

GAHC010113872021



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

Case No. : WP(C)/3826/2021

LILIMAI GOHAIN
W/O SRI KIRAN GOHAIN, VILL. NO. 1 PURANI MOTAPUNG GAON, P.O.
AND P.S. BAREKURI, DIST. TINSUKIA, ASSAM, PIN 786170

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, REVENUE (R AND R) AND DISASTER MANAGEMENT DEPTT.,
DISPUR, GUWAHATI 781006

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

FINANCE DEPTT.
DISPUR
GUWAHATI 781006

3:THE DEPUTY COMMISSIONER

TINSUKIA
ASSAM
PIN 786125

4:THE SUPERINTENDENT OF POLICE

TINSUKIA
ASSAM
PIN 786125

5:THE CIRCLE OFFICER

TINSUKIA REVENUE CIRCLE

DIST. TINSUKIA
ASSAM
PIN 786171

6:THE OFFICER IN CHARGE

DIGBOI POLICE STATION
TINSUKIA
ASSAM
PIN 78617

For the Petitioner(s) : Mr. A. Bobarakque, Advocate

For the Respondent(s) : Mr. B. J. Talukdar, Addl. Sr. Govt. Advocate
Mr. R. Borpujari, SC, Revenue
Mr. B. Choudhury, SC, Finance

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

04.10.2023

This is an application filed under Article 226 of the Constitution of India whereby the Petitioner is aggrieved for non-payment of the ex-gratia relief to which the petitioner being the mother of the deceased is entitled in terms with the notification dated 15.11.2014.

2. The brief facts of the instant case are that when the son of the petitioner, namely, Barenya Gohain along with his friend were going to Mamorani Gaon from No.1 Purani Motapung Gaon to enjoy Bihu festival through the National Highway No.38, a vehicle bearing No. AS-23/K3772 which was coming from Dibrugarh Moran towards Margherita in a rush and negligent manner knocked down the son of the petitioner and his friend from back side as a result of which both of them sustained injuries to their persons and admitted at Tinsukia

Civil Hospital. In this incident, Barenya Gohain sustained grievous injuries and shifted to Srimanta Sankardev Nursing Home at Dibrugarh but died in the said Nursing Home on 28.04.2016. The post mortem of the deceased person was conducted at AMCH, Dibrugarh on 29.04.2016. In this connection Digboi Police Station registered a case being Digboi P.S. Case No. 72/2016, U/S279/383/304(A)/417 IPC.

3. The learned counsel for the petitioner submitted that the petitioner is entitled to payment of ex-gratia grant as per Clause 3 of the Notification No.RR.33/2014/66 dated 15-11-2014 issued by the Additional Chief Secretary, Revenue and Disaster Management Department, Govt. of Assam. However, it is relevant to take note from the materials available on records, it does not show that the petitioner had approached the concerned Respondent Authorities.

4. Mr. R. Borpujari, the learned Standing Counsel, Revenue Department appearing on behalf of Respondent No.1 submits that in similar matters this Court had issued directions for making payment after making due verification but as the petitioner had not approached the Respondent Authorities, the question of issuance of similar direction does not arise.

5. Taking into consideration the specific stand taken by the petitioner on the basis of the notification dated 15.11.2014 and also the submission of Mr. R. Borpujari, the learned Standing Counsel, Revenue Department to the effect that in respect to similarly situated persons this Court had passed directions for making

payment after making due verification, this Court is therefore of the opinion that it would be in the interest of justice that the instant petition be disposed of with a liberty to the petitioner to approach the Respondent No.3 by submitting a representation detailing the necessary facts as well as enclosing the necessary documents. In the eventuality such representation is submitted as per the liberty hereby given, the Respondent No.3 shall consider the prayer of the petitioner as regards the entitlement in terms with the notification dated 15.11.2014 and after due verification as regards the petitioner's entitlement if it is found that the petitioner is entitled, the required proposal be sent to the respondent No.1 along with the necessary documents. The respondent No.1 after carrying out the necessary verification and if found entitled to the said ex-gratia payment of Rs.2,00,000/-, release the same to the petitioner.

6. It is further directed that the entire exercise be completed within a period of 6 (six) months from the date a certified copy of this order is served upon the respondent No.3 along with the representation as directed and a copy of the Next of Kin Certificate.

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

JUDGE