

GAHC010003442021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/217/2021

GOBIND AGARWAL
S/O- BAJRANG AGARWAL, R/O- VILL- FAKIRAGRAM, P.O. FAKIRAGRAM,
P.S. FAKIRAGRAM, DIST.- KOKRAJHAR (BTAD), ASSAM

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY THE COMM. AND SECY. GOVT. OF ASSAM, HOME DEPTT., DISPUR,
GHY-6

2:THE BOROLAND TERRITORIAL AUTONOMOUS COUNCIL
REP. BY THE PRINCIPAL SECY.
BTAD
KOKRAJHAR
ASSAM

3:THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

4:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
STATE HOME DEPTT.
DISPUR
GHY-6

5:THE DIRECTOR GENERAL OF POLICE
ASSAM
B.K.KAKATY ROAD
ULUBARI
GHY-7

6:THE ADDL. DIRECTOR GENERAL OF POLICE (ADMN)
ASSAM
B.K.KAKOTY ROAD
ULUBARI
GHY-7

7:THE ADDL. DIRECTOR GENERAL OF POLICE
BTAD
KOKRAJHAR
ASSAM

8:THE ADDL. INSPECTOR GENERAL OF POLICE (ADMN)
ASSAM
B.K.KAKOTY ROAD
ULUBARI
GHY-7

9:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
ASSAM

10:THE DISTRICT MAGISTRATE-CUM-DY. COMMISSIONER
KOKRAJHAR
(LAW AND ORDER) DIST.- KOKRAJHAR
ASSAM

11:THE MOTOR TRANSPORT OFFICER (M.T.O)
KOKRAJHAR
ASSA

Advocate for the Petitioner : MR. J I BORBHUIYA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 19-06-2023

Heard Mr. L. Mohan, learned counsel for the petitioner and Mr. M. Chetia, learned Junior Government Advocate, Assam for the respondent nos. 1, 3, 4, 5, 6, 8, 9, 10 & 11.

2. It is the case of the petitioner that the petitioner's 5 [five] vehicles bearing registration nos. AS-01/AX-8487 [Tata Sumo (Gold)], AS-14/E-00054 [Tata Sumo (Gold)], AS-01/AG-0558 [Tata Sumo (Victa)], AS-16/E-8953 [Tata Sumo (Gold)] and AS-01/AJ-9802 [Bolero], came to be hired by the respondent no. 9 on grounds like maintenance of law and order situation, etc. during the period from 2014 to 2020, as indicated in Annexure-1 to the writ petition. The petitioner has claimed that though the vehicles were released on different dates, as indicated in Annexure-1 to the writ petition, the hiring charges in respect of the vehicles have not been released in total, though released partly, till the time of institution of the writ petition though the bills claiming hiring charges were submitted before the respondent no. 9 duly. According to the petitioner, the total amount payable to him in respect of hiring charges is Rs. 48,96,707/-. Aggrieved by non-release of the hiring charges amounting to Rs. 48,96,707/-, the petitioner has preferred this writ petition seeking a direction to the respondent authorities to release such amount.

3. A counter affidavit has been filed on behalf of the respondent no. 9 on 07.09.2021. In paragraph no. 4 of the said counter affidavit, the respondent no. 9 has averred as under :-

4. That with regard the statements made in paragraphs 3 to 7 of the writ petition, the deponent begs to state that the competent Authority had hired the Vehicles from the petitioner for the use of office of the answering Respondent for the interest of public service and maintaining the law and order situation. The deponent has no authority to sanction the hire charge bills and accordingly proposals of all the hire charges bills have been forwarded to the Assam Police Head Quarter in different occasions vide letter under Memo Nos. KJR/E/Hire charge/2018/2846 dated 27.09.2018, KJR/E/Hire charge/2018-19/5941 dated 20.12.2018, KJR/E/Hire charge/2018-19/6057 dated 24.12.2018, KJR/E/Hire charge/2018-19/6058 dated 24.12.2018, KIR/E/2018-19/6059 dated 24.12.2018,

KJR/E/Hire charge/2019-20/6343 dated 24.07.2019, KJR/E/Hire charge/2019-20/7930 dated 25.10.2019, KJR/E/Hire charge/2019-20/7933 dated 25.10.2019, KJR/E/Hire charge 2019-20/7930 dated 28.10.2019, KJR/E/Hire.charge/2019-20/408 dated 02.02.2021, for according sanction and release of fund for total admissible amount of Rs. 48,96,707.00. the deponent craves the leave of this Hon'ble Court to refer to and rely upon the letters vide. Nos, KJR/E/Hire charge/2018/2846 dated 27.09.2018, KJR/E/Hire charge/2018-19/5941 dated 20.12.2018, KJR/E/Hire charge/2018-19/6057 dated 24.12.2018, KJR/E/Hire charge/2018-19/6058 dated 24.12.2018, KJR/E/2018-19/6059 dated 24.12.2018, KJR/E/Hire charge/2019-20/6343 dated 24.07.2019, KJR/E/Hire charge/2019-20/7930 dated 25.10.2019, KJR/E/Hire charge/2019-20/7933 dated 25.10.2019, KJR/E/Hire charge/2019-20/7930 dated 28.10.2019, KJR/E/Hire charge/2019-20/408 dated 02.02.2021 at the time hearing of this case.

It is further averred that the matter of payment of hiring charges bill of the vehicle owner has already been taken up with the hiring authorities for according sanction and release of admissible fund.

4. In the backdrop of the above fact situation, Mr. Chetia, learned Junior Government Advocate, Assam has submitted that this writ petition can be disposed of at this stage with a direction to the respondent authorities, more particularly, the respondent no. 5 to examine and verify the proposals forwarded by the respondent no. 9, as indicated in paragraph 4 [supra], on different dates and if after such examination and verification, the petitioner is found entitled to the amount of Rs. 48,96,707/-, as claimed by him, or any other amount, the same may be directed to be disbursed in terms of the directions made in the decision of a full bench of this Court in Writ Appeal No. 484/2005 [Tamsher Ali and Ors. vs. State of Assam and Ors.], and similar other 194 writ petitions, reported in 2008 [4] GLT 1 [FB].

5. Mr. Mohan, learned counsel for the petitioner has agreed to the submission

made by Mr. Chetia, learned Junior Government Advocate, Assam.

6. In view of the broad consensus arrived at by the parties in the afore-stated manner, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 5 to examine and verify the proposals forwarded by the respondent no. 9, as indicated in paragraph 4 of his counter affidavit, and if after such examination and verification, the petitioner is found entitled to an amount as indicated by the petitioner in Annexure-1 to the writ petition or any other amount, the respondent no. 5 shall take necessary steps for disbursal of such entitled amount to the petitioner in terms of the decision in Tamsher Ali [supra]. It is accordingly ordered. The petitioner shall furnish a certified copy of this order along with a copy of the writ petition, W.P.[C] 217/2021 with annexures and a copy of counter affidavit filed by the respondent no. 9 at the office of the respondent no. 5. It is observed that the exercise of examining and verifying the proposals forwarded by the respondent no. 9 for sanction shall be completed within a period of 3 [three] months from the date of receipt of a copy of this order.

7. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant