

GAHC010139222019



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

Case No. : WP(C)/4300/2019

NARZINA KHATUN
D/O- BISHU SHEIKH @ BISHA SK, VILL- JHALERALGA PT-I, P.O-
ASHARIKANDI, P.S- GAURIPUR, DIST- DHUBRI, ASSAM, PIN- 783331

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HOME AND POLITICAL DEPTT, DISPUR, GUWAHATI- 06

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REP. BY ITS MEMBER SECRETARY
PANBAZAR
GUWAHATI- 01

3:THE CHAIRMAN
DISTRICT LEGAL SERVICES AUTHORITY
DHUBRI
ASSAM
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN- 783301

4:THE DISTRICT LEGAL SERVICES AUTHORITY
DHUBRI
ASSAM
REP. BY ITS SECRETARY
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN- 78330

For the Petitioner (s)	:Mr. M. Hussain, Advocate.
For the Respondent (s)	: Mr. H. Sarma, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

17.11.2023

The instant writ petition has been filed by the Petitioner challenging the order dated 15.06.2019 issued by the District Legal Level Services Authority, Dhubri whereby an amount of Rs. 10,000/- was directed to be paid under the Assam Victim Compensation Scheme, 2012 to the son of the Petitioner which he would receive when he attains the age of majority i.e. 18 years of age.

2. It is the case of the Petitioner that the Petitioner was a victim in terms with Clause 2 (f) of the Assam Victim Compensation Scheme, 2012 and as such was entitled to a compensation within the range of Rs.3 to 5 lakhs as per the Notification dated 01.02.2019 issued by the Principal Secretary to the Government of Assam, Home & Political Department and the Respondent No. 4 have no jurisdiction to reduce the said amount to Rs. 10,000/- and that too only to be paid to the son of the Petitioner.

3. This Court have also perused the materials on record including the judgment passed by the Court of the Additional Sessions Judge, Dhubri in Sessions Case No. 193/2014 dated 30.06.2018. The said judgment arises out of the Complaint filed by the father of the Petitioner that the Petitioner was raped by the accused on 17.04.2010. On the basis of the said allegation made in the complaint a Gauripur P.S. Case No. 790/2010 was registered under Sections

376/420/109 of the Indian Penal Code. Thereupon a charge-sheet was filed before the Court of the Additional Sessions Judge, Dhubri for trial. The Sessions Court vide its judgment dated 30.06.2018 came to a definitive finding that the Petitioner was a consenting party and as such the accused was not guilty under Section 376 of the Indian Penal Code. Be that as it may, at paragraph No. 34 of the said judgment, it was mentioned that the Petitioner was a distressed woman and she gave birth to a child as a result of the physical relation with the accused and as such she may be given victim compensation as per the provisions of the Assam Victim Compensation Scheme, 2012 by the District Legal Services Authority, Dhubri.

3. It further reveals from the records that the Petitioner thereupon filed a representation before the Member Secretary of the Assam State Legal Services Authority on 28.08.2018 seeking victim compensation of an amount of Rs. 10 lakhs in terms with the Notification dated 18.10.2012 and partial modification of the quantum of the compensation dated 06.01.2017. Pursuant thereto, the Secretary, District Legal Services Authority, Dhubri was of the opinion that as the Petitioner was a consenting party and was well aware of the consequences for which she would not come within the ambit of a victim in terms of the Assam Victim Compensation Scheme, 2012 for which the compensation sought for was rejected. However, the Petitioner's son was accorded a compensation of Rs.10,000/- and the said amount be kept in a fixed deposit till the minor boy attains the age of the majority, i.e. 18 years of age. It is against the order dated 15.06.2019 that the instant writ petition was filed on the ground that the District Legal Services Authority have no jurisdiction or authority to override the directions passed by the Additional Sessions Judge, Dhubri in Sessions Case No. 193/2014 dated 30.06.2018.

4. The learned counsel for the Petitioner submits that in the meantime, the Petitioner had filed an Appeal against the said judgment and order dated 30.06.2018 passed by the Additional Sessions Judge, Dhubri before this Court and the same is registered as Criminal Appeal No. 84/2018 before this Court and is presently pending.

5. This Court have duly perused the materials on record including the judgment dated 30.06.2018. From the said judgment as it stands, it reveals that the findings arrived at is that the Petitioner was a consenting party and also that the Petitioner was not a minor. It also appears from the judgment that the learned Court came to a definitive finding that the accused was not guilty of rape. Under such circumstances, this Court finds no reason to interfere with the order dated 16.06.2019 passed by the Respondent No. 4, more so when this Court finds no error apparent in the impugned order for exercising its jurisdiction for issuance of a Writ in the nature of Certiorari. Be that as it may, this Court however makes it clear that in the circumstances the judgment dated 30.6.2018 passed in Sessions Case No. 193/2014 is modified, set aside or altered, the Petitioner would be at liberty to again approach the Respondent Nos. 3 & 4 seeking compensation under the provisions of the Assam Victim Compensation Scheme, 2012.

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

JUDGE

Comparing Assistant