

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

WRIT PETITION NO. 8174 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:

Eti Rani Das.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. M.G. Mahmud with
Mr. Sohel Rana, 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 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 , this Rule Nisi was issued calling upon the respondents to show cause as to why the Memo No. 48.02.0000.001.00.276.16-124 dated 07.02.2023 issued by the respondent No.3 cancelling the Gazette

No. 442 of the petitioner's husband as Freedom Fighter, so far it relates to serial No.5, (Annexure-J) pursuant to the decision taken on 17.01.2023 in 83rd meeting of Jatio Muktijoddha Council (JAMUKA) 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 husband of petitioner, late Radhe Shyam Das as freedom fighter fought for this country in the liberation war, held in 1971. Due to his contribution in the liberation war Ministry of Liberation War Affairs issued a certificate in favour of Radhe Shyam Das, the husband of the petitioner, (Annexure-A) recognizing him as a freedom fighter and so many authorities including fellow freedom fighters also issued certificates in favour of Radhe Shyam Das, the deceased husband of the petitioner recognizing him as a freedom fighter (Annexure-L, L-1&L-2 to the supplementary affidavit). In this background his name was published in Civil Gazette dated 17.04.2005 being gazette No. 442 at page No. 1519 (Annexure- B) and his name also published in MIS of Ministry of Liberation War Affairs as Freedom Fighter (Annexure-D-2). Thereafter, the husband of the petitioner started to get state honorarium since July, 2005 by using the vata book issued in favour of late Radhe Shyam Das, the husband of the petitioner by the Government and it is on record that he got state honorarium till to his death on 04.04.2020 and thereafter the petitioner as wife of deceased freedom fighter (Radhe Shyam Das) received state honorarium in favour of her husband. In this backdrop all on a sudden as per report of Upazilla Jacai Bachai Committee in the year 2021 the state honorarium of the petitioner's husband was stopped as well as the respondents without assigning any reasons whatsoever abruptly canceled the

Civil Gazette of the petitioner's husband as freedom fighter by the impugned decision being memo dated 07.02.2023 (Annexure-J) and gazette notification dated 06.08.2023 (as contained in "Annexure-N" to the supplementary affidavit). Thereafter, finding no other alternative 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 husband of the petitioner, late Radhe Shyam Das was a valiant freedom fighter, who fought for this country during the liberation war and due to his contribution in the liberation war so many authorities including Upazilla Muktijoddha Commander, Jhalkathi and other fellow freedom fighters and ministry of Liberation War Affairs issued certificates in favour of the petitioner's husband recognizing him as a freedom fighter and accordingly his name was duly published in civil gazette on 17.04.2005 and he also got state honorarium since July, 2005 to till his death on 04.04.2020 and thereafter, Upazilla Muktijoddha Jachai Bachhai Committee submitted a report stating- "ভারতে ট্রেনিং করেছেন এ মর্মে কোনো প্রমাণক পাওয়া যায়নি।" and thereupon, the respondent No.2 stopped the state honorarium of the petitioner's husband without considering the documents of the petitioner's husband although it is on record that in the year, 2004 Upazilla Muktijoddha Jachai Bachhai Committee submitted a report stating that- "প্রকৃত মুক্তিযোদ্ধা হিসাবে প্রমাণিত হল।" Finally, the learned Advocate submits that the husband of the petitioner as Freedom Fighter got so many certificates and it is on record that earlier jachai bachhai was held in 2004 and after thorough scrutiny into the matter the Muktijoddha Jachai Bachhai Committee submitted a report stating that the husband of the petitioner is an actual freedom fighter but

finally, at the behest of the then Awami League Government jachai bachhai committee submitted a perfunctory report which is in-fact baseless and untrue although the respondent No.2 relying on the said perfunctory so-called report of jachai bachhai committee most illegally stopped the state honorarium of the petitioner's husband and subsequently cancelled the civil gazette of petitioner's husband as freedom fighter and as such, the same is liable to be declared to have been made without any lawful authority and is of no legal effect

Mr. A.K.M. Rezaul Karim Khandaker, 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 grounds upon which Rule was obtained.

On a scrutiny of the record, it appears that in this case the husband of 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 his fellow freedom fighters issued certificates in his favour recognizing him as a Freedom Fighter as evidenced by Annexure-A to the writ petition and Annexure- K, L, L-1&L-2 to the supplementary affidavit and his name also published in the civil gazette as well as website of the Ministry of Liberation War Affairs (Annexure- B&D-2). It is also found that Bangladesh Muktiyoddha Sangshad, Central Command Council issued a testimonial recommending for the job of the petitioner's husband and the name of the husband of the petitioner has been also published in the voter list of Bangladesh Muktiyoddha Sangshad (Annexure-E&E-2). It is further found that without any proper investigation or without considering the certificate issued by so many authorities including the Government of Bangladesh, the

respondents canceled the civil gazette of the petitioner's husband without assigning any cogent reasons whatsoever.

