

**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. 18056 of 2017

In the matter of:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh.

And

In the Matter of:

Most. Sajia Afrin

.....

Petitioner.

-Versus-

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

.....Respondents.

Mr. Khan Ilias Sadik, Advocate.

..... For the Petitioner.

Mr. Md. Mohsin Kabir, D.A.G with
Ms. Shahin Sultana, A.A.G with
Mr. Md. Manowarul Islam Uzzal, A.A.G
... For the Government-Respondents.

**Heard on 05.11.2025 and Judgment on
05.11.2025.**

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 notification being No. 48.00.0000.004.75.105.2012-1260 dated 20.07.2014 published in the Bangladesh Gazette, Additional Issue on 24.07.2014 under the signature of the respondent No.2 cancelling the provisional certificate and Gazette of the petitioner's father Md. Azjaher Ali Khan as freedom fighter (Annexure -E) should not be declared to have been made without any lawful authority and why a direction should not be given upon the respondents to cancel the said notification dated 20.07.2014 so far as it relates to the father of the petitioner and/or such other or further order or orders passed as to this Court may seem fit and proper.

Material facts of the case as stated in the writ petition, briefly, are that the petitioner's father Md. Azhar Ali Khan was a valiant freedom fighter, who fought for the independence of this country in 1971. Due to contribution in the liberation war the petitioner's father got a provisional certificate being No. M-132785 issued by the Government of Bangladesh, Ministry of Liberation War Affairs (Annexure-B), a certificate from regional captain of sector No.9, Muktijoddha Council (Annexure-C) and his name had been published in civil gazette being No. 10 dated 21.05.2005 as a Freedom Fighter at page No. 4108 as evidenced by "Annexure-A" to the writ petition and thereafter the Government enlisted his name for paying state honorarium and accordingly a vata bohi was issued to pay the monthly state honorarium in favour of the petitioner as Freedom Fighter (Annexure-D) and in this way the petitioner's father started to get state honorarium. In this backdrop all on a

sudden on 24.07.2014 by the impugned notification being memo No. 48.00.0000.004.75.105.2012-1260 dated 20.07.2014 published in Bangladesh Gazette, Additional Issue on 24.07.2014 under the signature of the respondent No.2 cancelled the gazette of the petitioner's father being No. 10 dated 21.05.2005 page No. 4108.

The petitioner as daughter of freedom fighter, Md. Azhar Ali Khan applied for the post of Assistant Teacher in Government primary school in Barishal and after passing all the test examinations while she was waiting for her appointment letter the District Primary Education Officer informed her that her father's civil gazette, mukti barta number and provisional certificate numbers were not found in the website of the Ministry of Liberation War Affairs and that they are unable to issue her appointment letter and thereafter, on search, the petitioner came to know that her father's provisional certificate as freedom fighter and gazette notification as well have been cancelled by the impugned notification (Annexure-E). Here it may be mentioned that the petitioner's father, Md. Azhar Ali Khan (Freedom Fighter) died on 05.08.2015 and thereafter his wife got state honorarium in favour of her deceased husband since 2015 to 2022.

Aggrieved petitioner then preferred this Writ Petition and obtained the Rule Nisi.

Mr. Khan Ilias Sadik, the learned Advocate appearing for the petitioner at the very outset submits that the impugned notification was passed on 20.07.2014 cancelling the gazette of the petitioner's father as freedom fighter and the petitioner and

her family were ignorant about that said impugned order and they for the first time came to know about the matter in 2017 and in that circumstances, the petitioner finding no other way filed this writ petition before this Court. The learned Advocate further submits that the petitioner's father was a valiant freedom fighter, who fought for this country in the liberation war and he got so many certificates issued by the authorities concerned and thereafter his name was published in civil gazette being No. 10 dated 21.05.2005 page No. 4108 and he also got state honorarium in accordance with law although the JAMUKA without issuing any show cause notice in favour of the petitioner's father abruptly passed an ex-parte order dated 20.07.2014 cancelling the gazette and certificates of the petitioner's father as freedom fighter at the behest of the then fascist Awami league Government. Finally, the learned Advocate submits that the impugned order is ex-facie, illegal and passed beyond the scope of law 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, appearing for the state, on the other hand, in the facts and circumstances of the case together with the Annexures as contained in the writ petition ultimately found it difficult to press the Rule on the ground upon which Rule was obtained.

Having heard the learned Advocate for the petitioner 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 father of the petitioner, Md. Azhar Ali Khan as a Freedom Fighter fought in the liberation war. held in 1971 and thereafter, the Government of Bangladesh as well as so many authorities issued certificates in his favour recognizing him as a Freedom Fighter and his name has also published in the civil gazette. It further appears that the father of the petitioner having received state honorarium as freedom fighter and after the death of petitioner's father, her mother received the state honorarium through vata book. Further, it appears that in this case the Upazila Muktijoddha Jacai Bachai Committee under the Upazila Nirbahi Officer in 2020 found the petitioner's father was a genuine freedom fighter and that included his name in the list of freedom fighter of Barishal Sadar and forwarded the same to the Ministry of Liberation War Affairs.

It is also found that JAMUKA without assigning any cogent reason whatsoever and without giving any opportunity to the petitioner to be heard abruptly canceled the civil gazette of the petitioner and also stopped payment of his honorarium.

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.2 by the impugned notification dated 20.07.2014 canceled the civil gazette so far as it relates to the name of the petitioner's father as freedom fighter. 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. Impugned notification being No. 48.00.0000.004.75.105.2012-1260 dated 20.07.2014 published in the Bangladesh Gazette, Additional Issue on 24.07.2014 so far as it relates to the petitioner's father 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.