

GAHC010091822022



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

Case No. : WP(C)/3191/2022

KRISHNA CHAUHAN
S/O- RAMAYAN CHAUHAN, R/O- KHARIKHANA, P.O. KHARIKHANA, P.S.
LANKA, DIST. HOJAI, ASSAM, PIN- 782446.

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-7.

4:THE SUPERINTENDENT OF POLICE
HOJAI
SANKARDEV NAGAR
DIST. HOJAI
ASSAM

5:MOTOR TRANSPORT OFFICER (MTO)

OFFICE OF THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-7.

6:MOTOR TRANSPORT OFFICER (MTO)
POLICE RESERVE
SANKARDEV NAGAR
DIST. HOJAI
ASSAM
PIN- 782442

Advocate for the Petitioner : MR. A K HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 12.06.2023

Heard Mr. A.K. Hussain, learned counsel for the petitioner, Ms. S. Sarma, learned Govt. advocate appearing for respondent nos. 1, 3, 4, 5 and 6, Ms. S. Chutia, learned counsel appearing on behalf of Mr. P. Nayak, learned standing counsel for respondent no.2.

2. At the outset, the learned Govt. advocate has prayed for some more time to obtain instruction, which is still awaited despite several letters including last letter issued on 19.05.2023.

3. In brief, the case of the petitioner is that he owns vehicle bearing registration no. AS02T4251, which was requisitioned by the respondent no.4. It is claimed that the requisition was illegal because at the relevant time the vehicle was parked at the residence of the petitioner and the vehicle was retained by the respondent no.4 i.e Superintendent of Police, Hojai from 01.08.2017 to 10.04.2022. It is claimed that the petitioner was given a part payment. However, despite making the part payment, an outstanding amount of

Rs.18,47,810/- is still due, which has not been paid despite requests and reminders.

4. In this case, notice of motion was issued by order dated 25.05.2022, but till date, the respondents have not denied their liability and no affidavit-in-opposition has been filed to dispute the claim made in this writ petition. Therefore, the Court is compelled to reject the prayer made by the learned Govt. advocate for some more time and by drawing the doctrine of non-traverse, it is deemed that the respondents have jointly and severally admitted the claim of the petitioner to the extent of Rs.18,47,810/- for part hire charges of the vehicle from 01.08.2017 to 10.04.2022.

5. Accordingly, the Court is inclined to provide that it would be open to the Superintendent of Police, Hojai (respondent no.2) to make an enquiry about genuineness of the claim of the petitioner and the admitted amount shall be released to the petitioner within an outer limit of 3(three) months from the date of receipt of the certified copy of the order by his office.

6. The petitioner shall produce a certified copy of this order along with fresh copy of the bills statement and proof of part payment made to the petitioner and shall provide his e-mail address and/ or mobile number containing messaging application such as WhatsApp, Telegaram, etc.

7. The petitioner is permitted to also serve a certified copy of this order on the Director General of Police (respondent no.3) to bring this order to the notice of the said authority.

8. With the aforesaid observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant