

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

WRIT PETITION NO. 11523 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:

Ruhipada Saha

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. Md. Abdul Matin Sarder, Advocate

..... For the petitioner.

Mr. Mohammad Mohsin Kabir, DAG with
Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

Ms. Shaheen Sultana, AAG with

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

Mr. Md. Mukhlesur Rahman, A.A.G.

..... For the respondents.

Heard and Judgment on: 11.12.2025.

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

impugned Memo No. 48.00.0000.004.37.002.20.850 dated 09.07.2020 issued by the respondent No. 1, decision of 67th meeting taken by the National Freedom Fighters Council represented by the respondent No.3, cancelling the Non Armi Gazette No. 237 of the petitioner as Freedom Fighter (Annexure-D-1) 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 petitioner as a freedom fighter fought for this country in the liberation war, held in 1971. By virtue of his contribution in the liberation war his name was published in the Saptahik Mukti Barta on 07.06.2001 bearing serial No. 0205010632 recognizing the petitioner as freedom fighter (Annexure-A-6). 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. 237, page No. 3586 (Annexure-A-3) and thereafter his name was published in the website of the Ministry of Liberation War Affairs (Annexure-A-1) as freedom fighter. The petitioner also got provisional certificate as freedom fighter from the state Minister, Ministry of Liberation War Affairs (Annexure-A). He also got testimonials from his fellow freedom fighter, the Captain (M.F), Chandpur 'Kha' anchal under Sector No.2 ('K' force) (Annexure-A-8). In this background the Government of Bangladesh allowed to pay monthly state honorarium in favour of the petitioner by issuing bhata book since July, 2005

(Annexure-B) and thereafter, Jatio Muktijoddha Council (JAMUKA) without considering the report of Jacai-Bachai mainly on the basis of a complaint made by a 3rd party abruptly canceled the Civil Gazette of the petitioner as freedom fighter by the impugned gazette notification dated 09.07.2020 (Annexure-D-1).

Aggrieved thereby the petitioner finding no other alternative way has come before this Court and obtained the present Rule.

Mr. Md. Abdul Matin Sarder, the learned Advocate appearing for the petitioner submits it is on record that the petitioner fought for this soil in the liberation war, held in 1971 and due to his contribution in the liberation war his name was published in the Saptahik Mukti Barta as freedom fighter and so many authorities including the State Minister, Ministry of Liberation War Affairs issued certificate in favour of the petitioner recognizing him as a freedom fighter. The learned Advocate further submits that the petitioner because of his contribution in the liberation war started to get state honorarium since July, 2005 through bhata book although the authority of JAMUKA without considering the case of the petitioner as well as report of Jacai-Bachai Committee most illegally on the basis of a baseless allegation forwarded by a third party abruptly canceled the civil gazette of the petitioner by the impugned gazette notification dated 09.07.2020 (Annexure-D-1) and as such, the same is liable to be declared to have been made without lawful authority and is of no legal effect.

Mr. A.K.M. Rezaul Karim Khandaker, the learned Deputy Attorney General, on the other hand, simply opposes the Rule.

Having heard the learned Advocate for the petitioner and the learned Deputy Attorney General and having gone through the writ petition, its annexures and other relevant documents as placed before this Court.

On a scrutiny of the record, it appears that in this case 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 fighter, the Captain (M.F), Chandpur 'Kha' anchal under Sector No.2 ('K' force) issued certificates in his favour recognizing him as a Freedom Fighter (Annexure-A &A-8) and his name also published in Saptahik Mukti Barta and in the website of the ministry of Liberation War Affairs as Freedom Fighter (Annexure-A-6&A-1). It is also found that the petitioner also got state honorarium as freedom fighter from July, 2005 to 2020 through bhata book and bank account (Annexure-B). It is further found that the JAMUKA without any proper investigation into the matter abruptly on the basis of an allegation made by a 3rd party canceled the civil Gazette No. 237 of the petitioner by the impugned memo (Annexure-D-1) whereby stopping the payment of state honorarium to the petitioner although it is on record that in this case upazilla jacai-bachai committee after scrutinizing all the relevant documents of the petitioner submitted a report stating that the petitioner he is a real freedom fighter (Annexure-C).

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reasons as to why the respondents by the impugned memo dated 09.07.2020 (Annexure-D-1) cancelled the Gazette of the petitioner whereby stopping the payment of the state honorarium to the petitioner as freedom fighter. The state honorarium should not be cancelled 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 memo is not based on relevant factors. The impugned memo 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. Memo No. 48.00.0000.004.37.002.20.850 dated 09.07.2020 so far as it relates to the petitioner cancelling the Gazette No. 237 and whereby stopping the payment of state honorarium to the petitioner is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay monthly state honorarium to the petitioner as a Freedom Fighter in accordance with law forthwith.

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.