

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_
WP(C) No.517 of 2022

Smti. Arpana Marak & 3 Others.

.....Petitioners

V_E_R_S_U_S

The State of Tripura & 5 Others.

.....Respondents

For Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate. Mr. K. Debnath, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, G.A. Mr. S. Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_O_R_D_E_R_

02/05/2023

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. K. Debnath, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharjee, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the respondents.

This petition has been filed under Article-226 of the Constitution of India directing the respondents to forthwith issue the Survival Certificate of late Snehangshu Marak, thereby recording the names of his survivors and thereupon to release the pensionary benefits accordingly under the head of family pension along with arrears thereof in their favour.

The petitioners have prayed for the following reliefs:

- i. Issue rule, calling upon the respondents and each one of them, to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records appertaining to this writ petition, lying with them for rendering substantive and conscionable justice to the petitioners.
- ii. Issue rule, calling upon the official respondents and each one of them, to show cause as to why a writ of mandamus and/or in the nature thereof, shall not be issued, for mandating/directing the official respondents to forthwith issue survival certificate of late Snehangshu Marak, thereby recording the names of his survivors, namely, Smti. Arpana Marak, Sri

Nemson Marak (son of the deceased), Sri Mithun Marak (son of the deceased), Smti. Neina Marak (daughter of the deceased), i.e. the petitioners herein, Smt. Jenny Marak & Smti. Jenevi Ranglong Marak (daughters of the deceased), and thereupon to release the pensionary benefits, under the head of Family Pension, along with arrears thereof, in their favour.

iii. Call for the records appertaining to this petition.

iv. After hearing the parties, be pleased to make the rule absolute in terms of i & ii above.”

Initially, the petitioner No.1 got married to one Snehangshu Marak (now deceased) on 18.01.1987, in pursuance whereof, the Sub-Divisional Marriage Recorder, Government of Tripura issued a certificate of marriage dated 31.12.2009. On 28.11.2021, the husband of the petitioner No.1, namely, Snehangshu Marak expired. During his lifetime, i.e. during the subsistence of the 1st marriage, in utter violation of law, the husband of the petitioner No.1 maintained an illicit relationship with Smti. Ringreiner Halam, the respondent No.4 herein. Out of the wedlock of the petitioner No.1 and her husband they had given birth to two sons and one daughter. Whereas, out of the illicit and illegal relationship of the husband of the petitioner No.1 and the private respondent Nos.4, 2 daughters, namely, Smti. Jenny Marak and Smti. Jenevi Ranglong Marak were born.

Posterior to the death of the said Snehangshu Marak for the purpose of availing the pensionary benefits, it became necessary for the petitioner No.1 and the other legal heirs to obtain Survival Certificate. Due to non-cooperation of the respondent No.4, namely, Smti. Ringreiner Halam, the petitioner No.1 could not obtain the Birth Certificates and the relevant documents of the two minor daughters. On 01.02.2022, the petitioner No.1 submitted a letter to the Sub-divisional Magistrate, Udaipur, Gomati Tripura, inter alia praying for making arrangements for availing the relevant documents of the said two daughters, necessary for the purpose of issuance of the Survival Certificate of late Snehangshu Marak. In pursuance thereof, on 23.02.2022, the Tehsildar, Garjee, Udaipur, Gomati Tripura issued an Enquiry Report to the Sub-Divisional Magistrate, Udaipur, Gomati Tripura.

Meanwhile, on 31.03.2022, the son, namely, Sri Mithun Marak i.e. the petitioner No.3 submitted a letter to the Block Development Officer, Panisagar R.D. Block, North Tripura, inter alia praying for getting copies of the Birth Certificate of the two minor daughters of the private respondent No.4 in order to get the pensionary benefits of his father.

Hence, the present petition has been filed by the petitioner before this Court for redress.

It is seen from the records that the petitioners have made request before the respondents seeking Survival Certificate and also there is a counter claim by the un-official respondent with regard to the claim of pensionary benefits of the deceased person. Having observed thus, without expressing any opinion on merits, the present writ petition stands disposed directing the concerned respondent to enquire into the matter i.e. regarding Survival Certificate in accordance with law after giving adequate opportunity to all the concerned parties. This exercise shall be completed within a period of three months from the date of receipt of the copy of this order.

Accordingly, the present petition stands disposed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh