

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

WRIT PETITION NO. 10347 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:

Md. Abdul Khalek.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. Shahab Uddin Ahmed, 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 10.11.2025, 13.11.2025 and

Judgment on: 20.11.2025.

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, a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned

notification No. 48.02.0000.002.00.040.24-117 dated 01.07.2024 published by the respondent No.2 cancelling the petitioner's gazette No. 5304 dated 28.11.2013 (Annexure-H) 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 petitioner as freedom fighter fought for this country in the liberation war, held in 1971. Due to his contribution in the liberation war Md. Idris Ali Akand (Advocate), Commander, Bangladesh Muktijoddha Snagshad, Muktagacha Upazilla Command, Mymensingh, Md. Aynul Haque, Commander, Bangladesh Muktijoddha Snagshad, 2 No. Barogram Union Command, Muktagacha, Mymensingh and Mayor, Muktagacha Pourashava, Mymensingh, Commander, Bangladesh Muktijoddha Snagshad, District Unit Command, Mymensingh and so many other authorities including Hon'ble State Minister, Ministry of Liberation War Affairs issued certificates in favour of the petitioner (Annexure-A-3, A-4, A-5, A-6, A and A-1 respectively) recognizing him as freedom fighter. Thereafter, his name has been published in Civil Gazette dated 28.11.2013 being Serial No. 5304 as freedom fighter (Annexure- B) and thereafter the petitioner got Muktijoddha Vata Book and started to get state honorarium since 27.04.2014. In this backdrop, one Chan Mia made a complaint before the Jatio Muktijoddha Council (JAMUKIA) stating that the petitioner is not an actual freedom fighter and accordingly, investigation was held as to know whether he is an actual freedom fighter or not and thereafter on getting investigation report the JAMUKA by the impugned notification dated 01.07.2024 (Annexure-H) cancelled the civil gazette of the petitioner.

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 01.07.2024 (Annexure-H) the present petitioner has come before this Court and obtained the present Rule.

Mr. Shahab Uddin, the learned Advocate appearing for the petitioner 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 including Bangladesh Muktijoddha Sangshad, District Unit Command, Mymensingh and Minister, ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as freedom fighter and accordingly, his name has been published in civil gazette and he also got state honorarium since 27.04.2014 to till date. The learned Advocate further submits that on the basis of a complaint made by a third party against the petitioner Upazilla Nirbahi Officer Mir Nahid Ahsan forwarded a perfunctory inquiry report before the JAMUKA stating that the petitioner is not an actual freedom fighter, who subsequently stated that the petitioner is a genuine freedom fighter by issuing a certificate (Annexure-D). The learned Advocate further submits that the Respondents without applying their judicial mind into the facts of the case and law bearing on the subject most illegally canceled the civil gazette of the petitioner by the impugned gazette notification dated 01.07.2024 and as such, the same 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, at first took time to know whether the then Upazilla Nirbahi Officer, Muktagacha Thana subsequently issued a certificate stating that the petitioner is an actual freedom fighter although finally he could not detect the whereabouts of that Upazilla Nirbahi Officer.

Having heard the learned Advocates for both the parties and the learned Deputy Attorney General and having gone through the writ petition 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 thereafter, the Government of Bangladesh as well as so many authorities including Bangladesh Muktijoddha Sangshad, District Unit Command, Mymensingh and Minister, ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as freedom (Annexure-A-3, A-4, A-5, A-6, A and A-1). Thereafter, the concerned authorities on due consideration of the matter published the name of the petitioner in civil gazette on 28.11.2013 being Serial No. 5304 as freedom fighter (Annexure- B) and thereafter the petitioner got Muktijoddha Vata Book and started to get state honorarium since 27.04.2014 (Annexure-C and C-1). It further appears that local T.N.O after completion of the investigation submitted a report against the petitioner but subsequently, the said T.N.O. gave a certificate stating that the petitioner is an actual freedom fighter (Annexure-D). It further appears that the respondent No.4 canceled the petitioner's civil gazette without assigning any cogent reason or without issuing any show cause notice whatsoever.

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 respondent No.4 by the impugned notification dated 01.07.2024 (Annexure-H) canceled the civil gazette so far as it relates to the name of the petitioner as freedom fighter. Law is by now well settled that 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 01.07.2024 (Annexure-H) so far as it relates to the petitioner is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay the monthly state honorarium to the petitioner 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.

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Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, at first took time to know whether the then Upazilla Nirbahi Officer, Muktagacha Thana subsequently issued a certificate stating that the petitioner is an actual freedom fighter although finally he could not detect the whereabouts of that Upazilla Nirbahi Officer.

Having heard the learned Advocates for both the parties and the learned Deputy Attorney General and having gone through the writ petition 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 thereafter, the Government of Bangladesh as well as so many authorities including Bangladesh Muktijoddha Sangshad, District Unit Command, Mymensingh and Minister, ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as freedom (Annexure-A-3, A-4, A-5, A-6, A and A-1). Thereafter, the concerned authorities on due consideration of the matter published the name of the petitioner in civil gazette on 28.11.2013 being Serial No. 5304 as freedom fighter (Annexure- B) and thereafter the petitioner got Muktijoddha Vata Book and started to get state honorarium since 27.04.2014 (Annexure-C and C-1). It further appears that local T.N.O after completion of the investigation submitted a report against the petitioner but subsequently, the said T.N.O. gave a certificate stating that the petitioner is an actual freedom fighter (Annexure-D). It further appears that the respondent No.4 canceled the petitioner's civil gazette without assigning any cogent reason or without issuing any show cause notice whatsoever.

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In the result, the Rule Nisi is made absolute. The impugned notification dated 01.07.2024 (Annexure-H) so far as it relates to the petitioner is declared to have been made without lawful authority and is of no legal effect and the respondents are directed to pay the monthly state honorarium to the petitioner 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:

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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.

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I agree.