

GAHC010071722021



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

Case No. : WP(C)/2620/2022

ANOWARA BIBI AND ANR
W/O- LATE OACHAMAN ALI @ OSMAN ALI
VILL - BARBUKIA
P.O- ATHGHARIA

P.S- NALBARI
DIST- NALBARI
ASSAM
PIN-781347

2: RAJAUL ALI
S/O- LATE OACHAMAN ALI @ OSMAN ALI
VILL - BARBUKIA
P.O- ATHGHARIA

P.S- NALBARI
DIST- NALBARI
ASSAM
PIN-781347

AS THE PETITIONER NO.2 IS A MINOR
THEREFORE HE IS REP. BY THE PETITIONER NO.1
AS NATURAL GUARDIAN
VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY

REPRESENTED BY THE MEMBER SECRETARY

BEHIND GAUHATI HIGH COURT
(NEW BUILDING)
LATASHIL
GUWAHATI
DIST- KAMRUP (M)
ASSAM
PIN- 781001
3:THE CHAIRMAN
DISTRICT LEGAL SERVICES AUTHORITY
NALBARI

P.O AND P.S- NALBARI
DIST NALBARI
ASSAM
PIN-781335
4:THE DISTRICT LEGAL SERVICES AUTHORITY

NALBARI
REP. BY ITS MEMBER SECRETARY

P.O AND P.S- NALBARI
DIST NALBARI
ASSAM
PIN-781335
5:THE OFFICER IN CHARGE
P.O AND DIST.- NALBARI
ASSAM
PIN-781335

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 challenging the inaction on the part

of the Respondent Authorities to grant compensation to the Petitioners in terms with the Assam Victim Compensation Scheme, 2012 (hereinafter referred to as "the Scheme of 2012") as well as the notifications issued on 18.10.2012 and 01.02.2019.

2. The Petitioner No.1 herein claims to be the wife of one Oachaman Ali @ Osman Ali and the Petitioner No.2 is the minor son of Late Oachaman Ali. As stated in the writ petition that Late Oachaman Ali was murdered on 04.08.2021 as alleged in the writ petition. In that respect, a case was registered being Nalbari P.S. Case No.432/2021 under Section 325/354/506/34 of the Indian Penal Code.

3. The Petitioner No.1 thereupon filed an application on 20.08.2021 before the Member/Secretary of the Assam State Legal Services Authority, Guwahati stating inter alia the incident which led to the death of her husband and the fact that the entire family has been suffering financially as well as mentally and thereby seeking financial assistance for the purpose of rehabilitation, survival for the victim's family members. Upon the said application so filed, the Member/Secretary of the Assam State Legal Services Authority forwarded the said application to the Secretary, District Legal Services Authority, Nalbari to take necessary steps for providing legal aid assistance in the matter. However as nothing was done thereafter, the Petitioner has therefore approached this Court under Article 226 of the Constitution seeking a direction upon the Respondent Authorities to grant compensation to the Petitioners as per the Scheme of 2012.

4. This Court had duly perused the materials on record and also taken note of the respective submissions of the learned counsels. This Court have also duly taken note of the Scheme of 2012 and more particular to Clause 4 and 5 of the said Scheme which stipulates eligibility for compensation as well as the

procedure for grant of compensation. On the basis of the facts as mentioned in the writ petition, it appears that the Petitioners would come within the ambit of Clause 4.1 of the Scheme of 2012 subject to verification as to whether the Petitioners are actually the wife and children of Late Oachaman Ali. This Court also finds it relevant to observe that the detail procedure has been set out in Clause No.5. This Court further finds it relevant to take note of the notification dated 01.02.2019 wherein the minimum compensation to be paid is Rs.5,00,000/- (Five Lakhs) on account of death. Under such circumstances, this Court therefore disposes of the instant writ petition directing the Respondent No.4 i.e. the District Legal Services Authority, Nalbari to make verification as to whether the Petitioners are the dependents of Late Oachaman Ali who expired on 04.08.2021. Upon making such verification if it is found that the Petitioners are the dependents of Late Oachaman Ali, then in terms with Clause 5 of the Scheme of 2012 as well as the notification dated 01.02.2019 award compensation to the Petitioners. The said exercise be completed within a period of 2 (two) months from the date a certified copy of this order is served upon the Respondent No.4. The Respondent No.1 also be communicated with the award forthwith by the Respondent No.4.

5. This Court also finds it relevant taking into account various documents placed on record wherein it shows that on account of non-releasing of funds, the compensation under the Scheme of 2012 had not been disbursed to others. Be that as it may, this Court cannot be unmindful of the fact that upon the death of the husband, the Petitioners have been put into a penurious state and as such, it is the duty in terms with the Scheme of 2012 as well as the notification so issued by the Government of Assam to release the compensation at the earliest.

6. Accordingly, this Court therefore directs the Commissioner and Secretary to the Government of Assam, Home and Political Department to release the funds in the circumstance an award is passed in favour of the Petitioners by the Respondent No.4 within a period of 2 (two) months from the date the award is communicated to the Commissioner and Secretary to the Government of Assam, Home and Political Department by the Respondent No.4. The Respondent No.4 is directed to submit the compliance report to the directions so passed hereinabove within 2 (two) months from the date a certified copy of the instant order is served upon the Respondent No.4.

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

JUDGE

Comparing Assistant