

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

WRIT PETITION NO. 9537 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:

Md. Mojibor Rahman.

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. S.M. Syful Islam, 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 on 07.12.2025, 08.12.2025 and

Judgment on: 08.12.2025.

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. 48.00.0000.004.37.001.22.503 dated 10.03.2022 cancelling the gazette No. 73 of the petitioner (Annexure-D) as per decision of Jatio Muktijoddha Council (JAMUKA) taken in 78th meeting 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 freedom fighter fought for this country in the liberation war, held in 1971. Due to his contribution in the liberation war so many authorities including Professor Muzaffar Ahmed, Advisor of the Government of Bangladesh during the Liberation War and the Minister, Liberation War Affairs issued certificates in favour of the petitioner (Annexure-B-1, &B respectively) recognizing the petitioner as freedom fighter. Thereafter, his name was published in Civil Gazette being No. 73 dated 04.08.2013 as freedom fighter and thereafter the respondents started to pay state honorarium to the petitioner since 2014. In this background, on the basis of a complaint made by a third party against the petitioner sating that the petitioner is not an actual freedom fighter the matter was referred to the Muktijoddha Jacai Bachai Committee and the Jacai Bachai Committee after completion of inquiry submitted a report stating that the petitioner is a fake freedom fighter. Thereafter, the respondent No.1 canceled the Civil Gazette of the petitioner and others as freedom fighter by the impugned gazette notification dated

10.03.2022 (Annexure-D) and stopped to pay state honorarium to the petitioner till March 2022 .

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 10.03.2022 (Annexure-D), the petitioner has come before this Court and obtained the present Rule.

Mr. S.M. Syful Islam, the learned Advocate appearing for the petitioner at the very outset referring an unreported judgment dated 29.06.2025 passed in Writ Petition No. 5479 of 2022 submits that by the judgment and order dated 29.06.2025 the impugned memo so far as it relates to the other 8 freedom fighters is declared illegal and void and the present petitioner standing on same footing is entitled to get same reliefs. He further submits that the petitioner is an actual freedom fighter, who fought for this country during the liberation war and due to his contribution in the liberation war so many authorities issued certificates in favour of the petitioner recognizing the petitioner as freedom fighter and accordingly his name was published in civil gazette and he also got state honorarium but JAMUKA without any proper investigation into the matter at the behest of the then Awami league Government cancelled the civil gazette of the petitioner and others although it is on record that the petitioner got freedom fighter certificates from various authorizes and his name was published in the official civil gazette (Annexure-A). He adds that due to political reason the jacai-Bachai Committee submitted a report against the petitioner and 8 others stating that they are fake freedom fighters and as such at any rate the impugned notification

(Annexure-D) 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, on the other hand, in the facts and circumstances of the case and going through the judgment passed in Writ Petition No. 5479 of 2022 has ultimately found it difficult to oppose the Rule on the ground upon which the Rule was obtained.

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 Professor Muzaffar Ahmed, Advisor of the Government of Bangladesh during the Liberation War & International Organizer of the Liberation War and Minister, Liberation War Affairs issued certificates in favour of the petitioner (Annexure-B-1, &B respectively) recognizing the petitioner as freedom fighter and his name also published in the civil gazette (Annexure- A). It further appears that without any proper investigation the respondent No.1 canceled the petitioner's civil gazette without assigning any cogent reason whatsoever. It further appears that the petitioner having received state honorarium as freedom fighter till March, 2022. Further, it is found that a division bench of this Court by the judgment dated 29.06.2025 passed in Writ Petition No. 5479 of 2022 already declared the impugned memo so far as it relates to the 8 freedom fighters is illegal and void.

Considering all these facts and circumstances of the case as revealed from the materials on record vis-a-vis the

unreported judgment dated 29.06.2025 passed by a division bench of the court in Writ Petition No. 5479 of 2022, we find no cogent reason as to why the respondent No.1 by the impugned notification dated 05.01.2021 (Annexure-F) canceled the civil gazette so far as it relates to the name of the petitioner as freedom fighter. 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. 48.00.0000.004.37.001.22.503 dated 10.03.2022 so far as it relates to the petitioner published in Bangladesh Gazette on 10.03.2022 by the respondent No.1 cancelling the gazette of the petitioner as freedom fighter (Annexure-D) 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.

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.