

GAHC010077402018



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

Case No. : WP(C)/2524/2018

CHAYARAM RABHA
S/O LT. BANGAL RABHA
PERMANENT RESIDENT OF VILL- BORJURI
P.O. BORDAMAL, P.S. AGIA,
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, DEPT. OF
REVENUE AND DISASTER MANAGEMENT BRANCH, DISPUR, GUWAHATI-
06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL (B) DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI -06.

4:THE DEPUTY COMMISIONER
GOALPARA
DIST. GOALPARA
ASSAM- PIN - 783101.

5:TREASURY OFFICER
GOALPARA
DIST. GOALPARA
P.O. GOALPARA
ASSAM

PIN - 783101.

6:THE SUPERINTENDENT OF POLICE
GOALPARA
DISTRICT- GOALPARA
ASSAM
P.O.- GOALPARA
PIN-78310

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 26-05-2023

Heard Mr. H. Das, learned counsel for the petitioner; Mr. A. Bhattacharjee, learned Standing Counsel, Revenue Department for the respondent no. 1; Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 2, 4 & 6; and Mr. A. Baruah, learned counsel appearing on behalf of Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent nos. 3 & 5.

2. The petitioner has preferred this writ petition under Article 226 of the Constitution of India seeking mainly two reliefs viz. [1] setting aside and quashing of a Police Report dated 20.04.2013; and [2] release of ex-gratia amount of Rs. 3,00,000/- in terms of the policy framed by the State Government in case of death of a person in extremist violence.

3. On perusal of the Police Report dated 20.04.2013 [Annexure-IX to the writ petition], it is found that the same was submitted in connection with Goalpara Police Station Case no. 535/2010 registered under Sections 120B/307, Indian Penal Code [IPC] r/w Section 25[1A]/27, Arms Act, 1959 r/w Section 5 of the Explosive Substances Act, 1908, r/w Sections 10 & 13 of the Unlawful Activities [Prevention] Act, 1967. As per the said Police Report dated 20.04.2013, submitted by the Sub-Divisional Police Officer, Bilasipara, the petitioner has involved in an incident occurred on 16.08.2010. The Police Report mentioned that acting on

an information about the movement of some United Liberation Front of Assam [ULFA] Cadres in the areas of Dosrapara Matia, the CRPF and the Assam Police led a joint operation and laid Naka and ambush in the Village – Dosrapara Matia. At about 05-00 hours, two motorcycle borne persons approached towards the team consisting of the CRPF and the Assam Police personnel and seeing the team, the two motorcycle borne persons tried to flee through Dosrapara Matia Forest. When they were sought to be stopped by the team of the CRPF and the police personnel, they opened fire at the team of CRPF and the police personnel and the team of CRPF in return fired back in self-defence. In the encounter, both the two motorcycle borne persons were killed at the spot. According to the Police Report, the two killed persons viz. [1] Francis Rabha and [2] Pathak Rabha, were ULFA extremists belonging to 109 Battalion of ULFA, a banned Organization under the Unlawful Activities [Prevention] Act, 1967.

4. From the counter affidavit of the respondent no. 6, it has emerged that the Police Report dated 20.04.2013 was only an interim report as after completion of investigation of the case, Goalpara Police Station Case no. 535/2010, the case was returned in a Final Report vide Final Report no. 284/2021 dated 13.09.2021. According to the Final Report, both the slain persons were found involved in an incident of IED Blast on 30.07.2010 at Bhalukdubi Forest under Goalpara Police Station against the CRPF and the incident, 6 nos. of CRPF personnel of 12th Battalion were killed and 40 others sustained grievous injuries in the blast. In connection with that the said incident of IED Blast, a crime case being Goalpara Case no. 511/2010 was registered and after completion of investigation of the case, a Charge-Sheet under Section 173[2], CrPC stood submitted vide Charge-Sheet no. 60/2016 dated 15.03.2016.

5. In the above fact situation, the petitioner cannot lay a challenge on an interim order unless challenge is laid also to the Final Report being Final Report no. 284/2021 dated 13.09.2021. As the Final Report no. 284/2021 is in existence, the relief sought for ex-gratia is not found entitled in respect of death of the son of the petitioner. In such view of the matter, this writ petition is found devoid of merit and accordingly, the same is not entertained. It is, however, open to the petitioner to seek appropriate remedy before appropriate forum, if

available under the law.

JUDGE

Comparing Assistant