

GAHC010016292021



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

Case No. : WP(C)/672/2021

SANGITA BORO
W/O LATE RANJAN BORO
VILLAGE SOLAMUKH
PO PANERI, PS BOKO, DIST KAMRUP R ASSAM, 781123

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE (R AND R) AND DISASTER MANAGEMENT
DEPARTMENT, DISPUR GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI 781006

3:THE DEPUTY COMMISSIONER

KAMRUP
AMINGAON
ASSAM
781031

4:THE SUPERINTENDENT OF POLICE
KAMRUP
AMINGAON
ASSAM
781031

5:THE CIRCLE OFFICER

BOKO REVENUE CIRCLE
PO AND PS BOKO
DIST KAMRUP
ASSAM
781123

6:THE OFFICER IN CHARGE
BOKO POLICE STATION
BOKO
KAMRUP ASSAM
78112

Advocate for the Petitioner : MR. A MOBARAQUE

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

19.07.2023

Heard Mr. A. Mobaraque, learned counsel for the petitioner; Ms. N. Bordoloi, learned Standing Counsel, Revenue & Disaster Management Department for the respondent no. 1; Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 3 – 6.

2. The petitioner has instituted this writ petition under Article 226 of the Constitution of India seeking inter alia a direction to the State respondent authorities to disburse an amount of Rs. 2,00,000/- in terms of a Notification dated 15.11.2014 of the Revenue & Disaster Management Department, Government of Assam claiming that she is one of the Next of Kins [NoKs] of a deceased person viz. Late Ranjan Boro. It is claimed that Late Ranjan Boro died in a road traffic accident occurred at a public place.

3. The petitioner has claimed to be the wife of the said deceased person, Late Ranjan Boro.

4. The case projected by the petitioner, in brief, is that at around 05-00 p.m. on 07.07.2018, Ranjan Boro was proceeding from his residence towards Boko Town as a pillion rider on a motorcycle bearing registration no. AS-01/DN-7456. When the motorcycle, with one Rupam Boro as the rider, reached a place near Bhurkibari on National Highway no. 17, an auto-rickshaw bearing registration no. AS-25/CC-1376 coming from the same direction allegedly in a rash and negligent manner, knocked the motorcycle. As a result of the accident, Ranjan Boro sustained grievous injuries on his person and he was immediately admitted at Ayursundra Super Specialty Hospital, Guwahati. During the course of his medical treatment, Ranjan Boro expired at the said hospital on 09.07.2018. After the death of Ranjan Boro, the Post-Mortem Examination [PME] on his dead body was performed at the Gauhati Medical College & Hospital [GMCH], Guwahati on 10.07.2018. As per the PME Report, the death was due to comma as a result of head injury sustained, as described in the PME Report. It was opined that the injuries were ante-mortem in nature and were caused by blunt force impact. In connection with the said accident, a General Diary Entry vide G.D. Entry no. 260 dated 07.07.2018 was registered at Boko Police Station. Later on, a crime case, Boko Police Station Case no. 641/2018 for the offences under Sections 279/388/304A, IPC had been registered. During the course of investigation, the Officer In-Charge, Boko Police Station issued a Police Report dated 24.01.2020 [Annexure-3] in connection with Boko Police Station Case no. 641/2018 stating *inter-alia* that after completion of the investigation, Final Form had been submitted. The Registrar Birth & Death, Maternity & Child Welfare Hospital, Dhirenpara, Guwahati-25 had issued a Death Certificate on 27.02.2019 recording the factum of death of Ranjan Boro on 09.07.2018. It further recorded that the petitioner is the wife of Late Ranjan Boro.

4.1. The petitioner has averred that seeking ex-gratia grant in terms of the Notification dated 15.11.2014, the petitioner had approached the Deputy Commissioner, Kamrup, Amingaon. When no response was received from the office of the Deputy Commissioner, Kamrup, Amingaon the petitioner stated to have approached this Court by this writ petition.

5. The Superintendent of Police, Kamrup, Amingaon has filed an affidavit-in-opposition

stating that after completion of investigation in connection with Boko Police Station Case no. 641/2018, a charge sheet vide Charge Sheet no. 380 dated 30.09.2018 had been submitted against an accused person.

