

GAHC010071722021



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

Case No. : WP(C)/1420/2022

SMTI. SURBALA NAMASHUDRA
W/O LATE KALINDRA NAMASHUDRA
R/O VILL- PANIKHAITI
NEAR HOME GUARD TRAINING CENTER BUS STOPPAGE
P.O.-PANIKHAITI
P.S.-PRAGJYOTISHPUR
DIST- KAMRUP(M)
ASSAM
PIN-781026

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-06

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REPRESENTED BY ITS MEMBER/SECRETARY BEHIND GAUHATI HIGH
COURT
NEW BUILDING
LATASIL
GUWAHATI
DIST-KAMRUP (M)
ASSAM
PIN-781001
3:THE CHAIRMAN
DISTRICT LEGAL SERVICES AUTHORITY
KAMRUP(M)
AT GUWAHATI
P.O. AND P.S.-PANBAZAR

DIST-KAMRUP (M)
ASSAM
PIN-781001
4:THE DISTRICT LEGAL SERVICES AUTHORITY
KAMRUP(M)
AT GUWAHATI
REPRESENTED BY ITS MEMBER/SECRETARY
P.O. AND P.S.-PANBAZAR
DIST-KAMRUP(M)
ASSAM
PIN-781001
5:THE OFFICER-IN-CHARGE
PRAGJYOTISHPUR POLICE STATION
P.O.-CHANDRAPUR
DIST- KAMRUP(M)
ASSAM
PIN-781354

For the Petitioner(s)	: Mr. M. Hussain, Advocate : Mr. A. K. Mollah, Advocate : Mr. S. I. Akand, Advocate
For the Respondent(s)	: Mr. N. Goswami, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 04.08.2023

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in granting the compensation to the Petitioner as per the Assam Victim Compensation Scheme, 2012 (hereinafter referred to as "the Scheme of 2012").
2. The facts involved in the instant proceedings is that the son of the Petitioner namely Sailendra Namasudra @ Mahananda Namasudra died as a victim of motor vehicular accident which took place on 05.05.2018 while he was

proceeding on foot in the Narengi Panikhaiti Road under Pragjyotispur Police Station. The post-mortem was conducted by the doctors of the G.M.C.H. wherein the cause of death was mentioned as "Death was due to hemorrhage and shock as a result of injuries sustained over the abdomen and all injuries were ante-mortem and caused by blunt force". On the basis of the said accident, a case was registered vide Pragjyotispur P.S. Case No.100/2018 under Section 302 of the Indian Penal Code. Subsequent thereto, the final report was submitted in the said case stating inter alia that the son of the Petitioner expired as a result of motor vehicular accident hit by an unknown vehicle and the case was established as a case falling under Section 279/304(A) of the Indian Penal Code.

3. The Petitioner thereupon submitted an application before the Member/Secretary, Assam State Legal Services Authority with a prayer to grant financial assistance to her under the Scheme of 2012. As no compensation was paid to the Petitioner, the Petitioner has approached this Court by filing the instant writ petition.

4. It reveals from the records that pursuant to the notice so issued by this Court, an affidavit was filed by the Respondent No.4 through the Secretary, District Legal Services Authority, Kamrup (M), Guwahati. In the said affidavit, at paragraph No.6 it was mentioned that vide an order dated 08.04.2022 in Victim Compensation Case No.10/2021, a compensation amount of Rs.5,00,000/- (Five Lakhs) has already been awarded to be paid to the Petitioner being the dependent of the deceased and the same has also been approved by the Chairman, District Legal Services Authority, Kamrup (M), Guwahati vide order dated 23.05.2022. However, on account of non-receipt of the funds, the said

payment could not be disbursed to the Petitioner. The order dated 08.04.2022 has been enclosed as Annexure-A to the said affidavit-in-opposition filed by the Respondent No.4.

5. The above facts therefore clearly show that the Petitioner's entitlement to the amount of Rs.5,00,000/- (Five Lakhs) as per the Scheme of 2012 have been verified and ascertained. It is only on account of non-release of the funds by the Home and Political Department of the Government of Assam, the payment could not be released to the Petitioner.

6. Taking into account the above, this Court therefore disposes of the instant writ petition with a direction to the Commissioner and Secretary to the Government of Assam, Home and Political Department to release the funds to the Respondent No.4 i.e. the District Legal Services Authority, Kamrup (M) within 45 days from the date a certified copy of this order is served upon the Commissioner and Secretary to the Government of Assam, Home and Political Department.

7. This Court further directs the Respondent Nos. 3 and 4 that upon receipt of the said compensation amount of Rs.5,00,000/- (Five Lakhs) from the Home and Political Department, Government of Assam, release the same to the Petitioner forthwith and not later than 15 days.

8. The Petitioner is further directed to serve a certified copy of the instant order upon the Respondent No.4 as well as also provide the bank details wherein the said amount can be remitted to the Petitioner.

9. The Commissioner and Secretary to the Government of Assam, Home and Political Department as well as the District Legal Services Authority, Kamrup (M)

are directed to submit compliance report before the Registry of this Court within 3 (three) months from the date a certified copy is served upon them.

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

JUDGE

Comparing Assistant