০/২০১৩ খ্রিঃ।

মতামত:- স্থানীয় মুক্তিযোদ্ধা, মুক্তিযোদ্ধা প্রতিনিধির বক্তব্য ও বিভিন্ন রেকর্ডপত্র অনুযায়ী জনাব জিন্নত আলী জিন্নাহ, পিতামৃত- সদর আলী সরকার, গ্রাম:- তারাটি গৌরীপাড়া, ডাকঘর:-তারাটি, মুক্তাগাছা, ময়মনসিংহ প্রকৃত মুক্তিযোদ্ধা হিসেবে প্রমাণিত হয়। ইহা মহোদয়ের সদয় অবগতি ও পরবর্তী প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য প্রেরণ করা হলো।”

The aforesaid report clearly manifests that the petitioner was a actual Freedom Fighter. In this background again some of the enemies of the petitioner in the locality filed a complaint before the Jatio Muktijoddha Council (JAMUKA) stating that the petitioner is a fake Freedom Fighter and accordingly, respondent No.2, JAMUKA by the impugned notification dated 24.05.2022 (Annexure-A) canceled the civil gazette so far as it relates to the petitioner (serial No. 5234) as freedom fighter.

Being aggrieved by the aforesaid impugned notification dated 03.10.2013 the petitioner filed this Writ Petition and obtained the Rule Nisi.

Mr. A.F.M. Hakim, the learned Advocate appearing for the petitioner submits that the Jatio Muktijoddha Council (JAMUKA) passed the impugned notification beyond the scope of law inasmuch as on several occasions after thorough investigation the petitioner's name has been enlisted as a valiant Freedom Fighter and his name also published in civil gazette and the petitioner also got honorarium book as Freedom Fighter and in this way he got honorarium since 25.01.2010 to till 31.05.2022.

He further submits that in the investigating report submitted by Upazila Welfare Officer, Muktagacha, Mymensingh found the petitioner was a genuine Freedom Fighter but for the reasons best known to the authority of JAMUKA as to why they abruptly cancelled the civil gazette of the petitioner as freedom fighter without assigning any cogent reason whatsoever and as such, the impugned notification 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, appearing for the State, on the other hand, in the facts and circumstances of the case ultimately found it difficult to press the Rule on the ground upon which Rule was obtained.

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 in this case the petitioner as a Freedom Fighter fought in the liberation war held in 1971 and thereafter, the Government as well as so many authorities issued certificates in his favour as Freedom Fighter and his name also published in the civil gazette. It further appears that on the basis of a complaint made by a third person Upazila Welfare Officer, Muktagacha, Mymensingh investigated the matter and accordingly, found that the petitioner was a genuine Freedom Fighter but finally on an another complaint filed by the enemies of the petitioner in the locality, the respondent No.2 cancelled the petitioner's civil gazette without assigning any cogent reason whatsoever. It further appears that the petitioner having received honorarium as freedom fighter since 25.01.2010 to till 31.05.2022.

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.2 by the impugned notification No. 48.00.0000.004.37.001.22.1080 dated 24.05.2022 (Annexure-A) 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 notification No. 48.00.0000.004.37.001.22.1080 dated 24.05.2022 is declared to have been made without lawful authority and is of no legal effect. 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.