

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

WRIT PETITION NO. 1527 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:

Saiyedur Rahman.

..... Petitioner.

-Versus-

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

..... Respondents

Mr. Md. Shaheen Alam, 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: 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 dated 23.07.2023 being memo No. 48.00.0000.004.37.003.23.756 excluding the petitioner from the

official gazette of freedom fighter (gazette No. 441) being serial No. 37 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 Union Commander, 5 No. Kirti Pasha Union, Jhalkathi Sadar, Jhalkathi, Bangladesh Muktijoddha Sangshad, District Unit Command, Jhalkathi and so many other authorities including Hon'ble State Minister, Ministry of Liberation War Affairs issued certificates in favour of the petitioner (as contained in Annexure-B, C, C-1, C-2, C-3 & C-4 of the writ petition) recognizing him as freedom fighter. In this background his name has been published in Civil Gazette dated 17.04.2005 being Serial No. 441 as freedom fighter (Annexure- A-1) and thereafter, the petitioner got Muktijoddha Vata Book and got state honorarium as freedom fighter since 2005 to 08.02.2022 and thereafter without any specific reason the respondents by the impugned notification dated 23.07.2023 (Annexure-F) cancelled the civil gazette of the petitioner.

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 23.07.203 (Annexure-F) the present petitioner has come before this Court and obtained the present Rule.

Mr. Md. Shaheen Alam, 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 the state minister, ministry of Liberation War Affairs issued certificates in favour of the petitioner recognizing him as freedom fighter and

accordingly his name was published in civil gazette and he also got state honorarium for more than 17 years although the JAMUKA without assigning any reason and without applying its judicial mind and law bearing on the subject most illegally canceled the civil gazette of the petitioner by the impugned gazette notification dated 23.07.2023 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 of Muktagacha issued a certificate stating that the petitioner is an actual freedom fighter although finally, the learned Deputy Attorney General submits that he could not detect as to whereabouts of that Upazilla Nirbahi Officer right.

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 due to his contribution in the liberation war so many authorities including the Hon'ble State Minister, Ministry of Liberation War Affairs issued certificates in favour of the petitioner (Annexure-B, C, C-1, C-2, C-3 & C-4) recognizing him as freedom fighter. In this backdrop, the authorities concerned on due consideration of the matter published his name in civil gazette dated 17.04.2005 being Serial No. 441 as freedom fighter (Annexure- A-1) and thereafter the petitioner got Muktijoddha Vata Book and got state honorarium since 2005 to 08.02.2022. It further appears that the respondent No.4 canceled the petitioner's civil gazette without assigning any cogent reason whatsoever or without giving any show cause notice.

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 authority concerned by the impugned notification dated

23.07.2023 (Annexure-F) canceled the civil gazette of the petitioner as freedom fighter. Further, the respondent No.4 canceled the petitioner's civil gazette without giving any show cause notice to the petitioner to be heard. 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 23.07.2023 (Annexure-F) so far as it relates to the petitioner is hereby 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 respondents at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.