

GAHC010183562021



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

Case No. : WP(C)/6040/2021

HASSEN MALLIK
W/O LATE PALU MALLIK, VIL. BALARTARI, CHENIMARI, P.S. TARABARI,
DIST. BARPETA, ASSAM, PIN 781305

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, GHY 6

2:THE DEPUTY COMMISSIONER

BARPETA
P.O.
P.S. AND DIST. BARPETA
ASSAM
PIN 781301

3:THE DEPUTY COMMISSIONER

KAMRUP (M)
ASSAM
GUWAHATI 01

4:THE COMMISSIONER AND POLICE

KAMRUP (M)
ASSAM
GUWAHATI 01

5:THE OFFICER IN CHARGE

BASISTHA P.S.
P.O. AND P.S. BASISTHA
DIST. KAMRUP (M)
ASSAM
PIN 781029

6:THE CIRCLE OFFICER

BELTOLA REVENUE CIRCLE
P.O. BELTOLA
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM
PIN 78102

Advocate for the Petitioner : MR. W RAHMAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 01.06.2023

Heard Mr. W. Rahman, the learned counsel appearing on behalf of the Petitioner. Mr. S. Dutta, the learned counsel appears for the respondent No. 1 and Mr. N. Goswami, the learned Government Advocate appears for the Respondent Nos. 2 to 6.

2. The instant writ petition has been filed by the petitioner being aggrieved by the inaction on the part of the Respondent Authorities in not making the ex gratia payment in terms with the Notification dated 24/7/2007.

3. The case of the petitioner herein is that the son of the petitioner died in a road traffic accident on 12/12/2009 near the Hockey Stadium, Beharbari, Guwahati for which Basistha P.S. Case No. 604/2009 under Section 279/304(A) of the IPC was

registered.

4. It appears from the perusal of the postmortem report enclosed as Annexure-3 to the writ petition that it has been mentioned that the death was instantaneous resulting from injuries sustained on head. It was also mentioned that all the injuries were ante mortem and caused by blunt force impact. Annexure-4 to the writ petition is the death certificate issued by the Registrar of Birth and Death, GMC certifying that the son of the petitioner expired on 12/12/2009. It is further relevant to take note of that it was only on 8/5/2021 the petitioner applied for the ex gratia payment in terms with the Notification dated 24/4/2007.

5. On a specific query being made to the learned counsel for the petitioner as to why there has been a delay in approaching the authorities in terms with the said Notification dated 24/4/2007, the learned counsel submitted that the petitioner only came to know about the said scheme of granting ex gratia payment in the year 2019 after the respondent authorities took steps to make the people aware about the Notification or the relief stated therein in pursuance to the order passed by this Court in **Gunalata Das & Ors. Vs. State of Assam** and Ors. reported in **2019 (4) GLT 17**. This Court is convinced with the said explanation so given.

6. Considering the above, this Court is therefore of the opinion that the case of the petitioner needs to be considered subject to making necessary verification in terms with the Notification dated 24/4/2007 and if the petitioner is found to be entitled to, the petitioner be paid the compensation in terms with the said Notification. This Court therefore directs the Respondent Authorities to make necessary verification as regards the entitlement of the petitioner and after necessary verification and consideration, if the petitioner is found to be entitled to in terms with the Notification dated 24/4/2007, the said compensation be paid to the petitioner as expeditiously as possible.

7. The said exercise be completed within a period of 4 months from the date of

submission of a certified copy of the instant order to the respondent No. 3.

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

JUDGE

Comparing Assistant