

GAHC010068622021



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

Case No. : WP(C)/2629/2021

MOSTAB ALI SHEIKH
S/O LATE RUSTOM ALI
VILLAGE GUTIPARA PART III
PO GUTIPARA, PS BILASIPARA, DIST DHUBRI, ASSAM 783349

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI 06

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REPRESENTED BY ITS MEMBER SECRETARY
GUWAHATI 01

3:THE DISTRICT LEGAL SERVICES AUTHORITY

DHUBRI
ASSAM
REPRESENTED BY ITS MEMBER SECRETARY. PO
PS AND DIST DHUBRIA
ASSAM

4:THE CHAIRMAN

DISTRICT LEGAL SERVICES AUTHORITY
DHUBRI
ASSAM 78330

For the Petitioner (s)

: Mr. M. Hussain. Advocate.

For the Respondent (s) : Mr. B.J. Talukdar, Advocate.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER**

31.08.2023

The instant writ petition has been filed challenging the order dated 22.01.2020 passed by the Legal Services Authority, Dhubri whereby the Petitioner was awarded an amount of Rs. 1 lakh by the Secretary, District Level Services Authority, Dhubri.

2. The facts involved in the instant case is that the daughter of the Petitioner, one Sahidul Nessa (since deceased) was killed on 24.03.2003. Thereupon an FIR was filed by one Malbor Hussain on 25.03.2003. On the basis of the said FIR, a Bagribari Police Station Case No. 31/2003 was registered under Sections 147/376/511/302 of the Indian Penal Code.

3. Pursuant to the investigation carried out, chargesheet was submitted against the husband of the Petitioner's daughter, one Mr. Sattar Ali. Pursuant to the chargesheet being filed, a Sessions Case No. 26/2008 was registered under Section 302 of the Indian Penal Code. The learned Sessions Court vide a judgment dated 18.07.2018 convicted the charged accused Mr. Sattar Ali under Section 302 of the Indian Penal Code and was sentenced to undergo rigorous life imprisonment and to pay a fine of Rs.15,000/- and in default 6 month rigorous imprisonment. Subsequent thereto, the father of the Petitioner filed an application before the Secretary, District Legal Services Authority, Dhubri on 08.04.2019 seeking

victim compensation in terms with the Assam Victim Compensation Scheme, 2012.

4. A perusal of the said application, which has been enclosed as Annexure-5 to the writ petition shows that an amount of Rs. 5 lakhs was sought as compensation in terms with the Notification dated 18.12.2012 and 01.02.2019 read with the provisions of Section 357A of the Code of Criminal Procedure, 1973. Pursuant to the said application, the Secretary, District Legal Services Authority, Dhubri passed an order on 22.01.2020 whereby an amount of Rs. 1 lakh was awarded in favour of the Petitioner which was directed to be paid subject to availability of the fund. The order dated 22.01.2020 has been assailed in the instant writ proceedings.

5. This Court have duly perused the Notification dated 18.10.2012 as well as the Notification dated 01.02.2019. The said Notification dated 18.10.2012 do not prescribe any limitation for filing an application save and except a case falling within the ambit of Section 357A (4) of the Code of Criminal Procedure, 1973. Further to that, Clause 4 and Clause 5 of the said Notification dated 18.10.2012 stipulates the eligibility for compensation as well as the procedure for grant of compensation. The Schedule to the Notification dated 18.10.2012 stipulates that the maximum limit of compensation for rehabilitation in case of death is Rs. 2 lakhs. Interesting to note that the said Schedule do not stipulate a minimum limit of compensation. However, vide the subsequent Notification dated 01.02.2019, the maximum as well as the minimum limit of compensation has been mentioned at Serial No. 9 of the said Notification in case of

death. The minimum as well as the maximum limit of compensation has been stipulated at Rs. 5 lakhs. However, surprisingly the Secretary, District Level Legal Services Authority, Dhubri vide the impugned order dated 22.01.2020 only granted Rs. 1 lakh for reasons best known.

6. Under such circumstances, this Court interferes with the order dated 22.01.2020 and directs the District Level Legal Services Authority, Dhubri to pass an award within 2 months from the date a certified copy of the instant order is served upon the Secretary, District Level Legal Services Authority, Dhubri in terms with the Notification dated 01.02.2019.

7. Taking into account that the maximum and minimum amount of compensation is Rs. 5 lakhs, nothing further remains to be adjudicated in the instant writ petition and the District Level Legal Services Authority Dhubri is only required to pass the award awarding an amount of Rs.5,00,000/- to the Petitioner. Upon passing of the award by the District Level Legal Services Authority, Dhubri, this Court further directs the Secretary, District Level Legal Services Authority, Dhubri to forward the same to the Commissioner and Secretary, Home and Political Department of the Government of Assam forthwith. The Commissioner and Secretary, Home and Political Department of the Government of Assam shall upon receipt of the award within 2 months therefrom disburse the amount to the District Level Services Authority, Dhubri so that the said amount be disbursed to the Petitioner within 15 days thereafter.

8. This Court further directs that the Petitioner to serve a certified copy of the instant order upon the Secretary, District Level Services Authority,

Dhubri as well as also to the Commissioner and Secretary, Home and Political Department of the Government of Assam for necessary compliance.

9. With the above and observations and directions the instant petition stands disposed of.

JUDGE

Comparing Assistant