

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

Present:

Mr. Justice Sheikh Abdul Awal

And

Mr. Justice Md. Mansur Alam

WRIT PETITION NO. 11655 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 :

Bir Muktijoddha Wazed Shaikh son of
Quader Uddin Shaikh on his behalf wife
Saleha Begum

.....Petitioner

-VS-

Bangladesh, represented by the Secretary,
Ministry, War of Liberation Affairs, Govern-
ment Central Parihaban Pool Bhaban
Dhaka and others.

.....opposite parties

Mr. S.M.A. Sabur, Advocate with
Mrs. Masuda Rehana Begum, Advocate

.....petitioner

Mr. Md. Bodiuzzaman Tarapder, D.A.G. with
Ms. Salma Sultana (Soma), D.A.G. with
J.R.Khan Robin, A.A.G. with
Mr. A.B.M. Ibrahim Khali, A.A.G. and
Mr. Md. Manowarul Islam, A.A.G

....For the Govt. opposite parties

Heard on: 16.08.2025

Judgment on: 18.08.2025.

Md. Mansur Alam, 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 action of the memo No.05 44 4775. 000.04.032.21-1301 (JUKTO) dated 02.02.2021 (Annexure-F) issued under the signature of respondent No.8(T.N.O) for cancellation of the national gazette, Muktijoddha certificate, MIS(Muktijoddha information system) and others relevant documents of the petitioner as a freedom fighter, in the War of Liberation of Bangladesh 1971, should not be declared to be illegal, malafide, arbitrary without lawful authority and is of no legal effect in respect of the petitioner and/or such other or further order or orders as to this Court may seem fit and proper.

The relevant facts in this writ petition are that the petitioner Wazed Shaikh is a valiant and genuine Freedom Fighter in the War of Liberation in 1971. He Joined at Hair Dangga training camp, P.S. Paikgasa, District-Khulna and took arms training under the leadership of Shaikh Quamruzzaman Tuku District- Commander Muzib Bahini and started arms training with other co-freedom fighter. He crossed the border of the East Pakistan and went India and joined at Borashat Youth training camp, 24-Porgona, located in West Bangal, India. He took part in several fights against Rajaker Police Station-Khulna. After the war of liberation he and others co-fighter of Muzib Bahini (BLF) surrender the arms to Bangabandhu Sk. Muzibur Rahman at Paltan Moidan under the leadership of Mr. Kamruzzaman Tuku (now district Chairman), Zila Parishad and District president of Awami League, Bagerhat. After long decades of the independence of Bangladesh, the

Ministry of War of Liberation was formed and the respondent No.1 recognized the petitioner as a genuine freedom fighter and enlisted the name of the petitioner in the list of Bir Muktijodda (Annexure-B). The local Administration and the respondent No.1 prepared National Gazette and published the name of the petitioner as a freedom fighter in Bangladesh Gazette on 23.11.2005 (being serial No.1354) in the list of Rupsha Upazilla District-Khulna.

After publication of said National Gazette notification dated 29.05.2004, as a result the respondent No.1 recognized the name of petitioner as a freedom fighter and issued Muktijodda Certificate signed by the Deputy Minister and Secretary, Ministry of War of Liberation and issued MIS (Muktijodda information system) and information statement in favour of the petitioner from the concern Ministry and thereafter the respondents issued sanction and disbursed the Muktijodda honourium. Thereafter, the petitioner was died on 06.06.2021 and his wife Saleha Begum has been enjoying the Muktijodda honourium in his favour and local TNO gave the guard honour. On 01.02.2021 respondent No.8 (TNO) fixed the date to verify the status of freedom fighter and issued a notice upon the petitioner. On call his son appeared before Jachai Bachai Committee submitted all the relevant papers and documents being number 1354, provisional Muktijodda Certificate issued by the concern Ministry bearing serial No.116717, MIS and detail information statement issued by the concern Ministry, Muktijodda honourium book and report of earlier Jachai Bachai committee

dated 16.12.2017 but the present Jachai Bachai committee without considering above papers, documents and facts, the Jachai Bachai committee prepared impugned list and recommended to cancel the Gazette, provisional Muktijodda Certificate and stopped the honourium and hence the case.

Being aggrieved and dissatisfied the impugned statement, recommendation and decision dated 02.02.2021 (Annexure-F), the petitioner moved this writ petition before this Court and obtained the Rule.

Mr. S.M.A.Sabur the learned Advocate appearing for the petitioner submits that the petitioner is a real freedom fighter and the petitioner took arms training under direct supervision of Mr. Salauddin Yousuf M.N.A. and Mr. Major Jalil. After he was inducted in Bangladesh and took part in several arms fight. The respondents recognized his name and it was published in Bangladesh National Gazette on 23.11.2005 (being serial No.1354), (Annexure-B). After publication of National Gazette, the Ministry of War of Liberation issued Muktijodda Certificate (Annexure-C) and also issued Muktijodda Information System (Annexure-C1) and detailed information system (Annexure-C). Thereafter, Muktijodda Ministry sanctioned and disbursed honourium in favour of the petitioner.

He further submits that Jachai Bachai Committee recognized and approved the name of Wazed Sheikh as a freedom fighter and forwarded his name in 'ka' list' being serial No.1 (Annexure-E).

