

**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. 6775 of 2023

In the matter of:

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

And

In the Matter of:

Shahid Ullah.

..... Petitioner.

-Versus-

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

.....Respondents.

Mr. Md. Asadur Rahman, 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 and judgment on 01.09.2025.

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 memo being No. 48.00.0000.006.99.005.21.196 dated 19.02.2023 issued under the signature of the respondent

No.4 to stop the payment of freedom fighter's honorarium as per decision of the Jatio Muktijoddha Council taken up under meeting minutes No.3 of its 80th meeting to the petitioner appended in serial No. 55 of the said memo (Annexure-D) should not be declared illegal and the same has been issued without 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 is that the petitioner was a 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 so many authorities of the country issued certificates in favour of the petitioner stating his contribution as evidenced by "Annexure-A, A1, A2, A3, A4, A5 and A6" to the writ petition issued by State Minister, ministry of Liberation War Affairs and others. His name also published in civil gazette being gazette No. 3608 dated 16.01.2006 and accordingly he has been getting State honorarium as freedom fighter since 2007 (Annexure-G). In this backdrop, his local enemies filed a complaint before the JAMUKA stating that the petitioner is a fake freedom fighter and thereafter, JAMUKA by issuing a notice asked the petitioner to appear on 120602022 before an investigation committee and thereafter, the Petitioner appeared before the said investigation committee and participated on the said hearing but due to unavoidable circumstances the petitioner could not bring witness or necessary papers in support of the authenticity of his Freedom Fighter. Thereafter,

on 22.06.2022 this Petitioner applied before the Hon'ble Minister, Ministry of Liberation War Affairs seeking a chance for further hearing with witnesses and necessary papers in support of the authenticity of his Freedom Fighter and the said letter was forwarded by the Hon'ble Minister, Ministry of Liberation War Affairs to the Director General of Jatiyo Muktijoddha Council on the same date. In the background all on a sudden Respondent No. 2 issued memo No. 48.00.0000.006.99.005.21.196 dated 19.02.2023 to stop his payment of honorarium cancelling gazette.

Being aggrieved by the aforesaid impugned order dated 19.02.2023 passed by the Respondent No. 4, the petitioner filed this Writ Petition and obtained the Rule Nisi.

Mr. Md. Asadur Rahman, the learned Advocate appearing for the petitioner submits that the petitioner as a Freedom fighter got several certificates from the concerned authorities including from the State Minister, Ministry Liberation War Affairs and his name also published in the gazette and the JAMUKA without giving him sufficient opportunity to be heard abruptly on the basis of a complaint filed by the enemies of the petitioner cancelled the civil gazette of the petitioner as freedom fighter as well as stopped his honorarium without assigning any reason whatsoever and as such, the impugned order is liable to be declared to have been passed without lawful authority and is of no legal effect. Finally, the learned Advocate submits that in the facts and circumstances of the case there is no legal scope to hold that the petitioner is a fake Freedom fighter, the respondent No. 4 without any proper

investigation at the behest of the then ruling party abruptly stopped his payment of honorarium in cancelling gazette and as such, the impugned order 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.

On scrutiny of the record it appears that the petitioner took part in the Liberation war and accordingly, the State Minister, Ministry of Liberation War Affairs issued certificate (Annexure-A) stating that- “সরকার মহান স্বাধীনতায়ুদ্ধে তাঁর অবদান কৃতজ্ঞতার সাথে স্বীকার করেছে। তিনি মুক্তিযোদ্ধাদেও জন্য প্রযোজ্য সকল প্রকার সুযোগ-সুবিধা প্রাপ্য হবেন।” It further appears that the name of the petitioner also published in civil gazette dated 16.01.2006 being serial number 3608 as Freedom Fighter and the petitioner’s name also has been enlisted in the archive list of the Freedom Fighters (Annexure-A). In this case, it is found that no proper investigation was held on the basis of complaint made by a third party against the petitioner.

It is also found that JAMUKA without assigning any reason whatsoever and without giving any opportunity to the petitioner to be heard abruptly canceled the civil gazette of the petitioner and also stopped payment of his 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 the respondent No.4 by the impugned memo

No. 48.00.0000.006.99.005.21.196 dated 19.02.2023 canceled the gazette of the petitioner as freedom fighter and stopped payment of his honorarium. 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. 48.00.0000.006.99.005.21.196 dated 19.02.2023 published under the signature of the respondent No.4 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.