

**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. 13325 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:

Md. Ebadot Hossen and others.

..... Petitioners.

-Versus-

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

.....Respondents.

Ms. Shefali Khatun, Advocate

..... For the Petitioners.

Mr. Mohammad Mohsin Kabir, D.A.G.

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

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

Ms. Shaheen Sultana, A.A.G.

... For the Government-Respondents.

Heard and judgment on 11.12.2025

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 Memo No. 48.00.0000.004.37.168.2023.295 dated 18.07.2023 issued by the respondent No.1, cancelling the gazette Nos. 433,422 and 437 of

the petitioner No.1, predecessor of the petitioner No.2 and husband of the petitioner No.3 pursuant to decision taken on 26.02.2023 in the 84th meeting of Jatio Muktiyuddha Council (JAMUKA), **so far as it relates to the serial Nos. 1 to 3 (Annexure-H)** should not be declared to have been issued without lawful authority and is of no legal effect and/or such other or further order or orders pass as to this Court may seem fit and proper.

The relevant facts as stated in the writ petition briefly are that the petitioner No. 1, predecessor of the petitioner No. 2 and husband of the petitioner No. 3 as freedom fighters fought for this country in the liberation war, held in 1971. Due to their contribution in the liberation war Mr. Muhammad Ataul Gani Osmani, Commander, Bangladesh Arm forces issued certificates in favour of the petitioner No. 1 and husband of the petitioner No.3 (Annexure-A and C) recognizing them as freedom fighters and Mr. Tofail Ahmed and 3 others issued certificates in favour of Golam Rasul, father of the petitioner No. 2 (Annexure-B) recognizing him as a freedom fighter and Ministry of Liberation War Affairs issued also certificates in favour of the petitioner No. 1 and father of the petitioner No. 2 recognizing as freedom fighters (Annexure –A-4 and B-2) and thereafter, names of the petitioner No.1, predecessor of petitioner No.2 and husband of the petitioner No.3 were published in civil gazette as evidenced by Annexure-J to the supplementary affidavit. In this back ground the petitioners started to get state honorarium in accordance with law (Annexure-A-7, B-7 and C-6) and thereafter pursuant to the report of যাচাই-বাছাই committee JAMUKA (Jatiya Muktiyoddha Council) took resolution in 84th meeting dated 26.02.2023 and stopping to pay the state honorarium in favour of the petitioners by the impugned gazette dated 18.07.2023 cancelling the gazette Nos. 433, 422 and 437 of

the petitioner No.1, predecessor of the petitioner No. 2 and husband of petitioner No. 3 in pursuant to decision taken on 26.02.2023 in 84th meeting of Jatiyo Muktijoddha Council (JAMUKA) (Annexure-H). The petitioners then after moving an appeal before Jatiyo Muktijoddha Council (JAMUKA) unsuccessfully have come before this Court and obtained the present Rule Nisi.

Ms. Shefali Khatun, the learned Advocate appearing for the petitioners submits that petitioner No. 1 and father of petitioner No. 2, Golam Rasul and Husband of the petitioner No. 3, Md. Nazrul Islam fought for this country during the liberation war, held in 1971 and thereafter they obtained a series of certificates from the Ministry of Liberation war affairs and Mr. Muhammad Ataul Gani Osmani and also from others and ultimately, their names were published in Civil gazette as freedom fighters and thereafter, the petitioners started to get state honorarium but due to the political reason at the behest of the vested quarter of the then Awami league Government the respondents published the impugned gazette dated 18.07.2023 cancelling the gazette Nos. 433, 422 and 437 of the petitioner No.1, predecessor of the petitioner No. 2 and husband of petitioner No. 3 and stopping to pay state honorarium. The learned Advocate further submits inspite of fact that the petitioners were getting state honorarium as freedom fighters in accordance with law and it is on record that the respondents without issuing any show cause notice abruptly at their own motion cancelled the gazette of the petitioner No.1 as well as predecessor of petitioner No. 2 **Golam Rasul and husband of the petitioner No.3 named Md. Nazrul Islam** and as such, the impugned gazette notification so far it relates to the petitioners is liable to be declared to have been made 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 oppose the Rule on the ground upon which the Rule was issued .

Having heard the learned Advocate for the petitioners 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 petitioner No. 1 and predecessor of the petitioner No. 2 and husband of the petitioner No.3 as freedom fighters fought for this country during the liberation war, held in 1971. Due to their contribution in liberation war the Government as well as so many authorities issued certificates in their favour recognizing them as Freedom Fighters and their names were also published in civil gazette as freedom fighters and thereafter, the petitioners started to get state honorarium through the Respondents without issuing any show cause notice upon the petitioners abruptly cancelled their gazette notification and stopped to pay their state honorarium. The abrupt cancellation of a government gazette notification and cessation of state honorarium payments without a show cause notice is generally a violation of the principles of natural justice and due process.

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.1 by the impugned memo No. 48.00.0000.004.37.168.2023.295 dated 18.07.2023 canceled the gazette of the petitioner No.1, father of the petitioner No.2 and husband of the petitioner No.3 as freedom fighters and stopped to pay their state honorarium. Law is by now firmly well settled that state 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 cancelling 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/memo is not based on relevant factors. The impugned notification dated 18.07.2023 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 being Memo No. 48.00.0000.004.37.168.2023.295 dated 18.07.2023 **so far as it relates to the petitioner No.1, father of the petitioner No.2, Golam Rasul and husband of the petitioner No.3, Md. Nazrul Islam** issued by the respondent No.1 is hereby 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 Respondents at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.