

GAHC010080082018



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

Case No. : WP(C)/2481/2018

NISHAN ALI
S/O LT. ASMAT ALI
VILL- KAZAIKATA PT.I,
P.O. BILASIPARA
P.S. BILASIPARA
DIST. DHUBRI, ASSAM
PIN - 783348

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI -06.

2: THE ASSAM POWER AND DISTRIBUTION COMPANY LTD.
REP. BY THE CHAIRMAN ELECTRICITY BOARD

BIJULI BHAWAN

PALTAN BAZAR
GUWAHATI -8.

3: THE CHIEF ENGINEER (DISTRIBUTION)

BIJULI BHAWAN

PALTAN BAZAR
GUWAHATI-8.

4: THE SUPERINTENDENT ENGINEER

APDCL

DHUBRI DISTRICT
DHUBRI
ASSAM
PIN - 783301.

5:THE SUB-DIVISIONAL ENGINEER

BILASIPARA ELECTRICITY SUB-DIVISION
APDCL
DIST. DHBURI
ASSAM
PIN - 783348.

6:THE CHIEF ELECTRICAL INSPECTOR

GOVT.OF ASSAM
MAHAVAIRAB BUILDING CHANDMARI
SOUTH SARANIA
GUWAHATI-3.

7:MD. SIRAJUL HOQUE
S/O FAZAL HOQUE
VILL.- KAZAIKATA PT. I
P.O.- BILASIPARA
DIST.- DHUBRI
ASSAM
PIN-783348.

8:MD. ALTAB HUSSAIN
S/O- LT. KUKSED ALI
VILL.- KAZAIKATA PT. I
P.O.- BILASIPARA
DIST.- DHUBRI
ASSAM
PIN-783348

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 16-10-2023

Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel, APDCL for the respondent Nos. 2,3,4 & 5.

By this writ petition the petitioner seeks for a direction for compensation to the respondent authorities in APDCL on the ground that the wife of the petitioner Asaton Bibi died on 01.07.2017 allegedly due to electrocution for fault/ negligence attributable to the respondent APDCL authorities and sought to invoke the public law remedy.

The respondent No. 6 had caused an enquiry as regards the death of the victim on 01.07.2017 and submitted Electrical Accident Enquiry Reports on 05.10.2018 with a finding that the victim got electrical shock while attempting to switch on her fan in her own house, in contravention of sub-regulation (4) of regulation 13 of the Central Electricity Authority (Measures relating to Safty and Electric Supply) Regulations, 2010 on the part of the consumer who is responsible to maintain the installation under his or her control in safe condition.

An FIR was also registered on the death of the wife of the petitioner as a case of unnatural death which has been registered as Bilasipara P.S. U.D. Case No. 10/2017 on 01.07.2017 on the allegation that the victim died due to snapping of an electric wire. The investigation of the said case has resulted in a final report.

Sub-Section (2) of Section 162 of the Electricity Act, 2003 provides that an appeal shall lie from the decision of a Chief Electrical Inspector or an Electrical Inspector to the Appropriate Government. The learned Standing Counsel for APDCL submits that the appeal against the decision of the Chief Electrical Inspector with regard to the incident in question contained in an Electrical Accident Enquiry Report lies before the Commissioner and Secretary to the Government of Assam, Power Department.

Mr. M. Hussain, learned counsel for the petitioner fairly submits that the petitioner has filed statutory appeal before the Commissioner and Secretary to the Government of Assam, Power Department which is still pending.

Having considered the submissions of the learned counsel for the parties as well as on perusal of the relevant provisions, this Court is of the view that since the petitioner has already availed the statutory remedy by filing an appeal against the decision/ Electrical Accident Enquiry Report, which is stated to be pending, keeping the present writ petition pending would not serve any purpose. Accordingly, this writ petition stands closed. However, liberty is granted to the petitioner to approach this Court again as may be permissible under the law.

JUDGE

Comparing Assistant