

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

WRIT PETITION NO. 8041 of 2023

IN THE MATTER OF:

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

IN THE MATTER OF:

Md. Anwar Hossain and others.

..... Petitioners.

-Versus-

Secretary, Ministry of Liberation War Affairs and others.

..... Respondents

Mr. Md. Harun Or Rashid, Advocate

..... For the petitioners.

Mr. Mohammad Mohsin Kabir, DAG with
Mr. A.K.M. Rezaul Karim Khandaker, D.A.G with
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 10.11.2025 and
Judgment on: 10.12.2025.

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 Memo No.

48.00.0000.004.37.115.2022/423 dated 19.10.2022 issued by the respondent No.4 cancelling the gazette Nos. 1519, 1584, 1583, 1581 and 1486 of the petitioners as freedom fighter, pursuant to the decision taken on 19.07.2022 in the 80th meeting of Jatio Mukti Joddha Council (JAMUKA), so far as it relates to the petitioners' in serial Nos. 1-5 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 relevant facts as stated in the writ petition briefly are as follows:

Petitioner No. 1, Md. Anwar Hossain is a valiant freedom fighter, who fought for this Country during the liberation war, held in 1971. Due to his contribution in liberation war, the petitioner No.1's name has been published in Lal Muktibarta being serial No. 01560000832 (Annexure-A). His name has been also published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being civil gazette No. 1584, page No. 7315 (Annexure-A-1). He got Freedom Fighter Certificate issued by the respondent No.1 (Annexure-A-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-A-3). His name also published in combined freedom fighters' list as serial No. 249 (Annexure-A-4). Thereafter, the petitioner No.1 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.1 as freedom fighter without issuing any show cause notice.

Petitioner No. 2, Md. Kafil Uddin is a valiant freedom fighter, who fought for this Country during the liberation war, held in 1971.

Due to contribution in liberation war, the petitioner No.2's name has been published in Lal Muktibarta being serial No. 01560000550 (Annexure-B). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1486, page No. 7311 (Annexure-B-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-B-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-A-4). His name also published in combined freedom fighters' list being serial No. 74 (Annexure-B-3). Thereafter, the petitioner No.2 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.2 as freedom fighter without issuing any show cause notice.

Petitioner No. 3, Md. Amjad Hossain is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the petitioner No.3's name has been published in Lal Muktibarta being serial No. 01560000227 (Annexure-C). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1581, page No. 7315 (Annexure-C-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-C-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-C3). His name also published in combined freedom fighters' list being serial No. 24 (Annexure-C-4). Thereafter, the petitioner No.3 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.3 as freedom fighter without issuing any show cause notice.

Petitioner No. 4, Md. Abdul Karim is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the petitioner No.4's name has been published in Lal Muktibarta being serial No. 01560000966 (Annexure-D). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1583, page No. 7315 (Annexure-D-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-D-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-D-3). His name also published in combined freedom fighters' list being serial No. 278 (Annexure-D-4). Thereafter, the petitioner No.4 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.4 as freedom fighter without issuing any show cause notice.

The husband of petitioner No. 5, Md. Fazlur Rahman is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the name of husband of the petitioner No.5 has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1519, page No. 7312 (Annexure-E). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-E-1) and His name also published in combined freedom fighters' list being serial No. 122 (Annexure-E-2). Thereafter, the husband of the petitioner No.5 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the husband of the petitioner No.5 as freedom fighter without issuing any show cause notice.

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 19.10.2022 the present petitioners have come before this Court and obtained the present Rule.

Mr. Md. Harun-Or-Rashid, the learned Advocate appearing for the petitioner submits that the petitioner Nos. 1-4 and husband of the petitioner No.5 are actual freedom fighter, who fought for this country during the liberation war and due to their contribution in the liberation war so many authorities including the ministry of Liberation War Affairs issued certificates in favour of them recognizing them as freedom fighters and accordingly their name have been duly published in civil gazette in 2004 and they started to get state honorarium but JAMUKA without any proper investigation into the matter and without issuing any show cause notice upon the petitioners and without assigning any reason abruptly canceled the civil gazette of the petitioner Nos.1-4 and husband of the petitioner No.5 by the impugned gazette notification dated 19.10.2022 and as such, the same is liable to be declared to have been passed without lawful authority and is of no legal effect. The learned Advocate further submits that all the petitioners are still getting state honorarium.

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 Nos. 1-4 and husband of petitioner No.5 as a Freedom Fighters fought in the liberation war held in 1971 as a result of which their name have been published in Lal Multibarta and thereafter, the Government of Bangladesh issued certificates in their favour recognizing them as a Freedom Fighter (Annexure-A, A-2,

A-3, B, B-2, B-4, C, C-2, C-3, D, D-2, D-3 and E-1 respectively) and their name also have been published in the civil gazette as well as published in the combined list of the freedom fighters (Annexure- A-1, A-4, B-1, B-3, C-1, C-4, D-1, D-4, E and E-2 respectively) and thereafter they started to get state honorarium. It further appears that without any proper investigation or without issuing any show cause notice upon the petitioners, the respondent No.4 cancelled the civil gazette of those valiant freedom fighters without assigning any cogent reason whatsoever. The abrupt cancellation of a Government gazette notification without any show cause notice is generally a violation of the principle of natural justice and due process. It further appears that the petitioners are still receiving state honorarium of freedom fighter after getting an order of direction to pay the state honorarium to the petitioners.

