

GAHC010165392020



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

Case No. : WP(C)/4976/2020

RUKIA BEGUM
W/O.- LATE MINHARUL ISLAM, VILL. NO. 1 THEKERABARI, P.O.
BALABARI, P.S. DHULA, DIST.- DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, MEDICAL AND
HEALTH DEPARTMENT, DISPUR, GUWAHATI- 781006.

2:THE JOINT DIRECTOR
HEALTH SERVICES
DARRANG
MANGALDAI
P.O. AND DIST.- DARRANG
ASSAM
PIN- 784125.

3:THE SUB-DIVISIONAL MEDICAL OFFICER
KHARUPETIA
P.O. KHARUPETIA
DIST.- DARRANG
ASSAM
PIN- 784122.

4:THE SUPERINTENDENT OF MONGALDAI CIVIL HOSPITAL
DIST.- DARRANG
ASSAM
PIN- 784125.

5:AMINUL HOQUE
S/O LATE NUR HUSSAIN.

RESIDENT OF VILLAGE - JUGIIPARA
P.O - BALABARI
P.S - DHULA
DISTRICT - DARRANG
ASSAM

PIN- 784146

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

30.05.2023

Heard Mr. D.A. Kaiyum, learned counsel appearing on behalf of the petitioner. Ms. D. Borah, learned Standing Counsel, Health Department appears on behalf of the respondent nos.1 – 4. None appears for the respondent no.5 on call.

2. The petitioner herein is the wife of Minharul Islam (since deceased). During the lifetime of her husband there were certain matrimonial disputes. Be that as it may, the husband of the petitioner expired on 25.08.2020 leaving behind his mother, the petitioner and his son. The husband of the petitioner during his lifetime was the Assistant Teacher of Galandi L.P. School and upon his death, there is an entitlement of the petitioner to the pension and the pensionary benefits. Accordingly, the petitioner herein had applied for the Death Certificate of her husband so that she could apply before the authorities concerned for the pension and other benefits to which her husband would have

been entitled to. However, the respondent authorities instead of issuing the Death Certificate to the petitioner have issued the Death Certificate to the respondent no.5. Being aggrieved, the petitioner is therefore before this Court.

3. I have heard the learned counsels for the parties.

4. Taking into account that the petitioner is the wife of Late Minharul Islam, the petitioner has an entitlement to get the Death Certificate of her husband. Even assuming that the Death Certificate has been issued to the respondent no.5, this Court finds that no reason as to why a second certificate cannot be issued to the petitioner.

5. At this stage, this Court further finds it relevant to take note of Section 17(1) of the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the "Act of 1969"), which stipulates that any person can obtain an extract from such Register relating to any birth or death, subject to that no extract relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the Register.

6. Sub-Section (2) of Section 17 of the Act of 1969 further stipulates that all extracts given under Section 17(1) shall be certified by the Registrar or any other Officer authorised by the State Government to give such extracts as provided under Section 76 of the Indian Evidence Act, 1872 and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates. Taking into account the mandate of Section 17 of the Act of

1969 and the Certificate so issued is an extract of the contents of the Register which is required to be maintained in terms with the Act of 1969, this Court does not find any reason as to why the respondent authorities have not issued the Death Certificate to the petitioner.

7. Accordingly, this Court therefore disposes off the instant writ petition directing the respondent no.2 to issue a fresh Death Certificate to the petitioner containing the extracts of the Register relating to the death of her husband, Late Minharul Islam. The same shall be done within the period of 30 (thirty) days from the date of receipt of a certified copy of the instant order served upon the respondent no.2.

8. With the above observations and directions, the writ petition stands disposed off.

JUDGE

Comparing Assistant