6. On perusal of the said Notification dated 15.11.2014, it is noticed that the same has, inter-alia, made a provision for ex-gratia grant to the Next of Kin [NoK] of person killed due to accident in public place or in public carrier [other than killed by extremist/terrorist, miscreants and due to firing of security forces] and such relief has been quantified at Rs. 2,00,000/- for the deceased person in respect of the accident which had occurred in the State on or after the date of the notification i.e. 15.11.2014. It has been brought to the notice of the Court by the learned counsel for the parties that due to certain ambiguity with regard to the term, 'public place', another Notification bearing no. R.R.94/2003/288 dated 15.10.2014 came to be issued by the Revenue & Disaster Management Department, Government of Assam for removal of the ambiguity. As per the Notification dated 15.10.2014 [supra], the word 'public place' will mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public or any other place, which is open to the public view or to which public has access.

7. Ms. Bordoloi and Ms. Barman are not in disagreement to the fact that in this writ petition, the petitioner has claimed that the alleged road traffic accident in question had occurred subsequent to 15.11.2014. It is submitted by Ms. Bordoloi and Ms. Barman, in unison, that before placing the matter before the Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department, the jurisdictional Deputy Commissioner shall have to examine the matter in order to verify the veracity of the claim of the petitioner, with regard to, *firstly*, the alleged road traffic accident which stated to have occurred at a public place resulting in the death of the person, mentioned above; *secondly*, the claim of the petitioner as one of the Next of Kins [NoKs] of the person who stated to have died as a result of the said alleged road traffic accident, and *thirdly*, the claim regarding occurrence of the accident at a public place. They have further submitted that the petitioner has not submitted any Next of Kin [NoK] Certificate to process the claim of the petitioner.

8. This Court has already recognized the rationale behind the policy formulated by the State and notified vide the notification dated 15.11.2014, in its order dated 04.05.2019 passed in the writ petition, W.P.[C] no. 2100/2019 [**Gunalata Das vs. the State of Assam**] and similar other writ petitions, by observing that the dominant purpose of the policy is to provide some succour immediately to the Next of Kin [NoK] of the deceased to tide over the initial shock and hardship before lodging claim for just compensation under the law. Thus, a claim for the relief of ex-gratia grant under the policy calls for an expeditious consideration.

9. The respondents were put to notice on 10.02.2021. Despite elapse of more than 2 [two] years, the respondents, save and except the respondent no. 4, have not filed any counter affidavit.

10. Taking an overall view of the submissions advanced by the learned counsel for the parties and the rationale behind the policy so formulated, this Court is of the considered view that instead of keeping the writ petition pending for any further period, waiting for further responses from the respondents, the same can be disposed of as the claim for relief in the form of ex-gratia to the petitioner in this writ petition as one of the Next of Kin [NoK] of a person killed in a road traffic accident, the facts of which are briefly narrated above, are to be verified and considered first at the end of the jurisdictional Deputy Commissioner. Thus, after such verification and consideration of all relevant aspects including the three aspects, as highlighted by the learned counsel for the State respondents, by calling for reports from the other authorities, the proposal can thereafter, be forwarded by the jurisdictional Deputy Commissioner along with his report, to the Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department for release of ex-gratia amount in terms of the notification dated 15.11.2014, if the petitioner and/or any other Next of Kins [NoKs] is found entitled to receive the same. The Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department can thereafter, sanction the quantum of relief for disbursement to the petitioner and/or any other Next of Kins [NoKs] found entitled, in terms of the Notification dated 15.11.2014. It is accordingly ordered. The entire exercise in respect of the case involved in this writ petition should be completed by the

above respondent authorities within a period of 3 [three] months from the date of receipt of a certified copy of this order by the office of Deputy Commissioner, Kamrup, Amingaon along with a copy of the writ petition with the annexures, from the petitioner. The petitioner is also directed to submit Next of Kin [NoK] Certificate to the jurisdictional Deputy Commissioner in the course of such enquiry. The petitioner and/or the other Next of Kin [NoK] of the deceased person is/are directed to extend her/his assistance and cooperation during the process of such verification and shall furnish the relevant information/documents, available at her/his disposal, to facilitate the process of verification expeditiously, as and when asked for.

11. With the observations made and directions given above, the writ petition stands disposed of. No cost.

JUDGE

Comparing Assistant