

GAHC010194862023



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

Case No. : WP(C)/5171/2023

VICTIM X

D/O- LATE HEKMAT ALI, VILL.- CHARUABAKRA, P.O. CHIRAKUTA, P.S.
CHAPAR, DIST. DHUBRI, ASSAM, PIN- 783348.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REPRESENTED BY ITS MEMBER SECRETARY
GHY-01.

3:THE DISTRICT LEGAL SERVICES AUHTORITY
DHUBRI
REPRESENTED BY ITS SECRETARY
P.O.
P.S. AND DIST. DHUBRI
ASSAM
PIN- 783301.

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

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

FINANCE DEPARTMENT
DISPUR
GUWAHATI-06

For the Petitioner : Mr. M. Hussain, Advocate.

For the Respondents : Ms. S. Sarma, GA, Assam.
Mr.R. Borpujari, SC, Revenue and DM
Department, Assam.

BEFORE
THE HON'BLE MR. JUSTICE DEVASHIS BARUAH

(O R D E R)

08/09/2023

1. The instant writ petition has been filed challenging the inaction on the part of the Respondent Authorities to grant compensation to the Petitioners in terms with the Assam Victim Compensation Scheme, 2012 (hereinafter referred to as "the Scheme of 2012") as well as the notifications issued on 18.10.2012 and 01.02.2019.

2. The Petitioner herein claims to be the daughter of late Hekmat Ali. As stated in the writ petition on 14/06/2016 at about 2 p.m. while the petitioner was returning from school, the accused had restrained her and by enticing her taken her to an isolated place and committed rape on her. In that respect, a case was registered being Chapar P.S. Case No.258/2016 under Section 4 of the POCSO Act. It further reveals from the record that vide a judgement delivered on 29/09/2018 in special Case No. 8/2016, the accused was found guilty u/s. 4 of the POCSO Act. Further to that at paragraph 48 of the said judgement, the Special Judge, Bilasipara had also directed the Secretary, DLSA, Dhubri to determine the quantum of compensation to the petitioner, who was the victim. Be that as it may, no determination was done by the respondent no. 4.

3. The father of the Petitioner thereupon filed an application on 13/02/2020 before the Member/Secretary of the Assam State Legal Services Authority, Guwahati stating inter alia the incident which took place on 14/06/2016 and seeking compensation in terms with the Scheme of 2012. Upon the said application so filed, the Member/Secretary of the Assam State Legal Services Authority forwarded the said application to the Secretary, District Legal Services Authority, Dhubri to take necessary steps for providing legal aid assistance in the matter. However as nothing was done thereafter for which the Petitioner, who is the victim, has approached this Court under Article 226 of the Constitution seeking a direction upon the Respondent Authorities to grant compensation to the Petitioner as per the Scheme of 2012.

4. This Court had duly perused the materials on record and also taken note of the respective submissions of the learned counsels. This Court have also duly taken note of the Scheme of 2012 and more particular to Clause 4 and 5 of the said Scheme which stipulates eligibility for compensation as well as the procedure for grant of compensation. On the basis of the facts as mentioned in

the writ petition as well as on perusal of the judgement dated 29/09/2018 passed in Special Case No. 8/2016, it appears that the Petitioner would come within the ambit of Clause 4.1 of the Scheme of 2012. This Court also finds it relevant to observe that the detail procedure has been set out in Clause No.5. This Court further finds it relevant to take note of the notification dated 01.02.2019 wherein the maximum compensation to be paid is Rs.5,00,000/- (Five Lakhs) on such count. Under such circumstances, this Court therefore disposes of the instant writ petition directing the Respondent No.4 i.e. the Chairman, District Legal Services Authority, Dhubri to pass an award within two months from the date of the certified copy of this order being served upon the respondent no. 4. It is also the opinion of this Court that the

petitioner herein would be entitled to the maximum compensation of Rs. 5,00,000/- taking into account the finding at paragraph 48 of the judgement dated 29/09/2018 passed in sessions Case No. 8/2016. This Court further direct the Respondent no. 4 to send the award to the Respondent no. 1 within the stipulated period of two months as directed herein above.

5. This Court further directs the Commissioner and Secretary to the Government of Assam, Home and Political Department i.e. the Respondent no. 1 to release the funds on the basis of the award to the Respondent No.4 within a period of 2 (two) months from the date the award is communicated to the Commissioner and Secretary to the Government of Assam, Home and Political Department by the Respondent No.4. The Respondent no. 4 upon receipt of the said amount from the Respondent no. 1, shall disburse the same to the petitioner. The Respondent No.4 is further directed to submit the compliance report to the directions so passed hereinabove within 2 (two) months from the date a certified copy of the instant order is served upon the Respondent No.4.

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

JUDGE

sukhamay

Comparing Assistant