

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

WRIT PETITION NO. 8602 of 2017

IN THE MATTER OF:

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

IN THE MATTER OF:

Md. Abdul Latif being dead his legal heirs
1(a) Saleha Begum and others
..... Petitioners.

-Versus-

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

Mr. M. Mainul Islam, Advocate
..... For the petitioners.

Mr. Mohammad Mohsin Kabir, DAG with
Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

Ms. Shahin Sultana, AAG with

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

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

..... For the respondents.

Judgment on: 18.12.2025.

Present:

Mr. Justice Sheikh Abdul Awal

And

Mr. Justice S.M. Iftekhar Uddin Mahamud

S.M. Iftekhar Uddin Mahamud, J.

In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, the Rule was issued on 08.06.2017 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the decision dated 25.04.2017 passed by "Taltali Upazilla Muktijoddha Jachai-Bachai Committee", Barguna, (Annexure-K) eliminating the petitioner from the list of freedom fighters being coram no-judice should not be declared to have been issued without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Facts, stated in the writ petition, in short are that the sole petitioner, Md. Abdul Latif filed this writ petition but after his demise his legal heirs (Annexure-‘N-1’) namely, Saleha Begum and others added on 03.12.2025 by way of substitution and as such the petitioners are the wife and children of the freedom fighter, namely late Md. Abdul Latif and that Late Md. Abdul Latif joined Liberation War and had undergone a training to operate all small arms and after completing the training actively participated in the liberation war and fought under the Sub-sector Barguna and Patuakhali of Sector No.09. On 04.02.1972 the predecessor of the petitioners surrendered his Rifle to Mr. Md. Hatem Ali, Troops Commander, Bangladesh Armed Forces, Amtoli/Kalapara Sub-Sector who issued a certificate on that day about it.

Later the predecessor of petitioners appeared in HSC examination in 1972 at Barguna College and passed with Second Division and then in 1980 he passed B.A from the same college. In the meantime, the Circle Officer (Dev.), Amtali Barguna collected list of local freedom fighters and in 1977 freedom fighters were called for joining in Bangladesh Army. Thereafter, he joined Bangladesh army in 1977 and he was promoted to Clerk as he had HSC degree. He worked in the Bangladesh Army till 1980. His last posting was at Record Wing, Chittagong Cantonment as a Clerk and then he left the job.

After leaving the job in Bangladesh Army, the predecessor of petitioners started teaching as an Assistant teacher in a local Secondary School. Later he in 1985 established a Secondary/High School at Bogirhut, Taltali, Barguna, where he worked as a Head Master till his retirement in 2014. He received his provisional certificate in 2003 as a Freedom Fighter from the Ministry of Liberation War Affairs. Subsequently, the name of the petitioners' predecessor was also published in gazette in 2005 as a freedom fighter. He was enlisted in serial no. 364 of the Gazette published on 22.11.2005.

That due to the contribution in the Liberation War, the government of Bangladesh has recognized the petitioners' predecessor as enlisted freedom fighter and thereby the government has paid Freedom Fighter honorarium to him and he had been receiving his honorarium regularly since 2013.

Meanwhile, three children of the deceased freedom fighter namely, Rezninnahar Sireen, Md. Monzur Rahman and Md.

Asaduzzaman Masud were appointed as Assistant teachers in Govt. Primary Schools under Muktijoddha Quotas. Those children joined in the schools in different times between 2009-2014 and they have been doing their jobs with reputation.

Later the Ministry of Liberation War Affairs, published a gazette notification bearing No. 48.00.0000.004.49.233.09-92 dated 12.01.2017 which formed "*Upazilla Jachai- Bachai Committee*" and "*District/Mohanagar Jachai-Bachai Committee*" for the purpose of indentifying the real freedom fighters.

In conformity with the contentions as mentioned hereinbefore the concerned authority i.e. JAMUKA has issued a guideline to identify the real freedom fighters named as "*Muktijoddha Jachai-Bachai Nirdeshika-2016*" which provides provisions to identify real freedom fighters and other issues allied to it.

