

GAHC010127652017



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

**Case No. : WP(C)/2443/2017**

MAKADDAS ALI LASKAR  
S/O LATE HAZI USMAN ALI LASKAR, R/O VILL. LAKHIPUR, PO-KALAIN,  
P.S. KATIGORAH, DIST. CACHAR, ASSAM, PIN-788001

VERSUS

THE STATE OF ASSAM and 5 ORS.  
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, DEPTT.  
OF EDUCATION ELEMENTARY, DISPUR, GUWAHATI-6

2:THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM  
DEPTT. OF HEALTH and FAMILY WELFARE  
DISPUR  
GUWAHATI-6

3:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-781019

4:THE DIRECTOR OF HEALTH SERVICES  
ASSAM  
HENDERABARI  
GUWAHATI-781036

5:JOINT DIRECTOR OF HEALTH SERVICES  
CACHAR  
SILCHAR  
PIN-788001

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
CACHAR  
SILCHAR  
PIN-78800

**Advocate for the Petitioner : MR.S SHARMA**

**Advocate for the Respondent : SC, ELEMENTARY EDUCATION**

**BEFORE  
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 10.04.2023**

Heard Mr. R. Dhar, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned standing counsel for the Elementary Education Department, representing respondent nos.1, 3 and 6, and Mr. D. Upamanya, learned standing counsel for the Health Department, representing respondent nos.2, 4 and 5.

2. This appears to be a classic case where the respondent authorities have, by inaction on their part, jointly and severally have not made payment of admissible and sanctioned amount of Rs.1,90,376/- towards medical reimbursement bills.

3. The case of the petitioner is that he had incurred an expenditure of about Rs.3,00,100/- for treatment of his son, who was initially admitted in Silchar Medical College and Hospital, and thereafter, he was shifted for treatment to Gauhati Medical College and Hospital and on the advice of the then Senior Professor of the Gauhati Medical College and Hospital, who was attending the son of the petitioner, the petitioner had to shift his son on emergency to Asian Institute of Gastroenterology, Hyderabad for treatment. The petitioner had submitted his medical bills/vouchers along with a representation dated 31.12.2009 to the Block Elementary Education Officer, Katigorah, praying

for medical reimbursement. As the payment was not made, the petitioner was compelled to approach this Court by filing WP(C) 1907/2012 and this Court by order dated 12.05.2015, disposed of the writ petition with a direction to the petitioner to submit a fresh medical reimbursement bills along with photocopies of medical bills/vouchers to the Director of Elementary Education, Assam (respondent no.3) with a direction to the said authority that he would forward the same to the Commissioner & Secretary to the Govt. of Assam, Department of Education (Elementary) (respondent no.1). The respondent no.1 was also directed to comply with the provisions of Rule 6(c) of the Assam Medical Attendance Rules, 2008.

4. Accordingly, on 20.05.2015, the petitioner has submitted a letter with documents before the Director of Elementary Education, Kahilipara, but as payment was not released, the petitioner had approached this Court again by filing this writ petition under Article 226 of the Constitution of India with a prayer for direction to the respondent authorities to release the admissible amount as per order no.3177 dated 10.03.2016, passed by the Chairman, District M.R.A.B. (Medical Referral Advisory Board)-cum-Joint Director of Health Services, Cachar, Silchar (Annexure-VI).

5. Although notice of motion was issued by order dated 02.08.2017, the respondents have not filed their affidavit-in-opposition yet.

6. The learned standing counsel for the Elementary Education Department has produced a copy of letter no.EAC/HC/M/13/2012/437, dated 18.03.2023 from the Director of Elementary Education, Assam to the Sr. Standing Counsel, Elementary Education Department. The contents of the said letter is quoted below:

“Sir,

*With reference to the subject cited above, I would like to state that Hon'ble High Court issued on (sic.) order dated 28/11/2018 passed in WP(C) No. 2443/2017, whice (sic.) it is directed to the petitioner to "approach the appropriate Referral Medical Board for issuance of Referral Medical certificate upon such approach made by the petitioner the respondents in the Heath (sic.) Department shall cooperate and facilitate issuance of such certificate by the Referral Medical Board if in the facts of the case of the petitioner is otherwise entitled such a certificate.*

