

**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. 2707 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. Mohsin Bhuiyan.

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. A.F.M. Hakim, 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 15.12.2025 .

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 respondents should not be directed to comply the "পরিপত্র" being

memo no.48.00.0000.006.34.001.17. 327 dated 20.06.2017 signed and issued by respondent no.1 for scrutinizing the freedom fighters in violating the clause 4 of the "বীর মুক্তিযোদ্ধাদের সম্মানী ভাতা বিতরণ নীতিমালা-২০১৩" (vide Annexure-C,C1) 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 brief fact relevant for disposal of this Rule is that the petitioner is a valiant 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 General Muhammad Ataul Gani Osmani (M.A.G. Osmani) issued a certificate in favour of the petitioner (Annexure-B) recognizing him as freedom fighter and also issued a certificate by Bangladesh Mukti Joddha Songshad, Central Command Council in which counter signed put by the Prime Minister (Annexure-B-1). The fellow freedom fighters also issued testimonial in favour of the petitioner recognizing him as freedom fighter (Annexure-D, D-1, D-2, D-3 and D-4). Thereafter, his name was published in the weekly Muktibarta as Freedom Fighter ("Annexure-J" to the supplementary affidavit). In this background the Government of Bangladesh allowed monthly state honorarium in favour of the petitioner since 01.01.2014 to till June, 2017 and thereafter, his state honorarium was stopped from July, 2017 without assigning any reason and thus the petitioner preferred an appeal before Jatio Mukti Joddha Council (JAMUKA) on 20.12.2022 which

annexed by Annexure-H to the writ petition without any success.

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

Mr. A.F.M. Hakim, the learned Advocate appearing for the petitioner submits the petitioner is a valiant freedom fighter who fought for this soil in the liberation war and due to his contribution in the liberation war so many authorities including Commander of Defence Forces during liberation war in Bangladesh, General Muhammad Ataul Gani Osmani issued certificate (Annexure-B) recognizing the petitioner as a freedom fighter and the petitioner also got certificate as a Freedom Fighter from the Bangladesh Mukti Joddha Sangshad, Central Command Council (Annexure-B-1). The learned Advocate further submits that the petitioner due to his contribution in the liberation war started to get state honorarium since 2014 but JAMUKA without assigning any reason whatsoever stopped the honorarium. Against which the petitioner and thereafter the petitioner filed an application before the JAMUKA on 20.12.2022 in a vain and in the facts and circumstances of the case the Rule is liable to be made absolute. He further submits that once the state honorarium was given as freedom fighter and without issuing any reason whatsoever the same cannot be stopped and as such, a direction may be given to pay state honorarium regularly in favour of the petitioner. Finally, the learned Advocate submits that in this

case the petitioner deserves a direction to publish his name in civil gazette as freedom fighter in accordance with law.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, appearing for the State simply opposes the Rule. However, he submits that in the facts and circumstances and law bearing on the subject the petitioner does not deserve to get any arrear of state honorarium whatsoever.

Having heard the learned Advocate for the petitioner and the learned Deputy Attorney General and having gone through the writ petition 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 the Commander of Defence Forces General Muhammad Ataul Gani Osmani (M.A.G. Osmani) issued certificate in favour of the petitioner recognizing him as a Freedom Fighter (Annexure-B, B-1, D, D-1, D-2, D-3 & D-4) and the petitioner's name also published in the weekly Mukti Barta as Freedom Fighter (Annexure-J). It is also found that the petitioner started to get state honorarium as freedom fighter since 2014 and thereafter the authority of JAMUKA without assigning any reason or issuing any show cause notice abruptly stopped the state honorarium of the petitioner in 2017.

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 respondents stopped the state honorarium

of the petitioner. The 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 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 decision of the respondents to stop payment state honorarium of the petitioner is not based on relevant factors. The decision was taken 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 respondents are directed to pay monthly state honorarium to the petitioner as a Freedom Fighter from the date of the receipt of this judgment 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. Iftekhar Uddin Mahamud, J:

I agree.