

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

WRIT PETITION NO. 3075 of 2021

IN THE MATTER OF:

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

IN THE MATTER OF:

Abdul Hamid.

..... Petitioner.

-Versus-

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

..... Respondents.

Mr. Tashdid Anwar with
Mr. Muktadir Mohsin with
Mr. Faria Jabin Chowdhury, Advocate
..... For the petitioner.

Mr. Mashiur Alam, Advocate
..... For the Respondent No.5

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 08.12.2025 and

Judgment on: 17.12.2025.

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 memo No. 48.00.0000.004.37.004.20.2528 dated 23.12.2020 issued under the signature of the Respondent No.1 cancelling the gazette of the petitioner as Muktijoddha so far as it relates to serial No. 35 (Annexure-F) 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 Commander of Armed Forces General Muhammad Ataul Gani Osmani (M.A.G. Osmani) issued a certificate in favour of the petitioner (Annexure-A) recognizing the petitioner as freedom fighter and A.T.M. Hyder (Ex-sector Commander, Sector No.2) and Sub-Sector Commander, Sector No.2 issued testimonials in favour of the petitioner recognizing him as freedom fighter (Annexure- Y&Z to the supplementary affidavit) and the Chairman, Zonal Administrative Council, South East Zone II, Commander, Chandpur District Unit Command, Bangladesh Muktijoddha Sangshad also issued testimonials in favour of the petitioner recognizing him as freedom fighter (Annexure- J&L) and thereafter his name was published in saptahik muktibarta as freedom fighter (Annexure-B). The petitioner also got a provisional certificate issued by the Government of Bangladesh, Ministry of Liberation War Affairs (Annexure-X-3 to the supplementary affidavit). Thereafter, the petitioner's name has been published in Civil Gazette being No. 1639 dated 25.05.2005 as freedom fighter which also published in the website of the Ministry of Liberation War Affairs (Annexure- C& C-1). Thereafter, the petitioner got the

Muktijoddha Vata book in the year 2006 and started to get state honorarium to till 2020. In this backdrop out of previous enmity in the locality one, Nazma Akter filed a complaint before the JAMUKA stating that the petitioner is a fake freedom fighter. Thereafter, without hearing the petitioner respondent No.2 issued the impugned notification canceling the Civil Gazette of the petitioner as freedom fighter (Annexure-F) and thereafter the petitioner unsuccessfully filed an application on 04.11.2020 under the caption- “বীর মুক্তিযোদ্ধা আব্দুল হামি, গেজেট নং 1639, সাময়িক সনদ নং 10719 বিরুদ্ধে ভূমি অভিযোগ জামুকার 69 তম সভার বাতিলকৃত গেজেট পুনঃবহালের জন্য আবেদন।” (Annexure-X to the supplementary affidavit).

Being aggrieved by and dissatisfied with the aforesaid gazette notification dated 23.12.2020 (Annexure-F) the present petitioner has come before this Court and obtained the present Rule.

Mr. Tashdid Anwar, 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 Commander of Defence Forces during liberation war General Muhammad Ataul Gani Osmani (M.A.G. Osmani) and ministry of Liberation War Affairs, Commanding Officer and Sub-Sector Commander of Sector No.2, issued certificates and testimonials in favour of the petitioner recognizing him as freedom fighter. He further submits that State Minister, Ministry of Liberation War Affairs also issued a testimonial in favour of the petitioner recognizing him as a freedom fighter and accordingly his name has been published in civil gazette and he got state honorarium since 2006 to till 2020 and thereafter, on the basis of a complaint filed by the close relative of the petitioner stating that the petitioner is a fake freedom fighter, Jatio Muktijoddha Council (JAMUKA) without

hearing the petitioner most illegally at the behest of the then higher authority of the Awami league Government abruptly canceled the civil gazette of the petitioner by the impugned gazette notification dated 23.12.2020 without any proper investigation or without giving any chance to the petitioner to be heard and as such, the impugned notification dated 23.12.2020 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, in the facts and circumstances of the case has ultimately found it difficult to repeal the contention raised by the learned Advocate for the petitioner.

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 Commander of Defense Forces during the liberation war of Bangladesh, General Muhammad Ataul Gani Osmani issued a certificate in his favour of the petitioner recognizing him as a Freedom Fighter (Annexure-A, C-1 and Annexure-, J, K, L to the writ petition). His name also published in Saptahik Muktibarta (Annexure-B) and his name also having published in the civil gazette (Annexure- C). Further, it appears that on the basis of a complaint filed by one, Nazma Akter without any proper investigation or without issuing any show cause notice upon the petitioner, the respondent No.1 abruptly canceled the petitioner's civil gazette without assigning any cogent reason whatsoever. It further appears that the petitioner having received the state honorarium as freedom fighter till 2020.

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.1 by the impugned notification dated

23.12.2020 (Annexure-F) canceled the civil gazette so far as it relates to the name of the petitioner 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. The impugned notification dated 23.12.2020 (Annexure-F) so far as it relates to the petitioner, Abdul Hamid (serial No. 35) 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 Respondents at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.