

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

**WRIT PETITION NO. 12240 of 2019**

**IN THE MATTER OF:**

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

**IN THE MATTER OF:**

Mst. Lovely Begum

..... Petitioner.

-Versus-

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

..... Respondents

Mr. M. Mainul Islam, Advocate

..... For the petitioner.

Mr. Mohammad Mohsin Kabir, DAG with

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

Ms. Shahin Sultana, AAG with

Mr. Md. Manowarul Islam, A.A.G and

Mr. Md. Mokhlesur Rahman Babu, A.A.G

..... For the respondents.

**Judgment on: 10.12.2025.**

**Present:**

**Mr. Justice Sheikh Abdul Awal**

**And**

**Mr. Justice S.M. Iftekhar Uddin Mahamud**

**S.M. Iftekhar Uddin Mahamud, J.**

In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, the Rule was issued on 30.12.2019 in the following terms:

*“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the decision dated 06.10.2015 passed by the Upazila Committee for Freedom Fighters' Honorium Scrutiny and Distribution, Taltoli, Barguna, (Annexure-I-1) suspending allowance/honorium of the petitioner as a wife of a freedom fighter, followed by the coram non-judice order dated 25.04.2017 passed by the "Taltali Upazilla Muktijoddha Jachai-Bachai Committee", Barguna, (Annexure-N) eliminating the name of the husband of the petitioner from the list of freedom fighters in Serial No. 42, in the name of the scrutiny of genuine freedom fighters, should not be declared to have been issued 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.”*

Facts, stated in the writ petition, in short are that the petitioner is the wife of the freedom fighter, namely late Md. Goznabi and the husband (late Md. Goznabi) of the petitioner joined Liberation War and had undergone a training to operate all small arms and after completing the training actively participated in the liberation war and fought under the Sub-sector Barguna and Patuakhali of Sector No.09. On 04.02.1972 the husband of the petitioner surrendered his Rifle to Mr. Md. Hatem Ali, Troops Commander, Bangladesh Armed Forces, Amtoli/Kalapara Sub-Sector who issued a certificate on that day about it. The Ministry of Liberation War Affairs on 22.11.2005 published Gazette containing "**Final List**" of the freedom fighters and the said Gazette contains the

name of petitioner's husband at serial No. 372 at page No. 10325 of the Gazette.

The name of the petitioner's husband was published in '*Muktibarta*' in page No.166 being Serial No. 0606020088 in January, 1999. He further received certificates from Mr. M.A. Robbani Firoz, War-time Chief Security Officer, Patuakhali Sub-Sector, Bangladesh Armed Forces and from Mr. Zahir Sha Alamgir, Commander, Freedom Fighters Senior Camp, Bangladesh Militia Camp, Patuakhali and Barguna, stating that Mr. Gajnabi (husband of the petitioner) worked under them with reputation in different camps during Liberation War.

Later he joined in a private Insurance company where he worked till 2010. During his retirement he was holding the post of Deputy Director. During the service time the husband of the petitioner did not bother with the enlistment of his name as a freedom fighter and during that time he never claimed any benefit or allowance as a freedom fighter. But after retirement he applied in the prescribed form to be verified himself as a freedom fighter so that he could avail himself of benefit/allowance for his service. While his application was in the process of verification, he (husband of the petitioner) died on 24.01.2013.

Pursuant to a Circular dated 02.09.2015 a Upazila Committee for Freedom Fighters' Honorium Scrutiny and Distribution, Taltoli, Barguna, was constituted to scrutinize the list of freedom fighters, which on 06.10.2015, without giving any notice whatsoever or without giving

hearing to the petitioner, most arbitrarily stopped the allowance the petitioner received as a wife of Md. Gajnabi, a freedom fighter. Moreover, the said committee even did not inform the decision of withholding of her allowance to her.

The petitioner being pardanishin and uneducated woman went to different people but did not get any answer as to why her allowance had been stopped. Later in 2016 from some other sources she came to know that her allowance was stopped by Upazila Committee for Freedom Fighters' Honorium Scrutiny and Distribution, Taltoli, Barguna.

The Circular dated 02.09.2015 provides that the freedom fighters who have been enlisted in Muktibarta and those who have been gazetted, they are real freedom fighters and they will receive freedom fighter's allowance but in the instant case the name of the petitioner's husband has been in both Muktibarta and the Gazette but the said Committee without considering provisions of the Circular 02.09.2015 and without giving any notice to the petitioner stopped her allowance.

Later the Ministry of Liberation War Affairs, published a gazette notification bearing No. 48.00.0000.004.49.233.09-92 dated 12.01.2017 which formed "*Upazilla Jachai- Bachai Committee*" and "*District/Mohanagar Jachai-Bachai Committee*" for the purpose of indentifying the real freedom fighters.

In conformity with the contentions as mentioned hereinbefore the concerned authority i.e. JAMUKA has issued a guideline to identify the real freedom fighters named as "*Muktijoddha Jachai-Bachai Nirdeshika-*

2016" which provides provisions to identify real freedom fighters and other issues allied to it.