That Jachai Bachai Committee dated on 16.02.2017 respondent No.8 (TNO) further issued a notice upon the petitioner for Jachai Bachai and prepared the impugned list on 02.02.2021 (Annexure-F). The concern para 24 of this impugned list discloses that “মো: ওয়াজেদ আলীর ছেলে মো: সালাউদ্দীন শেখ বলেন, “আমি শুনেছি আমার বাবা একজন মুক্তিযোদ্ধা ছিলেন। তবে স্বাক্ষীগন বলেন আমরা একসাথে যুদ্ধ করিনি তবে অস্ত্র জমা দিতে গিয়ে দেখা হয়। এ ব্যাপারে জামুকার সিদ্ধান্তই চূড়ান্ত বলে গন্য হবে।” Above decision of the respondents is taken to stop the Muktijodda honourium. Thereafter the petitioner preferred appeal before the Chairman Jamuka on 12.04.2021 but no order is passed by the appellate authority within the stipulated time.

The learned Advocate lastly submits that a direction may be given to the respondents to continue payment of freedom fighter honourium to the petitioner as per law.

On the other hand Mr. Md. Bodiuzzaman Tarapder, Deputy Attorney General submits that in the facts and circumstances he finds it is difficult to repeal the contention raised by the learned Advocate for the petitioner.

We heard learned Advocate and learned Deputy Attorney General and having gone through the materials on record.

Having heard the learned Advocates from both the sides, perused the writ petition, materials on record, the annexure available in the case record and the facts and circumstances of the case.

We are now to determine whether the respondent No.8 committed any impropriety in passing the impugned Memo dated on 02.02.2021. The respondents earlier recognized the writ petitioner as freedom fighter and his name was published in Bangladesh National Gazette on 23.11.2005 being serial no. 1354 in the list of Rupsha Upazilla, Khulna which is marked as Annexure-B. Annexure B discloses the fact that the petitioner is declared as freedom fighter on 23.11.2005 by an additional Gazette Notification. Thereafter the Ministry of Liberation War issued Muktijoddha Certificate, M I S (Muktijoddha Information Certificate) as it reveals from Annexure-C and C-1. The petitioner is enjoying Muktijoddha vata through Sonali Bank, Kazdia Branch under P. S Rupsa, Khulna as it transpires from (Annexure-D). Before enlisting the petitioner Wazed Sheikh as freedom fighter, there was a proper inquiry through local administration and through field intelligences and on being assured that the petitioner Wazed Sheikh is a actual freedom fighter enlisted in the Gazette notification as a freedom fighter in Liberation War 1971. It appears from the report of the Jachai Bachai Committee dated on 16.02.2017 (Annexure-E) the petitioner Wazed Ali Sheik was approved as a Muktijoddha. Thereafter on the death of Wazed Ali Sheikh dated on 06.06.2019, his wife Saleha Begum have been enjoying the muktijoddha vata of her late husband as widow.

In this background the respondent No.8 issued a notice to appear the petitioner on 01.02.2021 before Jachai Bachai

Committee headed by respondent No.8, T N O Rupsha thana, Khulna. Salahuddin Sheikh, son of late Muktijoddha Wazed Ali Sheikh appeared before that Jachai Bachai Committee with all the papers such as Gazette notification being numbered 1354, provisional Muktijoddha certificate being serial no.116717, M I S, Detail information statement issued by the Ministry, Muktijoddha vata book, report of earlier Jachai Bachai Committee dated on 16.12.2017 but without considering the above materials and facts, the present Jachai Bachai Committee prepared the impugned report and recommended to cancel the Gazette, provisional Muktijoddha certificate, MIS and to stop the Muktijoddha vata. We found that the petitioner being aggrieved by the impugned Memo dated on 01.02.2021 signed by the respondent No.8, preferred appeal before the Chairman Jamuka on 12.04.2021 but no order is passed by the appellate authority within the stipulated period of 60 (sixty) days. The Appellate authority by this inaction violated the provision of article 21 of the Constitution. So we are of the opinion that the action of the Memo No. 05.44.4775.000.04.032.21–1301 (JUKTO) dated 02.02.2021 (Annexure-F) issued under the signature of respondent No.8 (T.N.O) for cancellation of the National Gazette, Muktijoddha certificate, MIS and other relevant documents of the petitioner is appears to us illegal, malafide, without lawful authority and is of no legal effect.

In the light of discussion made here above, this Court is led to find that the respondents ignoring and denying the fundamental rights of the petitioner as guaranteed by the Constitution of Bangladesh passed the impugned order so far it relates to the petitioner, is absolutely illegal, malafide, arbitrary, without lawful authority and is of no legal effect. So we are inclined to hold the view that the Memo dated on 05.44.4775.000.04.032.21–1301 (JUKTO) dated 02.02.2021 (Annexure-F) is liable to be interfered with and the same is so far it relates to the petitioner liable to be declared illegal, malafide, arbitrary, without lawful authority and is of no legal effect.

In the Result, the Rule is made absolute without any order as to costs.

Let a copy of this judgment communicate at once.

Sheikh Abdul Awal, J

I agree