

GAHC010032352016



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

Case No. : WP(C)/7436/2016

SAHABUDDIN AHMED and 26 ORS.

S/O- LT. AKBAR ALI, R/O VILL.- SANIADI, HAJO, P.O.- SANIADI, P.S.- HAJO,
DIST.- KAMRUP R, ASSAM.

2: MANIK ALI

S/O- LT. PULUNG ALI

R/O VILL.- SANIADI

P.O.- SANIADI

P.S.- HAJO

DIST.- KAMRUP R

ASSAM.

3: BUBUL ALI

S/O- HAMUDULLAH ALI

R/O VILL.- SANIADI

P.O.- SANIADI

P.S.- HAJO

DIST.- KAMRUP R

ASSAM.

4: JIAUR RAHMAN

S/O- LT. NIJAM ALI

R/O VILL.- ADHIARPARA

P.O.- SANIADI

P.S.- HAJO

DIST.- KAMRUP R

ASSAM.

5: TAHER ALI

S/O- LT. KADAM ALI

R/O- DEHARKURIHA

P.O.- SANIADI

P.S.- HAJO

DIST.- KAMRUP R

ASSAM.

6: MOSTAFA AHMED
S/O- RAHIMSHA ALI
R/O- DOLOITOLA
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

7: IMRAN HUSSAIN
S/O- EUROM ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

8: NURMOHAMMOD
S/O- LT. JAHAR HAQUE
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

9: NURJAHAN BEGUM
W/O- MOSTAFA ALI
R/O- DEHARKURIHA
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

10: SAFIKUR RAHMAN
S/O- LT. MAZAMI ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

11: RAJIB KUMAR
S/O- SADAR KUMAR
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R

ASSAM.

12: SAFIULLAH
S/O- LT. HASAN ALI
R/O- BIHDIA
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

13: ABDUL KARIM
S/O- LT. ASAN ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

14: TAFIKUL HUSSAIN
S/O- TAIJUDDIN AHMED
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

15: MUKUT ALI
S/O- LT. HAIDAR ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

16: ATIKUR RAHMAN
S/O- JALALUDDIN AHMED
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

17: SHAHIDUL ALI
S/O- SALIM ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R

ASSAM.

18: ATAUR RAHMAN
S/O- LT. EUSUF ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

19: ALAUDDIN AHMED
S/O- LT. SAMSUR ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

20: RAHMAN ALI
S/O- LT. RAJAT ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

21: OWAJ ALI
S/O- LT. CHAND MOHAMMAD ALI
R/O- DOLOITOLA
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

22: HIRA BEGUM
W/O- FARUK HUSSAIN
R/O- SANIADI PANIYARPAR
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

23: GIASUDDIN AHMED
S/O- CHAFAT ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R

ASSAM.

24: SMASUL HAQUE
S/O- NAJIRUDDIN AHMED
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

25: AFZALUR RAHMAN
S/O- YEAR ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

26: IMRAN HUSSAIN
S/O- NURUDIN AHMED
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

27: KOUCHER ULLAH
W/O- LT. TAHER ALI
R/O VILL.- SANIADI
P.O.- SANIADI
P.S.- HAJO
DIST.- KAMRUP R
ASSAM

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPTT., DISPUR, GHY- 6.

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GHY- 37.

3:THE DY. COMMISSIONER

KAMRUP R
ASSAM
AMINGAON
DIST.- KAMRUP R
ASSAM.

4:THE PROJECTOR DIRECTOR
DRDA
KAMRUP R
ASSAM.

5:THE BLOCK DEVELOPMENT OFFICER
HAJO DEVELOPMENT BLOCK
HAJO
KAMRUP R
ASSAM.

6:THE EXECUTIVE OFFICER
ANCHALIK PANCHAYAT
HAJO
KAMRUP R
ASSAM.

7:THE SECRETARY
96 NO. SANIADI GAON PANCHAYAT
HAJO
P.O. and P.S.- HAJO
DIST.- KAMRUP R
ASSAM.

8:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE B DEPTT.
DISPUR
GUWAHATI

For the Petitioners : Mr. J. I. Barbhuiya, Advocate.

For the Respondents : Mr. R. Borpujari, SC, Finance Deptt., Assam.
Ms. N. Bora, SC, P & RD Deptt., Assam.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Judgment & Order

08.09.2023

The instant writ petition has been filed by the petitioners seeking *inter-alia* a direction to provide the remaining benefit of Rs.10,000/- each to each of the petitioners in respect to the CM's Special Scheme Financial Assistant for construction of 1,26,000 dwelling houses for homeless people.

2. From a perusal of the materials on record it reveals that the Secretary to the Government of Assam, Panchayat & Rural Development Department had issued a notification on 30.10.2015 whereby an amount of Rs.25,000/- each was to be disbursed to 800 numbers of beneficiaries from General category and 200 numbers for minority community for the year 2015-16 in respect to a scheme i.e. CM's Special Scheme Financial Assistance for construction of 1,26,000 dwelling houses for homeless people. The petitioners herein have already received Rs.15,000/- out of the said amount of Rs.25,000/-. The petitioners herein are aggrieved on account of the non-releasing/disbursement of the remaining amount of Rs.10,000/- to each of the petitioners.

