

GAHC010165012022



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

Case No. : WP(C)/5406/2022

SAMERJAN NESSA
W/O- NUR ISLAM MOLLAH,
VILL.- PIAJBARI PART-II,
P.O.- MAKHRIJHORA,
P.S.- GAURIPUR,
DIST- DHUBRI, ASSAM.
PIN- 783349.

VERSUS

THE UNION OF INDIA AND 7 ORS
MINISTRY OF HOME AFFAIRS (DISASTER MANAGEMENT DIVISION)
REPRESENTED BY ITS SECRETARY, C-WING 3RD FLOOR, NDCC, JAI SINGH
ROAD, NEW DELHI-110000.

2:THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

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

REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPARTMENT
(GENERAL)
DISPUR
GUWAHATI-06.

4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GHY-06.

5:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
DIST.- DHUBRI
ASSAM. PIN- 783301.

6:THE CIRCLE OFFICER
ATHANI REVENUE CIRCLE
P.O.- BAGRIBARI

P.S.- GAURIPUR

DIST.- DHUBRI
ASSAM.
PIN- 783349.

7:THE SUPERINTENDENT OF POLICE
DHUBRI
ASSAM
P.O. AND P.S.- DHUBRI

DIST- DHUBRI
ASSAM.
PIN- 783301.

8:THE OFFICER-IN-CHARGE
GAURIPUR POLICE STATION
P.O.- GAURIPUR

DIST- DHUBRI
ASSAM.
PIN- 783331

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : ASSTT.S.G.I.

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

ORDER

Date : 17.11.2023

Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Mr. S.S. Roy, learned CGC for respondent no.1, Mr. K. Gogoi, learned Addl. Senior Govt. Advocate for the respondent nos. 2 and 5 to 8, Mr. J. Handique, learned standing counsel for the Revenue and Disaster Management Department, respondent no.3 and Mr. B. Gogoi, learned standing counsel for the respondent no.4.

2. The petitioner projects that on 05.07.2020 at about 3.00 PM, the son of the petitioner was playing in the courtyard of his house and drowned in the Tipkai River near the house of the petitioner after flood water surrounded the house of the petitioner. At the time of the death of the son of the petitioner, he was two years old. Later on, the dead body was recovered from the flood water with the help of local people and taken to Civil Hospital, Dhubri where he was declared dead. In this connection, Athani Police Out Post GD No. 73 dated 05.07.2020 was registered. The petitioner relies on the police report dated 15.07.2020 and 17.05.2021 by the Officer-in-charge of Athani Police Out Post regarding the death of the son of the petitioner due to flood. The petitioner projects that as per notification no. RGR.386/2010/51 dated 27.07.2011, the State Disaster Response Fund is permitted to be used for granting minimum relief to the victims of flood and it is projected that the relief amount has been increased to Rs.4,00,000/- vide MHA letter no. 32-7/2014-NDM-I dated 08.04.2015. As the relief has not been granted to the petitioner, the present writ petition has been filed under Article 226 of the Constitution of India.

3. Except for the Superintendent of Police, Dhubri (respondent no.7), no other respondents have filed their affidavit-in-opposition and it appears that in paragraph 5 of the affidavit-in-opposition filed by the respondent no.7, the

Superintendent of Police, Dhubri had admitted the police report dated 15.07.2020 and 17.05.2021 referred hereinbefore. Therefore, as the death of the son of the petitioner is admitted by the respondent no.7, in view of non-filing of affidavit-in-opposition by the other respondents, the Court is inclined to take recourse to the doctrine of non-traverse and presume that the respondents have all admitted the death of the son of the petitioner by drowning as mentioned hereinbefore.

4. Accordingly, the Court finds the petitioner to be entitled to be paid the relief amount of Rs.4,00,000/- in terms of the hereinbefore referred notification dated 27.07.2011 read with hereinbefore referred letter dated 08.04.2015 issued by the Govt. of India, Ministry of Home Affairs. The Court is inclined to direct the Commissioner and Secretary to the Govt. of Assam, Revenue (Relief and Rehabilitation) & Disaster Management Department (General) (respondent no.3), the Commissioner & Secretary to the Govt. of Assam, Finance Department (respondent no.4) and the District Commissioner, Dhubri (respondent no.5) jointly and severally to do the needful so as to disburse the relief amount to the petitioner within the outer period of 4(four) months from today.

5. The petitioner shall produce a certified copy of this order before the District Commissioner, Dhubri (respondent no.5) so as to enable the said authority to send the proposal to the competent authority for release of fund.

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

JUDGE

Comparing Assistant