That the respondent No.1 vide a Circular No. 48.00.0000.004.49.233.09-1048 dated 29.03.2017 made amendments to different District and Upazila Jachai-Bachai Committees of the country. That the circular amended the Jachai-Bachai Committee of the petitioners' predecessor Upazilla, Taltali, Barguna, publishing the names of full committee headed by Mr. Dhirendra Debnath Sambhu, M.P 109, Barguna-1, as Chairman of the Committee and selecting six other members of the committee. The said '*Upazila Jachai-Bachai Committee*' on 25.04.2017 in absence of the original Chairman and member representative of Ministry, arbitrarily decided in serial No.44

that petitioners' predecessor (Late Md. Abdul Latif) is not a freedom fighter.

That subsequently, during the pendency of the instant writ petition, '*Muktijoddha Jachai-Bachai Committee*', Taltali Upazila, District- Borguna, vide its meeting dated 30.01.2021 in its serial No. 02, decided that Md. Abdul Latif is a genuine freedom fighter (Annexure- 'M' to the supplementary affidavit dated 30.11.2025).

Being aggrieved by the aforesaid impugned decision dated 25.04.2017 eliminating the name of petitioners' predecessor (i.e., late Md. Abdul Latif) from the list of freedom fighters in serial No.44 and finding no other alternative and efficacious remedy petitioners' predecessor filed this writ petition and moved the same before this Court and obtained the present Rule.

Mr. M. Mainul Islam, the learned advocate appearing for the petitioners submits that petitioners' predecessor joined Liberation War in 1971 who surrendered his arms on 04.02.1972 and he was awarded freedom fighter certificate in 2003 by the Ministry of Liberation War Affairs, his name was gazetted in 2005 and he has received honorarium as freedom fighter and his three children have been on Govt. service on freedom fighters quots and thus the issue whether the petitioners' predecessor is a freedom fighter is a long settled matter and in such situation elimination of petitioners' predecessor from freedom fighter list on the basis of a so-called scrutiny is arbitrary, malafide and as such the impugned order is liable to be set aside.

He further submits that the scrutiny of the freedom fighters was done by a Committee namely, '*Taltali Upazilla Muktijoddha Jachai-Bachai Committee*' which did not include the local Member of Parliament (Mr. Direndranath Sambu) who was supposed to be the Chairman of the Committee and further excluded Ministry representative, Mr. A.M. Habibur Rahman, which is in violation of the Ministry Circular dated 29.03.2017 and as such, the said Committee is Coram Non-judice, and its decision being without jurisdiction is a nullity.

He next submits that "*Freedom Fighters Jachai-Bachai Nirdeshika-2016*" dictates that the scrutiny will be held in presence of all freedom fighters of the concerned Upazilla who were listed in Indian or '*Lal Muktibarata*' but in the instant scrutiny in a very secret manner where no freedom fighters of the said list was allowed to identify the petitioner or others. It is to be further noted that three freedom fighters enlisted in '*Lal Muktibarta*' have also been eliminated which proves the malafide nature of the scrutiny.

He also contends that the decision of eliminating the name of petitioners' predecessor from freedom fighters list was done unfairly and arbitrarily without considering the material facts and provisions of law and thus the order was passed unlawfully and as such the impugned order is liable to be set aside.

The learned Advocate for the petitioners next submits that after an extensive investigation and scrutiny their predecessor was certified and

gazetted as a freedom fighter and the matter has been a settled issue creating his lawful right and the reopening of such a settled matter in the guise of a so-called '*Jachai-bachai*' is unlawful.

The learned Advocate finally submits that during the pendency of the instant writ petition, '*Muktijoddha Jachai-Bachai Committee*', Taltali Upazila, District- Borguna, vide its meeting dated 30.01.2021 being its serial No. 02, decided that late Md. Abdul Latif (petitioners' predecessor) is a genuine freedom fighter (Annexure-M) which shows the earlier decision passed on 25.04.2017 was not correct and as such the impugned order is liable to be set aside.

No affidavit-in-opposition has been filed by the Respondents.

However, Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General for the State appearing on behalf of the Respondents simply opposes the Rule.

We have heard the submissions of the learned Advocate for the petitioners and the learned Deputy Attorney General and perused the application and the annexures annexed thereto.