That the respondent No.1 vide a Circular No. 48.00.0000.004.49.233.09-1048 dated 29.03.2017 made amendments to different District and Upazila Jachai-Bachai Committees of the country. That the circular amended the Jachai-Bachai Committee of the petitioner's Upazilla, Taltali, Barguna, publishing the names of full committee headed by Mr. Dharendra Debnath Sambhu, M.P 109, Barguna-1, as Chairman of the Committee and selecting six other members of the committee namely, (1) Md. Ali Akber Miah, son of late Atahar Ali Master as representative Member of Central Command Council (2) Md. Bazlur Rashid Dulal, son of late Mozammel Hossain, as representative of District Commander, (3) Md. Moslem Ali Howlader, Son of late Haji Kalu Howlader, as Upazilla Commander/representative Member (4) A.M. Habibur Rahman, son of late Moulavi Abdul Satter Howlader, as representative member of Mubim (Ministry) (5) Babu Keshab Lal Shil, son of late Niranjan Chandra Shil, as representative Member of JAMUKA and (6) Upazilla Nirbahi Officer, Taltali, Barguna as Member Secretary. The said '*Upazila Jachai-Bachai Committee*' on 25.04.2017 without giving any notice or hearing the grievance of the petitioner decided in serial No.42 that the husband of the petitioner is not a freedom fighter.

Being aggrieved by the aforesaid impugned decisions dated 06.10.2015 and 25.04.2017 respectively suspending the state honorarium and eliminating the name of the husband of the petitioner from the list of

freedom fighters in serial No.42 and finding no other alternative and efficacious remedy the petitioner filed this writ petition and moved the same before this Court and obtained the present Rule.

Mr. M. Mainul Islam, the learned advocate appearing for the petitioner submits that the husband of the petitioner joined Liberation War in 1971 who surrendered his arms on 04.02.1972 and he was awarded freedom fighter certificate by Bangladesh Armed Forces and his name had been published in Muktibarta and Civil Gazette dated 22.11.2005 and the petitioner being the nominee and wife of freedom fighter received honorarium/allowance from July, 2013 to June, 2015 and thus the issue whether the husband of the petitioner is a freedom fighter is a long settled matter.

He further submits that the scrutiny of the freedom fighters was done by a Committee namely, '*Taltali Upazilla Muktijoddha Jachai-Bachai Committee*' which did not include the local Member of Parliament (Mr. Direndranath Sambu) who was supposed to be the Chairman of the Committee and further excluded Ministry representative, Mr. A.M. Habibur Rahman, which is in violation of the Ministry Circular dated 29.03.2017, and as such, the said Committee is Coram Non-judice, and its decision being without jurisdiction is a nullity.

He also submits that in the decisions of eliminating the name of the husband of the petitioner from freedom fighters' list or withholding freedom fighter's allowance, the petitioner was not given any notice or any opportunity of being heard and as such both the decisions were

taken in violation of principle of natural justice, therefore, those decisions are liable to be set aside.

The learned Advocate for the petitioner finally submits that after an extensive investigation and scrutiny the husband of the petitioner was certified and gazetted as a freedom fighter and the matter has been a settled issue creating his lawful right and the reopening of such a settled matter in the guise of a so-called '*Jachai-bachai*' is unlawful.

No affidavit-in-opposition has been filed by the Respondents.

However, Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General for the State appearing on behalf of the Respondents simply opposes the Rule. During the hearing, upon query by this Court about the pending appeal dated 21.08.2017, the learned Deputy Attorney General took adjournment to update this Court in regard of said appeal and to communicate with the JAMUKA to know the fate of the appeal.

However, the learned Deputy Attorney General unfortunately confirmed this Court that the JAMUKA is unable to give any update as to whether the said appeal is disposed of or not since the appeal was filed long ago on 21.08.2017.

We have heard the submissions of the learned Advocate for the petitioner and the learned Deputy Attorney General and perused the application and the annexures annexed thereto.

It transpires from the record that the petitioner's husband is a freedom fighter namely, late Md. Goznabi, who passed SS.C. in 1971 and he also had the training to participate in the liberation war under Sector No. 09 located at Barguna and Patuakhali. The name of the

petitioner's husband was published in Muktibarta in January 1999 being Serial No. 0606020088.

That the name of petitioner's husband was published in the Gazette on 22.11.2005 containing "*Final List*" of the freedom fighters. The said Gazette contains the name of the husband of the petitioner in serial No. 372 in page no. 10325 of the Gazette. That later on a verification was done in 2013 and thereafter the petitioner as the wife of the said freedom fighter (after the demise of her husband) was receiving the state honorarium till June, 2015.