*For doing needful the petitioner shall approach his parents (sic.) department for caring (sic.) forward the process and once it is done, the authorities in the parents (sic.) Department i.e. Elementary Education Department shall do the needful forthwith." (copy enclosed).*

*In this regard, in compliance of the court order the petitioner has not produce Referral Medical certificate to this office till now. On the other hand this office issued a letter to*

*DEEO, Cachar for submission of certificate of Referral Medical Board in respect of petitioner vide this office letter No under reference No. 3 (copy enclosed). But no information has yet been received by this office till now.*

*Moreover in this regard a report had already been sent to the Govt. vide this office letter under reference No.2 (copy enclosed).*

*I would therefore request you kindly to apprise the matter before the Hon'ble High Court.”*

7. The Court takes note of the fact that on 24.04.2017, when the petitioner had sworn affidavit appended to this writ petition, he was 62 years of age and by now he would be 69 years of age.

8. Considering the fact that an authority none other than the Joint Director of Health Services, Cachar, Silchar, who is also the Chairman of District M.R.A.B. had passed order bearing no.3177 dated 10.03.2016, whereby he had examined the bill submitted for Rs.2,86,023/- and had deducted non-admissible amount of Rs.74,570/- and had accordingly, assessed the admissible amount of medical reimbursement to an extent of Rs.1,90,376/-, it would be a gross

injustice to make the petitioner run from pillar to post and obtain a fresh certificate from the concerned authorities, i.e. the Referral Medical Board for issuance of a fresh Medical Referral Certificate.

9. The Court is also of the considered opinion that without the Medical Referral Certificate being produced before the Chairman, District M.R.A.B.-cum-Joint Director of Health Services, Cachar, Silchar, the said authority, without existence of appropriate certificate and/or report, would not have found the admissible amount to be Rs.1,90,376/-. Moreover, the Court also finds that in the said order no.3177 dated 10.03.2016, the Chairman, District M.R.A.B.-cum-Joint Director of Health Services, Cachar, Silchar has also made a *nota bene* (N.B. for short) mentioning therein that "*the admissibility report has been issued as per CGHS rate*". Under such circumstances, to make a senior citizen to run from pillar to post to get a fresh Medical Referral Certificate after 11 years of first approaching this Court by filing WP(C) 1907/2012 would be contrary to the direction contained in the order dated 12.05.2015 passed in the said writ petition.

10. Accordingly, as the authorities, who would be issuing the Medical Referral Certificate are under the authority i.e. the Commissioner & Secretary to the Govt. of Assam, Department of Health & Family Welfare (respondent no.2), Director of Health Services, Assam (respondent no.4) and Joint Director of Health Services, Cachar, Silchar (respondent no.5), it would be appropriate to issue a direction upon the said three authorities to either rely on the order no.3177 dated 10.03.2016 (Annexure-VI) issued by the Chairman, District M.R.A.B.-cum-Joint Director of Health Services, Cachar, Silchar (respondent no.5), or to issue direction upon their concerned officials to prepare and send them a fresh Medical Referral Certificate in such form as may be required,

without requiring the petitioner to run from pillar to post for obtaining such certificate.

11. In any event, as there is already a sanction order no.3177 dated 10.03.2016, issued by the Joint Director of Health Services-cum-Chairman, M.R.A.B., Cachar, Silchar, where the admissible amount was assessed at Rs.1,90,376/- (Rupees one lakh ninety thousand three hundred seventy six only), all the respondents, jointly and severally, are directed to ensure that the payment of such admitted amount be released to the petitioner within an outer period of 90 (ninety) days from the date of the order, failing which the amount shall carry 9% interest per annum. The State would have liberty to realize the interest so paid, from any of their officers/staff, who are found responsible for causing delay in making such payment to the petitioner.

12. The learned counsel for the petitioner shall serve a certified copy of this order to the District Elementary Education Officer, Cachar, Silchar and provide the relevant bank account particulars to enable the authorities to transfer the amount to the bank account of the petitioner.

13. With the aforesaid direction, this writ petition stands disposed of.

14. The instruction produced by the learned standing counsel for the Elementary Education Department is retained on record.

**JUDGE**

**Comparing Assistant**