

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

Present:

Justice Sheikh Abdul Awal

And

Justice S.M. Iftexhar Uddin Mahamud

Writ Petition No. 8204 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:

Halim Sikder alias Abdul Halim

..... Petitioner.

-Versus-

The Government of the People's Republic of Bangladesh represented by the Secretary, Ministry of Liberation War Affairs and others.

.....Respondents.

Mr. M.G. Mahmud (Shaheen), Advocate

With

Mr. Sohail Rana, Advocate

..... For the Petitioner.

Mr. Mohammad Mohsin Kabir, D.A.G.

Mr. A.K.M. Rezaul Karim Khandaker,

D.A.G with

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

Ms. Shaheen Sultana, A.A.G.

... For the Government-Respondents.

Heard and judgment on 10.12.2025

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 inaction of the respondents to recognize the petitioner's deceased father as Freedom Fighter and to publish his name in the gazette of Freedom Fighter and to pay his honorarium as Freedom Fighter to his legal heirs should not be declared to have been done without lawful authority and is of no legal effect and as to why the respondents should not be directed to recognize the petitioner's deceased father as Freedom Fighter and to publish his name in the gazette of Freedom Fighter and to issue Freedom Fighter certificate in the name of the petitioner's deceased father and to pay his State honorarium and all other benefits as Freedom Fighter to his legal heirs in accordance with law 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's father Jalil Sikder alias Abdul Jalil Sikder was a valiant freedom fighter, who fought for this country during the liberation war, held in 1971. Due to contribution in the liberation war the petitioner's father got certificates from Bangladesh Muktiyoddha Shangshad kendryo Command Council (Annexure B), Company commander, 5th Company Colliagemllitia Camp, Pirojpur (Annexure- B-1), Bangladesh Armed Forces (Annexure- B-2) and Bangladesh Muktiyoddah Shagshad (Annexure-B-3,B-4, B-5, and B-6) and the petitioner's father surrendered his arms to the commander of Sector No.9 (Annexure-C) and thereafter, the petitioner's father name was published in Lal Mukti Barta as evidenced by "Annexure-D" to the writ petition.

In this back ground the petitioner's father started to get state honorarium since July- 2009 and the authority without assigning any reason whatsoever all on a sudden stopped to pay the monthly state honorarium in the year 2017. Thereafter, the petitioner's father did not get any freedom fighter's honorarium till to his death on 30.10.2021. After the death of Muktijoddha Jalil Sikder alias Abdul Jalil Sikder his son the present petitioner filed an appeal on 21.09.2022 before JAMUKA (Jatiyo Muktijuddha Council) but the authority of JAMUKA did not dispose of the appeal as yet.

Finding no other alternative way the petitioner preferred this writ petition and obtained the present Rule.

Mr. M.G. Mahmud (Shaheen), the learned Advocate appearing for the petitioner submits that the respondents without assigning any reason whatsoever most illegally stopped to pay state honorarium in favour of the petitioner's father and then the petitioner preferred an appeal before JAMUKA (Jatiyo Muktijuddha Council) but JAMUKA did not dispose of the appeal in accordance with law. The learned Advocate further referring “মুক্তিযোদ্ধা যাচাই-বাছাই নির্দেশিকা-২০১৬” (Annexure-H) submits that as per মুক্তিযোদ্ধা যাচাই-বাছাই নির্দেশিকা ২০১৬, it is apparent that the father of the petitioner is a genuine freedom fighter inasmuch as it is stated in the Mukti Joddha Bachai Committee Nirdeshika 2016 that “ভারতীয় তালিকায় বা লাল মুক্তিবর্তায় তালিকাভুক্ত মুক্তিযোদ্ধাগণ যাচাই-বাছাইয়ের আওতাভুক্ত নন; তবে লাল মুক্তিবর্তায় নাম থাকা স্বত্বেও লিখিতভাবে বা উপস্থিত ক্ষেত্রে কাহারো বিরুদ্ধে যদি কোন অভিযোগ থাকে তবে তা যাচাই-বাছাইয়ের আওতাভুক্ত।” although in this case the respondents without any kind of Jachai Bachai or inquiry

most illegally stopped the state honorarium of the petitioner's father and as such, a direction may be given to publish gazette notification declaring the deceased father of the petitioner as freedom fighter and also a direction may be given to the Respondents to pay monthly state honorarium to the petitioner regularly.

Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General, on the other hand, opposes the Rule. He submits that father of the petitioner is not a genuine freedom fighter and now petitioner is claiming his father is a freedom fighter which is, in fact, based on bundle of facts which cannot be decided in writ jurisdiction.

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 scrutiny of the record, it appears that the father of the petitioner as freedom fighter fought for this country during the liberation war, held in 1971. Due to contribution in liberation war so many certificates were issued by the concerned authorities recognizing the father of the petitioner as a freedom fighter and it is on records that the name of the petitioner's father was published in the Lal Mukti barta and his state honorarium has been stopped without 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 respondents stopped payment of state honorarium of petitioner's father. 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 inaction is not based on relevant factors. Stopping honorarium 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 is made absolute and the respondents are directed to pay the monthly state honorarium to the legal heirs of the deceased Muktijoddha Jalil Sikder alias Abdul Jalil Sikder 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.