3. It reveals from the records that this Court vide order dated 09.12.2016 had issued notice making it returnable by five weeks. The records clearly show that the respondent No.4 i.e. the Chief Executive Officer working in the office of the Commissioner, Panchayat & Rural Development Department had filed an affidavit-in-opposition. In the said affidavit-in-opposition it was mentioned that the Government of Assam in the Finance Department vide order dated 07.10.2016 had directed to deposit back the unutilized fund lying with the DRDA as well as the Blocks under the CMs Special Scheme for the year 2015-16

immediately into the Treasury Head of the Account (0070-60-8000) by 31st December, 2016. In terms of the said order of the Finance Department, all the BDO had deposited the unutilized fund into the Treasury office. It was further mentioned that the special package was taken up for the financial year 2015-16 and the aforesaid scheme was not a continuous scheme and the period of implementation of the scheme was already over in the year 2016 itself. Further to that, it is mentioned that the schemes have already been closed by the department and those were replaced by the new scheme viz., PMA-Y Scheme.

4. This Court further finds it relevant to take note of the affidavit-in-opposition filed by the Finance Department of the Government of Assam through the Deputy Secretary to the Government of Assam, Finance (Budget) Department. In the said affidavit filed by the Finance Department, it was mentioned that the Administrative Departments were authorized to withdraw the entire fund kept in the Revenue Deposit and deposit the same in the State exchequer under appropriate/relevant heads within 14.08.2015 positively and the concerned Administrative Department would be at liberty to move Finance (Budget) Department to make supplementary demand provision for an equivalent amount, strictly as per need, once the amount kept in the Revenue Deposit is surrendered to the State exchequer which was issued vide OM No.bb.191/2013/55 dated 10.08.2015. It was further mentioned that the Administrative Departments were requested to submit necessary proposal for incorporating in the budget estimate for 2016-17 for the amount refunded of all unspent amount released in 2015-16 from Revenue/Civil deposit to the State exchequer which was issued vide letter No.BB.191/2013/68 dated 01.07.2016. Further to that, it was mentioned that in spite of the said instructions in some

departments substantial amount related to State plan schemes were still lying in the account of the DDOs/Societies. Therefore, all Administrative Departments were again requested to deposit all the amounts unutilized and drawn under State Plan schemes of 2015-16 and utilized till 31.03.2016 into the State exchequer immediately, which was issued vide W.T. Message dated 07.10.2016.

5. This Court has also heard the learned counsel for the parties.

6. Mr. J. I. Barbhuiya, learned counsel appearing on behalf of the petitioners had further submitted that similar issues also arose for consideration before a Coordinate Bench of this Court in the case of **Rahim Uddin Laskar and 41 others vs. State of Assam & others** [WP(C)5563/2016] wherein by the order dated 26.04.2019, the Coordinate Bench of this Court had held that there is no denial to the fact that the petitioners therein were amongst the selected beneficiaries of the scheme in question and it was only due to certain technical reasons that the matter of release/disbursement of the amount to the petitioners were delayed. The Coordinate Bench further opined that since the petitioners are amongst the selected beneficiaries denying them the benefit would amount to discrimination vis-à-vis other beneficiaries as technical reasons in the form of discrepancies in the bank account should not come in the way of disbursement of the amount which is for public purpose. Accordingly, the Coordinate Bench of this Court while allowing the said writ petition directed the Finance Department to make available the amount in question which was refunded by the parent department as unutilized funds. The parent department i.e. the P & RD Department was further directed to take steps to release the amount in question to the petitioners therein after proper identification. The entire exercise was directed to be completed within a period of three months

from the date of the said order.

7. This Court upon perusal of the said judgment is also of the opinion that the petitioners in the instant writ proceeding are similarly situated. There is also no denial to the fact that the petitioners herein were not selected beneficiaries. Under such circumstances, in the opinion of this Court also, the petitioners would be entitled to the remaining amount of Rs.10,000/- each in respect to the scheme in question.

8. This Court further finds it relevant to take note of the submission of Mr. R. Borpujari, the learned counsel appearing on behalf of the Finance Department, who submits that for an effective compliance to the order so proposed to be passed herein a direction should also be issued to the P & RD Department so that they may place the relevant materials including the names of the beneficiaries which would enable the Finance Department to pass necessary sanctions for disbursement of the amount to the petitioners through the P & RD Department. This Court finds that the said submission to be a fair submission taking into account the complications which would otherwise be involved in view of the fact that the scheme had already been closed.

9. Under such circumstances, this Court, therefore, disposes of the instant writ petition with a direction to the Commissioner and Secretary to the Government of Assam, P & RD Department, to forward the details along with documents showing that the petitioners have already been disbursed the amount of Rs.15,000/- each. Upon receipt of the said details from the Commissioner and Secretary to the Government of Assam, P & RD Department, the Finance Department of the Government of Assam and more particularly, the Commissioner & Secretary to the Government of Assam, Finance

Department shall take necessary steps so that the necessary sanctions are issued which would in turn enable the Commissioner and Secretary to the Government of Assam, P & RD Department to disburse the amount of Rs.10,000/- each to the petitioners. The aforesaid exercise be carried out and completed within a period of three months from the date of receipt of a certified copy of this order.

10. The petitioners are directed to serve certified copies of this order upon the Commissioner and Secretary to the Government of Assam, Finance Department as well as the Commissioner and Secretary to the Government of Assam, Panchayat and Rural Development Department respectively for effective compliance.

JUDGE

Comparing Assistant