

GAHC010101842021



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

Case No. : WP(C)/3672/2021

JOYMOTI MEDHI
W/O LATE BASANTA MEDHI, R/O 2ND NABUA, P.S. MUKALMUA, PIN
781004, DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR,
GHY 06

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPTT.
DISPUR
GHY 06

3:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

FINANCE DEPTT.
DISPUR
GHY 06

4:THE DEPUTY COMMISSIONER

KAMRUP (M)
PIN 781008

5:THE CIRCLE OFFICER

BELTOLA CIRCLE
PIN 781028

6:THE OFFICER IN CHARGE

DISPUR POLICE STATION
PIN 784006
ASSAM

For the Petitioner(s) : Mr. M. Saikia, Advocate

For the Respondent(s) : Ms. P.R. Mahanta Advocate
: Ms. M. Barman, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 14.08.2023

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities to disburse the amount of Rs.2,00,000/- to the Petitioner in terms with the notification dated 15.11.2014 issued by the Government of Assam, Revenue (Relief and Rehabilitation Branch) and Disaster Management Department, Dispur, Guwahati.
2. The facts of the instant case as could be seen from the records is that the Petitioner is the mother of one Ajit Medhi (since deceased) who died in a road accident on 30.04.2014. The Petitioner thereupon submitted an application on 02.05.2014 for financial assistance to the Deputy Commissioner, Kamrup (M) but nothing was done to redress the grievances of the Petitioner for which another application was filed by the Petitioner on 12.04.2021. As the Respondents

turned a deaf ear towards the request made by the Petitioner for grant of Ex-gratia in terms with the notification dated 15.11.2014, the instant writ petition was filed.

3. It reveals from the records that this Court vide an order dated 12.08.2021 issued notice. Pursuant to the said order passed, an affidavit-in-opposition was filed by the Respondent No.6 i.e. the Officer-in-Charge of Dispur Police Station. In the said affidavit-in-opposition, it was mentioned that on 30.04.2014 at about 6:30 AM while the son of the Petitioner was distributing newspapers with his bicycle at G.S. Road, Christanbasti, a city bus bearing Registration No. AS-01-EC-8131 which was proceeding from Ganeshguri side to Bhangagarh side via G.S. Road knocked down the bicycle of the son of the Petitioner and resultantly the son of the Petitioner sustained grievous injuries and subsequently succumbed to his injuries.

4. Today, when the matter was taken up, Ms. M. Barman, the learned Standing counsel for the Revenue Department has placed an instruction dated 07.02.2022 issued by the Under Secretary to the Government of Assam, Revenue and Disaster Management Department wherein it has been mentioned that the Revenue (Relief and Rehabilitation) and Disaster Management Department had requested the Deputy Commissioner Kamrup (M) to issue sanction/proposal for Ex-gratia grant in respect of the Petitioner if found genuine in the light of the notification dated 24.04.2007 and for taking further necessary action. It was also mentioned that as the Petitioner's son died in the road accident on 30.04.2014 i.e. prior to the notification bearing No.RR.33/2014/66 dated 15.11.2014 came into effect, the Petitioner would be eligible for an Ex-gratia amount of Rs.1,00,000/- as per the notification dated

24.04.2007 and not Rs.2,00,000/- as claimed by the Petitioner.

5. This Court have duly heard the learned counsels for the parties and perused the materials on record. The fact that the Petitioner's son died due to a road accident is not in dispute taking into account the affidavit-in-opposition filed by the Respondent No.6. Under such circumstances, the Petitioner is entitled to Ex-gratia. But the question arises as to whether the Petitioner would be entitled to Ex-gratia in terms with the notification dated 24.04.2007 or in terms with the notification dated 15.11.2014.

6. Upon a perusal of the notification dated 15.11.2014, it reveals that the Ex-gratia would only be payable in respect to incidents which may occur in the State as on or after the date of issuance of the notification. Under such circumstances, the benefit under the notification dated 15.11.2014 would not be applicable taking into account that the incident happened on 30.04.2014. Accordingly, this Court holds that the Petitioner herein would be entitled to an amount of Rs.1,00,000/- in terms with the notification dated 24.04.2007.

7. Taking into account the above and the fact that the Petitioner's son died due to accident on 30.04.2014, this Court directs the Respondent Nos. 2 and 4 to take appropriate steps so that the Petitioner receives the Ex-gratia amount of Rs.1,00,000/- within a period of 45 days from the date of submission of the certified copy of the instant order to the Commissioner and Secretary, Government of Assam, Revenue and Disaster Management Department as well as the Deputy Commissioner, Kamrup (M).

8. The instructions so submitted by Ms. M. Barman, the learned counsel is kept on record and marked with the letter "X".

9. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant