

GAHC010079862021



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

Case No. : WP(C)/4029/2021

SUREN BRAMAH
S/O LT. NABIN BRAHMA, VILL-BAGANPARA (KHANTALBARI), P.S.-
BARBARI, DIST-BAKSA, ASSAM, PIN-781344

VERSUS

THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM AND 5
ORS
REVENUE (R AND R) AND D.M DEPARTMENT, DISPUR, GHY-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GHY-06

3:THE DEPUTY COMMISSIONER
BAKSA
MUSHALPUR
ASSAM
PIN-781343

4:THE SUPERINTENDENT OF POLICE
BAKSA
MUSHALPUR
ASSAM
PIN-781343

5:THE OFFICER-IN-CHARGE
BARBARI POLICE STATION
BARBARI
BAKSA
ASSAM

PIN-781344

6:THE CIRCLE OFFICER
BAGANPARA REVENUE CIRCLE
BAGANPARA
BAKSA
ASSAM
PIN-78134

For the petitioner(s) : Mr. A. Islam, Advocate.
For the respondent(s) : Mr. R. Borpujari, SC, Revenue.
Ms. S. Barua, Advocate

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

O R D E R

28.08.2023

1. The instant writ petition has been filed by the petitioner seeking a Writ in the nature of Mandamus thereby directing the respondents to trace out the brother of the petitioner, who was kidnapped and killed by the extremists on 03.11.2002 as well as for a Writ in the nature of Mandamus directing the respondents to pay just and adequate compensation to the petitioner in the event of loss of life and/or injury or lost that might have happened to the victim under the Notification dated 15.11.2014.
2. The petitioner however is not represented. Mr. R. Borpujari, learned counsel appearing on behalf of the Revenue Department submits that he has no instructions. However, Ms. S. Barua, learned counsel appearing on behalf of the respondent Police Department submits that she has received a parawise comments from the Superintendent of Police, Baksa, Mushalpur.
3. From a perusal of the parawise comments it reveals that on 04.11.2002

the petitioner lodged an FIR at Baganpara Police Outpost wherein he stated that his elder brother one Ghanasham Brahma left his house on the night of 03.11.2002 at about 7:00 p.m and he did not return back to his house. In the next morning on 04.11.2002 some villagers saw the dead body of Ghanasham Brahma in the paddy field. On receipt of the said FIR, Barbari P.S. Case No.81/2002 was registered under Section 302 IPC. During the investigation, Inquest over the dead body of Late Ghanasham Brahma found lying in the paddy field with many injuries was done by the Executive Magistrate and sent to the SMK Civil Hospital, Nalbari for Post Mortem Examination. Many of the witnesses were examined but no clue about the miscreants were found. It was suspected as per the report so submitted that the NDFB extremists group may have been involved in the crime. The case was ended in the FR vide FR 47/2003 dated 31.07.2003. Under such circumstances, the first prayer so made in the writ petition cannot be permitted taking into account that the petitioner's brother's body had already been traced out.

4. Now coming to the next relief so sought for as regards the claim for compensation in terms with the Notification dated 15.11.2014. This Court finds it relevant to take note of that from a perusal of the said Notification dated 15.11.2014, it has been mentioned that the compensation so payable as per the said notification would be payable only in respect to incidents which have taken place within the State of Assam and applicable to accidents on and from the date of issuance of the said Notification dated 15.11.2014. Taking into account that the incident had taken place in the year 2002 the question of the petitioner getting any compensation in terms with the said Notification dated 15.11.2014 does not arise.

5. Be that as it may, this Court cannot be unmindful of the fact that the crime

had been committed. Under such circumstances, this Court taking into account the provisions of Section 357A of the Code of Criminal Procedure, 1973 and reading the same along with the Assam Victim Compensation Scheme, 2012 grants the liberty to the petitioner to approach the Chairman of the District Legal Services Authority, Baksa in terms with the Notification dated 18.10.2012 which is the scheme namely the Assam Victim Compensation Scheme, 2012. This Court further taking into account the provisions of Clause 4 & 5 of the said Scheme directs the Secretary of the District Legal Services Authority, Baksa to take appropriate steps upon such application being filed and pass appropriate awards within the period of 2 (two) months from such application is filed. It is further directed that upon such award passed, the Secretary of the District Legal Services Authority, Baksa shall forward the same to the Commissioner & Secretary, Government of Assam, Home and Political Department. The Commissioner & Secretary, Government of Assam, Home and Political Department upon receipt of the said award so passed shall within two months therefrom sanction the said amount and thereupon disburse the same to the District Legal Services Authority, Baksa for onward disbursal to the petitioner.

6. Accordingly, the instant writ petition stands disposed off with the above observations and directions.

JUDGE

Comparing Assistant