

GAHC010194942018



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

Case No. : WP(C)/6701/2018

BIREN BARUAH AND ANR.
S/O- SRI RATHESWAR BARUAH, R/O- KHEHENIPARA, P.S- BAIHATA
CHARIALI, DIST- KAMRUP(M), ASSAM, PIN- 781121

2: HIROK BARUAH
S/O- SRI BIREN BARUAH
R/O- KHEHENIPARA
P.S- BAIHATA CHARIALI
DIST- KAMRUP(M)
ASSAM
PIN- 78112

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE CHIEF SECRETARY, GOVT OF ASSAM, ASSAM SECRETARIAT,
DISPUR, GUWAHATI, ASSAM, PIN- 781006

2:THE INDIAN INSTITUTE OF TECHNOLOGY
GUWAHATI REP. BY ITS DIRECTOR
GUWAHATI
ASSAM
PIN- 781039

3:THE OFFICER IN CHARGE
NORTH GUWAHATI P.S
ABHAYAPUR
GUWAHATI
ASSAM
PIN- 781031

4:THE SUPERINTENDENT OF POLICE
KAMRUP
OFFICE OF THE SUPERINTENDENT OF POLICE

GUWAHATI- BAIHATA ROAD
KAMPUR TRIPTI NAGAR
AMINGAON
GUWAHATI
ASSAM
PIN- 781031

5:THE DEPUTY COMMISSIONER
KAMRUP
OFFICE OF THE DEPUTY COMMISSIONER
INDOOR STADIUM ROAD
AMINGAON
GUWAHATI
ASSAM
PIN- 781039

6:BIREN BARUAH
S/O SRI RATHESWAR BARUAH
R/O KHEHENIPARA
P.S BAIHATA CHARIALI
DISTRICT KAMRUP(M)
ASSAM
PIN-781121.

7:HIROK BARUAH
S/O BIREN BARUAH
R/O KHENENIPARA
P.S BAIHATA CHARIALI
DIST. KAMRUP(M)
ASSAM
PIN-781121

For the petitioner (s) : Ms. D. Ghosh, Advocate

For the respondent (s) : Mr. R. P. Kakoti, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

29.11.2023

The instant writ petition has been filed by the petitioners alleging that the North Guwahati Police Station has not registered the FIR so filed

by the petitioners against the security personnel of the IIT, Guwahati which led to the death of one Kishok Baruah. The petitioners have also sought for compensation of an amount of Rs.50,00,000/- to be paid to the family of Late Kishok Baruah and also have sought for a direction to the IIT, Guwahati to review the security protocol and direct the security personnel who are properly trained to handle the situation of crisis in future.

2. It reveals from the records that the respondent No.2 had filed an affidavit-in-opposition denying the contentions of the writ petition as well as also stating inter-alia that there has been no negligence on the part of the security personnel of the respondent No.2.

3. This Court after giving an anxious consideration to the matter and the submission made by the learned counsel for the parties is of the opinion that the reliefs which have been sought for in the instant writ petition cannot be granted for the following reasons:-

(i) The relief as regards directing the North Guwahati Police Station to register the FIR cannot be granted in view of the fact that the petitioners have efficacious remedy available under Section 156 (3) of the Code of Criminal Procedure, 1973. The said opinion is based upon the law laid down by the Supreme Court in the case of ***Sakiri Vasu vs. the State of Uttar Pradesh and Others*** reported in ***(2008) 2 SCC 409***

(ii) The relief as regards reviewing of the security protocol of the IIT, Guwahati and for a direction that the security personnel should be properly trained to handle the situation of crisis in future as well as a

direction for payment of compensation on account of negligence, in the opinion of this Court, cannot be granted in the present writ proceedings as the said would entail adjudication of disputed question of facts as to whether there was any negligence on the part of the security personnel of the Respondent No.2 which led to the death of Late Kishok Baruah. The petitioners herein would be well advised therefore to approach appropriate Civil Court seeking compensation and for appropriate relief.

4. Accordingly, the writ petition is therefore not entertained for which the instant writ petition stands dismissed.
5. However, the dismissal of the instant writ petition shall not preclude or prejudice the petitioners to avail remedy as aforementioned.

JUDGE

Comparing Assistant