

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

Present:
Justice Sheikh Abdul Awal
And
Justice Md. Mansur Alam

Writ Petition No. 916 of 2024

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. Yousuf Ali.

..... 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. Md. Bodiuzzaman Tapadar, D.A.G
with

Ms. Salma Sultana (Soma), D.A.G with

Mr. Md. J.R. Khan Robin, A.A.G with

Mr. A.B.M. Ibrahim Khalil, A.A.G with

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

... For the Government-Respondents.

Heard and judgment on 27.08.2025

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 notification No. 48.00.0000.004.37.007.23.2161 dated 30.11.2023 published under the signature of the respondent No.2 canceling the name of the petitioner from Lal Muktibarta and Civil Gazette No. 118 dated 14.05.2005 as freedom fighter 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 relevant facts briefly are 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 that he got testimonial from F.J. Sector and certificate and identity card from the ministry of Liberation War Affairs and the ministry of Liberation War Affairs published official gazette on 14.05.2005 showing him as Freedom Fighter at page No. 2912, serial No. 1118 as evidenced by Annexure-B to the writ petition. Due to contribution of the liberation war the Government enlisted the petitioner on 26.08.2007 for giving allowance/honorarium and thereupon a vata bohi has been issued to pay the monthly honorarium in favour of the petitioner as Freedom Fighter and thereafter he has been receiving honorarium by using the said vata bohi since 2007 to till now.

On 29.01.2020 the office of the respondent No.3 issued a notice upon the petitioner to appear before the respondent No.3 on 23.02.2020 along with all necessary documents to prove him as genuine Freedom Fighter and accordingly, on 23.02.2020 the

petitioner appeared before respondent No.3, director general, Jamuka and after scrutiny of all those documents respondent No.3 decided that the petitioner is a genuine Freedom Fighter (Annexure-D-1). In this background on the basis of a complaint filed by a third person before the JAMUKA stating that the petitioner is a fake Freedom Fighter and then Assistant Director (Finance-1), National Freedom Fighters Council issued a notice upon the petitioner on 29.01.2020 stating- “উপর্যুক্ত বিষয়ে জানানো যাচ্ছে যে, জাতীয় মুক্তিযোদ্ধা কাউন্সিলে দাখিলকৃত বীর মুক্তিযোদ্ধাদের সম্মানী ভাতা বন্ধ/স্বগিতের বিরুদ্ধে আপীল দায়েরের আবেদনের উপর জাতীয় মুক্তিযোদ্ধা কাউন্সিলের সম্মানীত সদস্য মেজর (অব:) ওয়াকার হাসান, বীরপ্রতীক আগামী ২৩.০২.২০২০ তারিখ রোজ রবিবার সকাল ১০.০০ ঘটিকায় জাতীয় মুক্তিযোদ্ধা কাউন্সিলের সম্মেলন কক্ষে (জাতীয় স্কাউট ভবন, ১২তলা) তদন্ত করবেন। উক্ত তারিখে মুক্তিযোদ্ধার স্বপক্ষে সাক্ষী ও দালিলিক প্রমানাদিসহ যথাসময়ে তদন্তে উপস্থিত থাকার জন্য নির্দেশক্রমে রা অনুরোধ করা হল। (Annexure D-1) ” and thereafter investigation took place and the authority submitted a report stating that the petitioner he is a genuine Freedom Fighter although in 87th meeting held on 12.10.2023 the authority of JAMUKA came to the conclusion that the petitioner is not a actual Freedom Fighter and accordingly abruptly decided to cancel his gazette. Thereafter, respondent No.2 by the impugned order dated 30.11.2023 as evidenced by “Annexure-G” to the Writ Petition canceled the civil gazette No. 1118 of the petitioner as freedom fighter.

Being aggrieved by the aforesaid impugned order dated 30.11.2023 passed by the Respondent No.2, the petitioner filed this Writ Petition and obtained the Rule Nisi.

Mr. A.F.M. Hakim, the learned Advocate appearing for the petitioner submits that the Jatio Muktijoddha Council (JAMUKA) passed the impugned order beyond the scope of law inasmuch as on several occasions after thorough investigation the petitioner's name has been enlisted as a valiant Freedom Fighter and his name also published in Laal Muktibarta and official gazette and the petitioner also got honorarium book and in this way he has been getting honorarium since 2015. He further submits that the impugned order itself manifests that in the first part of the investigating report JAMUKA found the petitioner as genuine Freedom Fighter but for the reasons best known to the authority of JAMUKA as to why abruptly cancelled the civil gazette of the petitioner as freedom fighter 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.

Mr. Md. Bodiuzzaman Tapadar, the learned Deputy Attorney General, on the other hand, ultimately found it difficult to refute the contentions as raised by the learned Advocate for the petitioner.

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 scrutiny of the record, it appears that in this case the petitioner as Freedom Fighter fought in the liberation war held in 1971 and thereafter, the Government as well as so many

authorities issued certificates in his favour as Freedom Fighters and his name also published in the civil gazette and his name also published in Laal Mukti Barta and other valuable documents as Freedom Fighter. It further appears that on the basis of a complaint made by a third person one Assistant Director investigated the matter and accordingly found the Petitioner is genuine Freedom Fighter (Annexure-D-1) but finally respondent No.2 cancelled the petitioner's civil gazette without assigning any cogent reason whatsoever. It further appears that the petitioner has been getting honorarium since 2015 to till today.

Considering all the facts and circumstances of the case as revealed from the materials on record, we find no cogent reason as to why the respondent No.2 by the impugned notification No. 48.00.0000.004.37.007.23.2161 dated 30.11.2023 canceling the name of the petitioner as freedom fighter from Lal Muktibarta and Civil Gazette No. 118 dated 14.05.2005. 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 notification No. 48.00.0000.004.37.007.23.2161 dated 30.11.2023 published under the signature of the respondent No.2 is declared to have been made without lawful

authority and is of no legal effect. There is, however, no order as to costs.

Communicate this judgment and order to the concerned authority at once.

Md. Mansur Alam, J:

I agree.