

GAHC010204152021



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

Case No. : WP(C)/6663/2021

MAZIB ALI
S/O LATE NIZAM ALI
VILLAGE BARDAIPAKHIA, PO BAIHATA, PS KAMALPUR, DIST KAMRUP ,
ASSAM 781380

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPARTMENT, DISPUR GUWAHATI 06

2:THE DEPUTY COMMISSIONER

KAMRUP
AMINGAON
GUWAHATI 31

3:THE SUPERINTENDENT OF POLICE

KAMRUP
AMINGAON
GUWAHATI 03

4:THE CIRCLE OFFICER

KAMALPUR REVENUE CIRCLE
PO AND PS KAMALPUR
DIST KAMRUP
ASSAM 78138

For the Petitioner(s) : Mr. W. Rahman, Advocate
For the Respondent(s) : Mr. A. Bhattacharjee, SC, Revenue

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 19.10.2023

1. This is an application filed under Article 226 of the Constitution of India whereby the Petitioner being aggrieved for non-payment of the ex-gratia relief to which the Petitioner being the brother of the deceased is entitled in terms with the notification dated 15.11.2014.

2. The brief facts of the instant case is that the brother of the Petitioner namely Faruk Ali (since deceased) was a home guard. On 08.09.2017, when the brother of the Petitioner along with his colleagues went out for patrolling around the Changsari Police Station, at about 1.45 AM, a truck bearing Registration No.HR-46E-2816 was proceeding in rash and negligent manner towards Guwahati hit the brother of the Petitioner from back side. Thereupon, Late Faruk Ali was admitted to Tolaram Civil Hospital but the doctor declared him dead. In this regard, an FIR was lodged on 09.09.2017 by the S.I. of Police, Changsari Police Station and the case was registered and numbered as Changsari P.S. Case No.280/17 under Section 279/304(A) of the Indian Penal Code.

3. Thereupon, the Petitioner had in terms with the notification dated 15.11.2014 issued by the Respondent No.1 approached before the Office of the Deputy Commissioner, Kamrup (M) i.e. the Respondent No.2 praying for ex-

gratia payment of an amount of Rs.2,00,000/-. But the said Respondent No.2 did not take any action for the payment for which the Petitioner had approached this Court under Article 226 of the Constitution of India.

4. Mr. A. Bhattacharjee, learned Standing counsel appearing on behalf of the Respondent No.1 submits that in similar matters this Court had issued directions for making payment after making due verification.

5. Taking into consideration the specific stand taken by the Petitioner on the basis of the notification dated 15.11.2014 and also the submission of Mr. A. Bhattacharjee, learned Standing counsel, Revenue Department to the effect that in respect to similarly situated persons this Court had passed directions for making payment after making due verification, this Court is therefore of the opinion that it would be in the interest of justice that the instant petition be disposed of with a direction to the Respondent No.1 to consider the prayer of the Petitioner as regards the entitlement in terms with the notification dated 15.11.2014 and after due verification as regards the Petitioner's entitlement if it is found that the Petitioner is entitled, the said ex-gratia payment of Rs.2,00,000/- may be released to the Petitioner.

6. It is further directed that the entire exercise be completed within a period of 3 (three) months from the date a certified copy of this order is served upon the Commissioner & Secretary, to the Government of Assam, Revenue (Relief and Rehabilitation) Disaster Management Department.

7. The Petitioner is further directed to furnish the Next of Kin Certificate to the Commissioner & Secretary, Government of Assam, Revenue (Relief and Rehabilitation) Disaster Management Department along with the certified copy of this order.

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

JUDGE

Comparing Assistant