

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

WRIT PETITION NO. 9983 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:

Bir Muktijoddha Sk. Shahidul Islam.

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. S.M.A. Sabur with

Ms. Masuda Rehana Begum, Advocates

..... For the petitioner.

Mr. Mohammad Mohsin Kabir, DAG with

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

Ms. Shaheen Sultana, AAG with

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

Mr. Md. Mukhlesur Rahman, A.A.G.

..... For the respondents.

Heard and Judgment on: 17.12.2025.

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, this Rule Nisi was issued

calling upon the respondents to show cause as to why the action of impugned Memo No. 05.44.0156.000.007.080.20.93 (যুক্ত) dated 04.02.2021 issued under the signature of the Respondent No. 8 (T.N.O) for cancellation gazette of freedom fighter, Muktijoddha certificate, MIS (Muktijoddha Information System) and other relevant documents of the petitioner as to freedom fighter in the liberation war of Bangladesh, 1971 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. After declaration of liberation war the petitioner joined and took armed training at Patla Camp, P.S. Terokhada, and District-Khulna with other co-fighters. After local training the petitioner went to India and joined at Barasat Youth Camp, West Bengal and took arms training under the supervision of Sector Commander Major M.A. Jalil, Sector No.9. Thereafter the petitioner participated in the liberation war and took part in several frontal fights against the Pakistani Military and Rajakar. After liberation war the petitioner voluntarily surrendered his arms with other fellow freedom fighters. Due to his contribution in the liberation war after proper scrutinizing and query through local administration his name has been published in the civil gazette as a freedom fighter on 10.12.2005 by the Ministry of Liberation War Affairs being serial No. 3645 at page No. 10958 (Annexure-B &B-1) and thereafter the petitioner got provisional certificate

from the Ministry of Liberation War Affairs and his name was also published in the website of the Ministry of Liberation War Affairs and included in MIS as freedom fighter (Annexure- C, C-1 &C-2). In this background the Government of Bangladesh allowed monthly state honorarium in favour of the petitioner by issuing bhata book (Annexure-D). Thereafter, all on a sudden in first part of 2021 Jatio Muktijoddha Council (JAMUKA) on the basis of a wrong report and comment abruptly stopped the state honorarium of the petitioner.

Against which the petitioner filed an appeal before the JAMUKA in a vain.

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

Mr. S.M.A. Sabur, the learned Advocate appearing for the petitioner submits, it is on record that the petitioner fought for this soil in the liberation war and due to his contribution in the liberation war after proper scrutinizing and query through local administration so many authorities including the State Minister, Ministry of Liberation War Affairs issued certificate recognizing the petitioner as a freedom fighter and published his name in civil gazette on 01.12.2005 as a freedom fighter. The learned Advocate further submits that the petitioner due to his contribution in the liberation war started to get state honorarium since 2010 through bhata book but JAMUKA without assigning any reason whatsoever on basis of a baseless report forwarded by local T.N.O. stopped the honorarium of the petitioner and thereafter the petitioner filed an appeal before the

JAMUKA in a vain and in the facts and circumstances of the case the Rule is liable to be made absolute.

Mr. A.K.M. Rezaul Karim Khandaker, the learned Deputy Attorney General, on the other hand, simply opposes the Rule.

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 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 his name has been published in civil gazette on 01.12.2005 as a freedom fighter (Annexure- B&B-1) and thereafter, the Government of Bangladesh issued a certificate in his favour of the petitioner recognizing him as a Freedom Fighter (Annexure-C) and his name also published in the website of the ministry of Liberation War Affairs and also included his name in MIS (Muktijoddha Information System) as contain in “Annexure-C-1&C-2” as Freedom Fighter. It is found that the petitioner started to get state honorarium as freedom fighter since 2010 through bhata book (Annexure-D) although the JAMUKA without any proper investigation into the matter abruptly on the basis of a report forwarded by local T.N.O. stopped the payment of state honorarium of the petitioner and thereafter against the said action and baseless report of the T.N.O the petitioner filed an appeal in a vain (Annexure-F).

On a query from the Court the learned Deputy Attorney General submits that appeal filed by the petitioner which is an

old one and now a days it is very difficult on the part of the respondent No.1 as well as JAMUKA to detect the whereabouts of the appeal and thus he could not give any answer as to the exact position of the appeal. He, however, concedes that stopping a state honorarium without issuing a show-cause notice is violation of the principles of natural justice and is likely illegal.

Considering all these facts and circumstances of the case as revealed from the materials on record, we find no cogent reasons as to why the respondents stopped the state honorarium of the petitioner. A 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 action of impugned Memo No. 05.44.0156.000.007.080.20.93 (যুক্ত) dated 04.02.2021 issued under the signature of the Respondent No. 8 (T.N.O) for cancellation of gazette, Muktijoddha certificate,

MIS (Muktijoddha Information System) and other relevant documents of the petitioner as freedom fighter in the liberation war of Bangladesh 1971 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 respondents at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.