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.4 by the impugned notification dated 19.10.2022 (Annexure-G-1 to the supplementary affidavit) canceled the civil gazette so far as it relates to the name of the petitioner Nos. 1-4 and husband of the petitioner No.5 as freedom fighters. 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 dated 19.10.2022 (Annexure-G-1 to the supplementary affidavit) so far as it relates to the petitioner Nos. 1-4 and husband of the petitioner No.5 is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to continue the monthly state honorarium to the petitioners 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.

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Petitioner No. 2, Md. Kafil Uddin is a valiant freedom fighter, who fought for this Country during the liberation war, held in 1971.

Due to contribution in liberation war, the petitioner No.2's name has been published in Lal Muktibarta being serial No. 01560000550 (Annexure-B). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1486, page No. 7311 (Annexure-B-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-B-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-A-4). His name also published in combined freedom fighters' list being serial No. 74 (Annexure-B-3). Thereafter, the petitioner No.2 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.2 as freedom fighter without issuing any show cause notice.

Petitioner No. 3, Md. Amjad Hossain is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the petitioner No.3's name has been published in Lal Muktibarta being serial No. 01560000227 (Annexure-C). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1581, page No. 7315 (Annexure-C-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-C-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-C3). His name also published in combined freedom fighters' list being serial No. 24 (Annexure-C-4). Thereafter, the petitioner No.3 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.3 as freedom fighter without issuing any show cause notice.

Petitioner No. 4, Md. Abdul Karim is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the petitioner No.4's name has been published in Lal Muktibarta being serial No. 01560000966 (Annexure-D). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1583, page No. 7315 (Annexure-D-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-D-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-D-3). His name also published in combined freedom fighters' list being serial No. 278 (Annexure-D-4). Thereafter, the petitioner No.4 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.4 as freedom fighter without issuing any show cause notice.

The husband of petitioner No. 5, Md. Fazlur Rahman is a valiant freedom fighter who fought for this Country during the liberation war, held in 1971. Due to contribution in liberation war, the name of husband of the petitioner No.5 has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1519, page No. 7312 (Annexure-E). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-E-1) and His name also published in combined freedom fighters' list being serial No. 122 (Annexure-E-2). Thereafter, the husband of the petitioner No.5 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the husband of the petitioner No.5 as freedom fighter without issuing any show cause notice.

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 19.10.2022 the present petitioners have come before this Court and obtained the present Rule.

Mr. Md. Harun-Or-Rashid, the learned Advocate appearing for the petitioner submits that the petitioner Nos. 1-4 and husband of the petitioner No.5 are actual freedom fighter, who fought for this country during the liberation war and due to their contribution in the liberation war so many authorities including the ministry of Liberation War Affairs issued certificates in favour of them recognizing them as freedom fighters and accordingly their name have been duly published in civil gazette in 2004 and they started to get state honorarium but JAMUKA without any proper investigation into the matter and without issuing any show cause notice upon the petitioners and without assigning any reason abruptly canceled the civil gazette of the petitioner Nos.1-4 and husband of the petitioner No.5 by the impugned gazette notification dated 19.10.2022 and as such, the same is liable to be declared to have been passed without lawful authority and is of no legal effect. The learned Advocate further submits that all the petitioners are still getting state honorarium.

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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.4 by the impugned notification dated 19.10.2022 (Annexure-G-1 to the supplementary affidavit) canceled the civil gazette so far as it relates to the name of the petitioner Nos. 1-4 and husband of the petitioner No.5 as freedom fighters. 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,

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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.

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Petitioner No. 2, Md. Kafil Uddin is a valiant freedom fighter, who fought for this Country during the liberation war, held in 1971.

Due to contribution in liberation war, the petitioner No.2's name has been published in Lal Muktibarta being serial No. 01560000550 (Annexure-B). His name has been published in the civil gazette as a freedom fighter on 10.11.2004 by the Ministry of Liberation War Affairs being gazette No. 1486, page No. 7311 (Annexure-B-1). He got Freedom Fighter's Certificate issued by the respondent No.1 (Annexure-B-2) and also got Freedom Fighter Identity Card issued by Ministry of Liberation War Affairs (Annexure-A-4). His name also published in combined freedom fighters' list being serial No. 74 (Annexure-B-3). Thereafter, the petitioner No.2 started to get state honorarium. In this back ground the respondent No.4 by impugned Gazette Notification 19.10.2022 cancelled the Gazette of the petitioner No.2 as freedom fighter without issuing any show cause notice.

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