On going through the annexed documents, it appears that in this case 2 reports of jachai bachhai committee (Annexure-F-1& Annexure-G) are inconsistent with each other. It further appears that the husband of the petitioner got state honorarium since July, 2005 to till his death on 04.04.2020 and thereafter the petitioner as wife of deceased freedom fighter (Radhe Shyam Das) received the said state honorarium.

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reason as to why by the respondents by the impugned notification dated 07.02.2023 (Annexure-J) canceled the civil gazette of deceased freedom fighter, Radhe Shyam Das, the husband of the petitioner. The law is by now well settled that 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 Memo No. 48.02.0000.001.00.276.16-124 dated 07.02.2023 issued by the respondent No.3 cancelling the Gazette No. 442 of the petitioner's husband as Freedom Fighter, so far it relates to serial No.5, (Annexure-J) pursuant to the decision taken on 17.01.2023 in the 83rd meeting of Jatio Muktijoddha Council (JAMUKA) is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay monthly sate honorarium to the petitioner as wife of a deceased 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 Respondents at once.

S.M. Iftexhar Uddin Mahamud, J:

I agree.

**IN THE SUPREME COURT OF BANGLADESH
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The facts of the case as stated in the writ petition briefly are that the husband of petitioner, late Radhe Shyam Das as freedom fighter fought for this country in the liberation war, held in 1971. Due to his contribution in the liberation war Ministry of Liberation War Affairs issued a certificate in favour of Radhe Shyam Das, the husband of the petitioner, (Annexure-A) recognizing him as a freedom fighter and so many authorities including fellow freedom fighters also issued certificates in favour of Radhe Shyam Das, the deceased husband of the petitioner recognizing him as a freedom fighter (Annexure-L, L-1&L-2 to the supplementary affidavit). In this background his name was published in Civil Gazette dated 17.04.2005 being gazette No. 442 at page No. 1519 (Annexure- B) and his name also published in MIS of Ministry of Liberation War Affairs as Freedom Fighter (Annexure-D-2). Thereafter, the husband of the petitioner started to get state honorarium since July, 2005 by using the vata book issued in favour of late Radhe Shyam Das, the husband of the petitioner by the Government and it is on record that he got state honorarium till to his death on 04.04.2020 and thereafter the petitioner as wife of deceased freedom fighter (Radhe Shyam Das) received state honorarium in favour of her husband. In this backdrop all on a sudden as per report of Upazilla Jacai Bachai Committee in the year 2021 the state honorarium of the petitioner's husband was stopped as well as the respondents without assigning any reasons whatsoever abruptly canceled the

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Mr. M.G. Mahmud, the learned Advocate appearing for the petitioner submits that the husband of the petitioner, late Radhe Shyam Das was a valiant freedom fighter, who fought for this country during the liberation war and due to his contribution in the liberation war so many authorities including Upazilla Muktijoddha Commander, Jhalkathi and other fellow freedom fighters and ministry of Liberation War Affairs issued certificates in favour of the petitioner's husband recognizing him as a freedom fighter and accordingly his name was duly published in civil gazette on 17.04.2005 and he also got state honorarium since July, 2005 to till his death on 04.04.2020 and thereafter, Upazilla Muktijoddha Jachai Bachhai Committee submitted a report stating- "ভারতে ট্রেনিং করেছেন এ মর্মে কোনো প্রমাণক পাওয়া যায়নি।" and thereupon, the respondent No.2 stopped the state honorarium of the petitioner's husband without considering the documents of the petitioner's husband although it is on record that in the year, 2004 Upazilla Muktijoddha Jachai Bachhai Committee submitted a report stating that- "প্রকৃত মুক্তিযোদ্ধা হিসাবে প্রমাণিত হল।" Finally, the learned Advocate submits that the husband of the petitioner as Freedom Fighter got so many certificates and it is on record that earlier jachai bachhai was held in 2004 and after thorough scrutiny into the matter the Muktijoddha Jachai Bachhai Committee submitted a report stating that the husband of the petitioner is an actual freedom fighter but

finally, at the behest of the then Awami League Government jachai bachhai committee submitted a perfunctory report which is in-fact baseless and untrue although the respondent No.2 relying on the said perfunctory so-called report of jachai bachhai committee most illegally stopped the state honorarium of the petitioner's husband and subsequently cancelled the civil gazette of petitioner's husband as freedom fighter and as such, the same is liable to be declared to have been made without any lawful authority and is of no legal effect

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On going through the annexed documents, it appears that in this case 2 reports of jachai bachhai committee (Annexure-F-1& Annexure-G) are inconsistent with each other. It further appears that the husband of the petitioner got state honorarium since July, 2005 to till his death on 04.04.2020 and thereafter the petitioner as wife of deceased freedom fighter (Radhe Shyam Das) received the said state honorarium.

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reason as to why by the respondents by the impugned notification dated 07.02.2023 (Annexure-J) canceled the civil gazette of deceased freedom fighter, Radhe Shyam Das, the husband of the petitioner. The law is by now well settled that 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.

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Communicate this order to the Respondents at once.

S.M. Iftexhar Uddin Mahamud, J:

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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 Respondents at once.

S.M. Iftexhar Uddin Mahamud, J:

I agree.