

GAHC010016682019



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

Case No. : WP(C)/641/2019

MANIK ALI
S/O AKMAT ALI
R/O VILL- MOURIPAM P.O. MANDIA
P.S. BAGHBOR, DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
POWER DEPARTMENT,
DISPUR, GUWAHATI -06.

2:THE ASSAM STATE ELECTRICITY BOARD

TO BE REP. BY ITS CHAIRMAN
HEAD OFFICE
PALTAN BAZAR
BIJULI BHAWAN

GUWAHATI -01.

3:THE CHIEF GENERAL MANAGER (HRA)

APDCL

BIJULEE BHAWAN

GUWAHATI -01.

4:THE CHIEF ELECTRICAL INSPECTOR

GOVT. OF ASSAM

MAHABHAIRAB BUILDING
CHANDMARI
SOUTH SARANIA
GUWAHATI-03.

5:THE ASSISTANT GENERAL MANAGER

BARPETA ELECTRICAL CIRCLE

APDCL

BARPETA
ASSAM
PIN -781301.

6:THE SUB-DIVISIONAL ENGINEER

BARPETA ELECTRICAL SUB-DIVISION
APDCL
BARPETA
ASSAM
PIN - 781301.

7:THE ASSISTANT EXECUTIVE ENGINEER

BARPETA ELECTRICITY SUB-DIVISION
DIST. BARPETA
ASSAM
PIN- 781301

For the Petitioner(s) : Mr. R. Ali, Advocate.

For the Respondent(s) : Mr. D. Bhattacharjee, Advocate.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

09.10.2023

The instant writ petition has been filed by the father of a 14 year old boy Late Rashidul Islam claiming compensation of an amount of Rs. 10 lakhs from the Respondent/APDCL. From a perusal of the writ petition, it reveals that on 15.04.2018 at about 5.10 PM, the son of the Petitioner got electrocuted at Mouripam near 1470 No. Primary School under Baghbor Police Station due to electric short circuit through bamboo and the son of the Petitioner died on spot. Under such circumstances, an FIR was lodged before the Mandia Police Outpost and the same was later on registered as Mandia U.D. Case No. 02/2018. The Petitioner thereupon submitted a representation on 29.06.2018 before the Assistant General Manager, ASEB, Barpeta seeking appropriate compensation for the death of the son. However, as the said amount was not paid, the Petitioner had approached this Court under Article 226 of the Constitution claiming an amount of Rs. 10 lakhs as compensation.

2. It reveals from records that on 01.02.2019, this Court had issued notice. Subsequent thereto, on 15.7.2019, this Court had directed that the report of the Respondent No. 4 be placed.

3. The records further reveals that the Respondent No. 4 had filed an affidavit on 05.04.2021. To the said affidavit, the Electrical Accident Report

dated 26.03.2019 was enclosed. From a perusal of the said enquiry report, it reveals that the cause of the accident was that the son of the Petitioner was playing with one of the bamboos and he tried to swing the bamboo. Few of those bamboos were inclined to the other side of the road and the upper end of some of those bamboos were hovering above the 11 KV overhead line. On account of such activities of the son of the Petitioner, the upper end of the bamboo got in touch with the bare live conductor of the 11 KV overhead line due to undulating motion of the bamboo. The upper end of the bamboo therefore caught fire from the conductor of the 11 KV line and the son of the Petitioner got electric shock through the bamboo which led to the accident and the eventual death of the son of the Petitioner. From a perusal of the said Electrical Accident Report, it reveals that the accident happened on account of the son of the Petitioner.

4. Mr. R. Ali, the learned counsel appearing on behalf of the Petitioner however disputes the findings in the said Electrical Accident Report submitting interalia that the son of the Petitioner was electrocuted on account of electrical short circuit through the bamboo and not due to fault of the son of the Petitioner.

5. Taking into account the Electrical Accident Report as well as the contentions of the learned counsel for the Petitioner that it was actually the fault of the APDCL Authorities, this Court under Article 226 of the Constitution is not in a position to adjudicate such disputed question of facts more so till the Electrical Accident Report is not set aside in accordance with law, the said Electrical Accident Report shall hold the field.

6. Under such circumstances, this Court is not inclined to exercise its

jurisdiction under Article 226 of the Constitution. Be that as it may, the Petitioner herein would be at liberty to challenge the Electrical Accident Report as well as approach the competent Court seeking compensation if so permissible under law.

7. With the above observations and directions, the instant writ petition stands disposed.

JUDGE

Comparing Assistant