That on 06.10.2015 a decision was made by the Upazilla verification (যাচাই-বাছাই) committee withholding the state honorarium of petitioner as evident in Annexure-"I-1" of instant writ petition and the comment box of said Annexure-"I-1" at serial No.3 reads as follows:

“ উপজেলা কমান্ডার এবং মাননীয় সংসদ সদস্যের প্রতিনিধি সভায় জানান যে, তার বাড়ী বরিশাল জেলায়। তিনি ১৯৭৩ সালের পরে এ এলাকায় এসে বসবাস করেন, পরবর্তীতে মুক্তিযোদ্ধা তালিকাভুক্ত হন এবং তিনি প্রকৃত মুক্তিযোদ্ধা নন। নাম ঠিকানায় মৌলিক ভুল থাকায় ভাতা প্রদান স্থগিত রাখা হয়েছে এবং এ বিষয়ে মন্ত্রণালয়ের সিদ্ধান্ত আবশ্যিক।”

That the aforestated comment was made against the petitioner's husband by the Upazilla Verification Committee restraining him from getting any state honorarium. That one of the reasons for suspending allowance shown in the comment is 'shifting the residence of petitioner's husband' sounds irrelevant and unreasonable as shifting of residence of any citizen cannot be a good ground for stopping the allowance inasmuch such right of shifting his residence is an inalienable

one guaranteed under the Constitution of Bangladesh and moreover the alleged decision was taken in absence of petitioner.

Further, on 25.04.2017, another decision was taken by the Taltali Upazilla verification (যাচাই-বাছাই) committee eliminating the name of petitioner's husband from the Gazette as evident in Annexure-“N” of instant writ petition and the discussion (‘আলোচনা’) box of the said Annexure-“N” in serial No. 42 reads as follows:

“স্বাক্ষরী প্রমাণে মুক্তিযোদ্ধা প্রমানিত না হওয়ায় উপস্থিত সকল সদস্য আবেদনকারীর নাম মুক্তিযোদ্ধার গেজেট হতে বাতিল করার প্রস্তাব করা হয়।”

That the aforesaid reasoning of the committee for eliminating the name of the petitioner's husband from the Gazette was drawn without giving the petitioner any opportunity of being heard.

That both the *“Upazilla Jachai Bachai Committee”* on 06.10.2015 and 25.04.2017 respectively without giving any personal hearing to the petitioner most arbitrarily and illegally decided that the husband of the petitioner is not a freedom fighter. On both occasions, those committees neither talked to the petitioner nor gave an opportunity to the petitioner of being heard to meet the issues raised by the committee.

In such circumstances, it is to be noted that the essential feature of the principle of natural justice is simply that no person shall be deprived of any vested right by any order, judicial or otherwise without a hearing before an independent authority not interested in the proceedings or in any party to the proceedings.

It is now well settled principle of law that once the privilege is given that cannot be taken away without following due process of law and this principle is applicable in this case as no opportunity was afforded to the petitioner before suspending the allowance and eliminating the name of petitioner from gazette by way of the impugned decisions dated 06.10.2015 and 25.04.2017.

That admittedly the petitioner's husband was enjoying the status of freedom fighter since 2005 after exhausting and fulfilling the conditions required by law including the enlistment in the gazette notification and subsequently the petitioner as wife of the freedom fighter was receiving the state honorarium from July, 2013 to June, 2015 and thus the petitioner being the spouse of late freedom fighter acquired her lawful right to enjoy the benefits in accordance with law and that suspending the allowance and eliminating the name of the petitioner's husband from the list of the freedom fighter on the basis of alleged report without following the provisions of law violates her legal right.

It also appears that though the appeal was filed by the petitioner on 21.08.2017 challenging the decision of "***Muktijoddha Jachai-Bachai Committee***" to withhold the allowance but the respondent miserably failed to dispose of the appeal even after a long period of 8 years which is frustrating and prejudicial to the interest of the petitioner as her husband was there to sacrifice his life in order to liberate his motherland.

In view of the facts and circumstances as stated above and the reasons of the findings given, we find no cogent reason as to why the impugned decisions dated 06.10.2015 and 25.04.2017 issued under the signature of respondent No.8 to suspend the allowance and eliminating the name of the husband of the petitioner.

Therefore, we are of the view that the impugned decision dated 06.10.2015 and the impugned order dated 25.04.2017 were issued mechanically by ignoring the correct proposition of law and hence making the decision of suspending the allowance and eliminating the name of the husband of the petitioner from the list of freedom fighters in Serial No. 42, in the name of the scrutiny of genuine freedom fighters unlawful, malafide, arbitrary and is of no legal effect and subject to be declared to have been passed without having any lawful authority.

In the result, the Rule is made absolute. The impugned decision dated 06.10.2015 and order dated 25.04.2017 are hereby declared to have been passed without lawful authority and is of no legal effect.

In the light of facts and circumstances as discussed above, the respondents are directed to pay the monthly allowance of the petitioner in accordance with law from the date of receiving a copy of the judgment.

Communicate this judgment to the respondents concern at once.

There is no order as to costs.

**Sheikh Abdul Awal, J:**

I agree.