It transpires from the record that the petitioners' predecessor is a freedom fighter namely, late Md Abdul Latif, who passed SS.C. in 1971 and also had the training to participate in the liberation war under Sector No. 09 located at Barguna and Patuakhali.

The petitioners' predecessor obtained a series of certificates and testimonies after the liberation war including the provisional certificate in 2003 as a freedom fighter from the Ministry and he joined Bangladesh Army in 1977 while freedom fighters were called for joining in

Bangladesh Army and his three children were appointed as Assistant Teachers in Govt. Primary Schools under Muktijoddha Quota and they have been doing their jobs with reputation.

That the name of petitioners' predecessor i.e; Md Abdul Latif was also published in the Gazette on 22.11.2005 in Serial No. 364, at page no. 10324, containing "**Final List**" of the freedom fighters. That later on a verification was done in 2013 and thereafter the petitioners' predecessor was receiving the state honorarium since 2013.

It is evident from 'Annexure-K-1' that there are some overwritings and corrections abruptly done in the column of 'উপস্থাপিত স্বাক্ষীদের বর্ণনা' and মন্তব্য/ফলাফল' by the '*Upazilla Jachai-Bachai Committee*' raising questions as to the fairness and legality of such report.

After scrutiny of records it appears from Annexure-'M' that during pendency of the Rule, another decision dated 30.01.2021 was taken by '*Jachai-Bachai Committee*', Upazila -Taltali, District-Borguna, which followed the amended notification dated 07.12.2020 and '*Jachai Bachai Nirdeshika-2020*' and resolving that petitioners' predecessor was a genuine freedom fighter with a remark in the comment box at serial No.2 as 'প্রকৃত মুক্তিযোদ্ধা'।

That understandably, decision dated 30.01.2021 was taken by following the amended notification dated 07.12.2020 and new '*Jachai Bachai Nirdeshika-2020*' and thereafter, on 30.01.2021 the '*Jachai-Bachai Committee*' rightly reviewed the earlier decision dated 25.04.2017.

So, the decision dated 30.01.2021 taken by the '*Jachai-Bachai Committee*', Upazila -Taltali, District- Borguna, will override the earlier decision dated 25.04.2017 (impugned decision here) and so the earlier decision passed on 25.04.2017 be reversed and as such impugned order dated 25.04.2017 will have no legal effect.

That admittedly the petitioners' predecessor (Late Md. Abdul Latif) was enjoying the status of freedom fighter since 2005 after exhausting and fulfilling the conditions required by law including the enlistment in the gazette notification and subsequently petitioners' predecessor was receiving the state honorarium since 2013 and after the demise of Md. Abdul Latif (petitioners' predecessor), his legal heirs (the substituted petitioners here) have acquired their lawful rights to enjoy the benefits in accordance with law and that eliminating the name of the petitioners' predecessor from the list of the freedom fighter on the basis of alleged report violates their legal rights.

In view of the facts and circumstances as stated above and the reasons of the findings given, we find no cogent reason as to why the impugned decision dated 25.04.2017 (Annexure-K) issued under the signature of respondent No.5 eliminating the name of petitioners' predecessor (Late freedom fighter Md. Abdul Latif).

Therefore, we are of the view that the impugned decision dated 25.04.2017 was issued mechanically by ignoring the correct proposition of law and hence making the decision of eliminating the name of petitioners' predecessor (Md. Abdul Latif) from the list of freedom fighters in Serial No. 364 of the Gazette, in the name of the scrutiny of genuine freedom fighters unlawful, malafide and is of no legal effect and subject to be declared to have been passed without having any lawful authority.

In the result, the Rule is made absolute. The impugned decision dated 25.04.2017 is hereby declared to have been passed without lawful authority and is of no legal effect.

In the light of facts and circumstances as discussed above, the respondents are directed to pay the monthly allowance of the petitioners (substituted legal heirs of Late Md. Abdul Latif) in accordance with law from the date of receiving a copy of the judgment.

Communicate this judgment to the respondents concern at once.

There is no order as to costs.

Sheikh Abdul Awal, J:

I agree.