

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

WRIT PETITION NO. 3142 of 2024

IN THE MATTER OF:

An application under Article 102 of the Constitution of the People's Republic of Bangladesh.

IN THE MATTER OF:

Bir Muktijoddha late Md. Sahadat Hossain on his behalf wife Aleya Begum.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. S.M. A. Sabur with
Ms. Masuda Rehana Begum, 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: 03.12.2025.

Present:

Mr. Justice Sheikh Abdul Awal

And

Mr. Justice S.M. Iftexhar Uddin Mahamud

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 being memo No. 48.00.0000.004.37.007.23-2156 dated 05.12.2023 passed by the Ministry of War of Liberation (বেসামরিক গেজেট) canceling the Gazette of the petitioner as Freedom Fighter in the War of Liberation of Bangladesh, 1971 (Annexure-G) 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 as stated in the writ petition, briefly, are that the late husband of the petitioner as freedom fighter fought for this country in the liberation war, held in 1971. Due to contribution in the liberation war of the petitioner's husband, late Md. Sahadat Hossain got Freedom Fighter's Provisional Certificate issued by the Ministry of Liberation War Affairs under the signature of State Minister and Secretary of the said ministry being No. M 63504 (Annexure-C) recognizing him as freedom fighter and other fellow freedom fighters also issued certificates in favour of the husband of petitioner as freedom fighter (Annexure-E-1, E-2 and E-3). Thereafter, his name was published in the civil gazette as a freedom fighter vide gazette No. 1756 dated 14.05.2005 (Annexure-B) and also issued MIS (Muktijoddha Information System, Annexure-C-1) in his favour. Thereafter, he got Monthly state honorarium in accordance with law. In this backdrop, Upazilla Muktijoddha Jacai Bachai Committee prepared a report stating- “আবেদনকারীর নিজের ভাষ্যমতে তিনি কোন সম্মুখ যুদ্ধে অংশগ্রহণ করেননি” and thereafter forwarded the same to the Ministry of Liberation War Affairs

and after getting the report the Ministry of Liberation War Affairs by the impugned memo cancelled the civil gazette of the petitioner's husband as freedom fighter.

Being aggrieved by and dissatisfied with the aforesaid impugned notification being memo dated 05.12.2023 (Annexure-G) the present petitioner (wife of Bir Muktijoddha late Md. Sahadat Hossain) has come before this Court and obtained the present Rule.

Mr. S.M.A Sabur, the learned Advocate appearing for the petitioner submits that the petitioner's husband is an actual freedom fighter, who fought for this country during the liberation war held in 1971 and due to contribution in the liberation war the petitioner's husband awarded so many certificates and the Government of Bangladesh also by issuing certificate and vata book started to pay monthly state honorarium since 10.07.2007 (Annexure-D) but ministry of Liberation War Affairs without any proper investigation into the matter and without issuing any show cause notice all on a sudden abruptly cancelled the civil gazette of the petitioner's husband by the impugned notification dated 05.12.2023 without assigning any cogent reason whatsoever and as such, the impugned notification 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, submits that the petitioner's husband himself appeared before the Upazilla Muktijoddha Jacai Bachai Committee and made statement stating that he did not fight in front line and thereupon, the

Ministry of Liberation War Affairs justly cancelled the gazette of the petitioner's husband.

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 together with relevant law.

On a scrutiny of the record, it appears that in this case the petitioner's husband as a Freedom Fighter fought in the liberation war, held in 1971 and thereafter, the Government of Bangladesh as well as so many authorities issued certificates in his favour recognizing him as a Freedom Fighter (Annexure-C, C-1, E-1, E-2 and E-3) and the name of the petitioner's husband also has been published in the civil gazette (Annexure- B) as Freedom Fighter. It further appears that without any proper investigation or without issuing any show cause notice upon the petitioner's husband or the petitioner the respondents by the impugned notification being memo No. 48.00.0000.004.37.007.23-2156 dated 05.12.2023 canceled the civil gazette of the petitioner's husband without assigning any cogent reason whatsoever. It further appears that the petitioner having received state honorarium as freedom fighter till 28.12.2023 (Annexure-D).

As per law (Jatiya Muktijoddha Council (Amendment) Ordinance 2025), a Freedom Fighter (Bir Muktijoddha) includes those who fought in the 1971 Liberation War through combat or support roles, encompassing civilians trained in or out of the country, regular forces, Mujibnagar government

personnel, naval commandos, Ansar, and importantly, Birangonas (war-traumatized women) and medical staff at field hospitals; the definition also introduces "War Associates" for broader support roles, distinguishing them from direct combatants, while specifying civilians must meet age criteria (though not for Birangonas) and have participated between March 26 and December 16, 1971, against Pakistani forces and local collaborators.

From a combined reading of the above law together with the annexed documents, it appears to us that the petitioner's husband named late Md. Sahadat Hossain was a freedom fighter. Therefore, he is entitled to get all benefits including monthly state honorarium in accordance with law.

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 by the impugned notification dated 05.12.2023 (Annexure-G) canceled the civil gazette so far as it relates to the name of the petitioner's husband 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 notification dated 05.12.2023 (Annexure-G) so far as it relates to the petitioner's husband named Bir Muktijoddha late Md. Sahadat Hossain is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay the monthly sate honorarium to the petitioner in favour of her deceased husband 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.