

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

Present:
Justice Sheikh Abdul Awal
And
Justice S.M. Iftekhar Uddin Mahamud

Writ Petition No. 12707 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:

Mst. Rijiya Begum and others Petitioners.

-Versus-

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

..... Respondents.

Mr. Md. Waliuddin, Advocate.

..... For the Petitioners.

Mr. Md. Mohsin Kabir, D.A.G with

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

Ms. Shaheen Sultana, A.A.G with

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

Mr. Md. Mokhlesur Rahman, A.A.G

... For the Government-Respondents.

Heard and Judgment on 08.12.2025.

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 impugned Gazette Notification dated 06.08.2023 (Annexure-F)

issued by the respondent No.3 cancelling the Freedom Fighter certificate of the petitioners' predecessor, Muktijuddha Md. Abdul Malek in reference to 83rd meeting of the Bangladesh Muktijuddha Sangshad, Central Commander Council, Dhaka so far as it relates to serial No. 53 should not be declared to have been made without 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 petitioners' predecessor, late Abdul Malek was a freedom fighter, who took training under sector-9 during the liberation war, held in 1971. Due to contribution in the liberation war, the commander of sector-9 issued a certificate (Annexure-A) recognizing him as freedom fighter and he got Arms Receipt Certificate on 11.02.1972 (Annexure-A-2) and later on his name was published in the civil gazette as a freedom fighter on 22.11.2005 by the respondent No. 1 (Ministry of Liberation War Affairs) being gazette serial No. 1139 (Annexure-B). He also got provisional Certificate issued by the respondent No.1 being No. M 158316 on 11.08.2010 as freedom fighter (Annexure-C) and he got Monthly State Honorarium till January, 2022(Annexure-E). In this back ground due to political reason on the basis of a complaint filed by the 3rd party before Jatio Muktijodhha Council (JAMUKA), the respondent No.3 by impugned Gazette Notification dated 06.08.2023 (Annexure-F) cancelled the Gazette of the petitioners' predecessor, late Abdul Malek as freedom fighter.

Aggrieved thereby the heirs of the late Freedom Fighter, Abdul Malek moved an appeal unsuccessfully before Jatio Muktijodhha Council (JAMUKA) for proper reliefs and thereafter the petitioners have come before this Court and obtained the present Rule.

Mr. Md. Waliuddin, the learned Advocate appearing for the petitioner submits that all the petitioners are the legal heirs of actual freedom fighter, late Abdul Malek, who fought for this country during the liberation war, held in 1971 and due to contribution in the liberation war, the predecessor of the petitioners' Abdul Malek got a series of certificates and his name was duly published in civil gazette being gazette serial No. 1139 (Annexure-B) and he also got state honorarium but due to political reason on the basis of a complaint filed by the 3rd party before Jatio Muktijodhha Council (JAMUKA), who without applying its judicial mind into the matter most illegally canceled the civil gazette of the petitioners' predecessor by the impugned gazette notification dated 06.08.2023 (Annexure-F) and as such, impugned gazette notification (Annexure-F) so far as it relates to the freedom fighter, late Abdul Malek is liable to be declared to have been made without lawful authority and is of no legal effect.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, in the facts and circumstances of the case has ultimately found it difficult to oppose the Rule on the ground upon which the Rule was obtained.

On a scrutiny of the record, it appears that in this case the predecessor of the petitioners, Abdul Malek as a Freedom Fighter fought for this country in the liberation war, held in 1971 and thereafter, the Government of Bangladesh as well as so many authorities concerned issued certificates in his favour recognizing him as a Freedom Fighter and his name also has been published in the civil gazette. It further appears that on the basis of a complaint made by a third person in the locality, the respondent No.3 canceled the civil gazette of the predecessor of the petitioners without assigning any cogent reason whatsoever. It further appears that the petitioner having received state honorarium as freedom fighter till January, 2022.

In this case it is found without any show cause notice upon the petitioner to be heard the impugned notification dated 06.08.2023 (Annexure-F) has been passed which violates the principles of natural justice.

Taking into consideration 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.3 by the impugned notification dated 06.08.2023 (Annexure-F) canceled the civil gazette so far as it relates to the name of the petitioners' predecessor, Abdul Malek as freedom fighter. Law is firmly 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 06.08.2023 (Annexure-F) so far as it relates to the predecessor of the petitioners, Abdul Malek is hereby declared to have been made without lawful authority and is of no legal effect and the respondents are directed to continue the monthly sate honorarium to the petitioners 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.