

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.328 OF 2023**

Smt. Priyanka Das and anr.
Vs.
The State of Tripura and ors.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Ms. S. Debbarman, Advocate.
For the Respondent(s) : Mr. D. Sharma, Addl. G.A.

30.05.2023

Order

This present writ petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:-

*"i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the respondents to sanction & release post death benefits such as gratuity, leave encashment benefits, GPFs and pension in favour of the petitioner No.2, Which accrued to her on the death of her father, LT. Sankar Deb, as per her share.
ii) Make the rules absolute.
iii) Call for the records.
iv) Pass any further order/orders as this Hon'ble High Court considers fit and proper."*

Heard Ms. S. Debbarman, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G .A. appearing for the respondents.

Since the respondents have not considered the case of the petitioners, the petitioners issued a legal notice dated 26.12.2022 to the respondents and the same is still pending. Hence the

petitioner is before this Court by way of filing this present writ petition.

Mr. D. Sharma, learned Addl. G.A. appearing for the respondents submits before this Court that this present writ petition is not maintainable as there are disputed questions of fact with regard to deciding the legally wedded wife and children of the deceased husband since there are 2(two) wives and children born to the deceased husband. Further, the surviving mother of the deceased is also one of the beneficiaries and thus the entire benefits cannot be parted to the petitioners and they need to approach the competent Civil Court for obtaining an appropriate declaration in their favour and then make a suitable application.

This Court finds force in the argument of learned Addl. G.A. and in view of the settled legal principle that an appropriate legal death certificate needs to be obtained for making their claim before the respondents, this Court is of the opinion that the present writ petition is devoid of merit and the same needs to be dismissed. Accordingly the same is dismissed. However, since the petitioners are seeking benefits and having consideration for the claim, the respondents ought to have replied to the legal notice dated 26.12.2022 issued by the petitioners. Since the same has not been considered and replied to, this Court directs the respondents to consider the legal notice issued on behalf of the petitioners in

accordance with law within a period of 2(two) months from the date of receipt of the copy of this Order.

As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

