

GAHC010076762018



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

Case No. : WP(C)/2427/2018

AACH KHATUN

S/O- LATE FAKIR CHAN @ FAKIR CHAN ALI, VILL- BOYZERALGA PT-II,
P.O- BODHIHANA, P.S- FAKIRGANJ, DIST- DHUBRI, ASSAM, PIN- 783349

VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY THE MIN OF FINANCE DEPTT, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY GOVT OF ASSAM
POWER AND ELECTRICITY
DISPUR
GHY- 06

3:THE CHAIRMAN
APDCL (ASSAM POWER DISTRIBUTION CO. LTD)
BIJULEE BHAWAN
PALTAN BAZAR
GHY- 01

4:THE CHIEF ELECTRICAL INSPECTOR
ASSAM
DISPUR
GHY- 06

5:THE DEPUTY COMMISSIONER
DHUBRI
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 21-07-2023

Heard Mr. M.U. Mondal, learned counsel for the petitioner; Mr. D.K. Sharma, learned Additional Senior Government Advocate, Assam for the respondent nos. 2, 4 & 5; and Mr. B. Choudhury, learned Standing Counsel, APDCL for the respondent no. 3.

2. The writ petition has been instituted by the petitioner claiming that her husband, Late Fakirchan @ Fakirchan Ali died on 07.09.2017 due to electrocution. Alleging negligence on the part of the respondent authorities of the licensee i.e. APDCL, the writ petition has been instituted under Article 226 of the Constitution of India seeking adequate compensation.

3. Mr. Mondal, learned counsel for the petitioner has submitted that by a Notification dated 08.03.2019, the Assam Electricity Regulatory Commission has framed a set of regulations : Assam Electricity Regulatory Commission [Compensation to Victims of Electrical Accidents] Regulations, 2018 [‘2018 Regulations’, for short], in exercise of the powers conferred by Section 181[1] r/w Section 57[2] and Section 57[3] of the Electricity Act, 2003 and all other enabling powers and after previous publication. Mr. Mondal has further referred to Regulation 15 of the 2018 Regulations. Regulation 15 states as under :

15. Claim for Compensation:

[i] The dependents of a person who died in an electrical accident or a person affected by the injury caused to himself or an animal or damage to property may make a claim for compensation in the form [Form B] set out in Annexure-II of these Regulations either in person or by post to the Managing Director/ Chief Executive of the licensee /generating company including CPP concerned who shall cause such claim to be enquired into and determined in accordance with these Regulations;

[ii] In case, the claim is made to other offices of the licensee/generating company, it shall be forwarded immediately on receipt to the office of the Managing Director for further processing.

[iii] Alternatively, the Licensee/Generating Company/CPP shall determine the quantum of compensation on its own in case an electrical accident comes to its notice, and pay compensation to the persons entitled for the same in accordance with these Regulations, even if no claim is made.

[iv] All claims shall be finally settled within a period of 120 days from the date of occurrence of the electrical accident.

4. Mr. Mondal has, thus, submitted that the petitioner wants to avail the remedy provided under Clause 15 of the 2018 Regulations by making an application in Form B thereof. Mr. Choudhury, learned Standing Counsel, APDCL has submitted, in response, that if such an application is filed in proper form, the same would be considered in accordance with the provisions contained in 2018 Regulation and all other laws governing the matter of compensation. It is further submitted by Mr. Choudhury that the respondent APDCL authorities would also take into consideration the Electrical Accident Enquiry Report submitted by the Electrical Inspector under Section 161 of the Electricity Act, 2003. Mr. Mondal, learned counsel for the petitioner has submitted that such an application will be filed within 15 days from today and the writ petition can be closed.

5. In view of the above submissions made by the learned counsel for the

parties, the writ petition is closed, with the observation that in the event such an application is filed by the petitioner, the respondent authorities would consider the claim of the petitioner for compensation strictly in accordance with the provisions contained in 2018 Regulations and other laws for the time being in force. With the above observation, this order disposes of the writ petition. It is further made clear that this Court has not observed anything on merits as regards the claim of the petitioner. No cost.

JUDGE

Comparing Assistant