

GAHC010204542022



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

Case No. : WP(C)/6612/2022

ARUP BAISHYA
S/O KHAGEN BAISHYA, R/O HATIGAON, LAKHIMINAGAR, DIST- KAMRUP
(M), GUWAHATI, ASSAM, PIN-781036

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, DEPARTMENT
OF HOME, GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
DIST-KAMRUP (M)
GUWAHATI

3:THE COMMISSIONER OF POLICE
KAMRUP (M)
GUWAHATI
ASSA

Advocate for the Petitioner : MR. U SAIKIA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 20.06.2023

Heard Mr. U. Saikia, learned counsel for the petitioner. Also heard Mr. N. Goswami, learned Government Advocate, for all the respondents.

This writ petition has been filed, seeking a direction to the respondents to pay a sum of Rs. 36,86,193/- on account of the petitioner's various vehicles requisitioned by the respondent No. 3 i.e. Commissioner of Police, Kamrup(M), Guwahati, the particulars of which vehicles and for the period for which, it was requisitioned, has been described in paragraph No. 3 of the petition, as under:

“3. That, the petitioner purchased the below mentioned vehicles which were taken by the respondent No. 3 from the petitioner on hire basis on the following days;

- 1) Vehicle Registration No. AS-01 DX-4585 hired on 01-01-2019, released on 28-02-2019.
- 2) Vehicle Registration No. AS-01 DX-4585 hired on 01-03-2019, released on 31-03-2019.
- 3) Vehicle Registration No. AS-01 DX-4585 hired on 20-04-2019, released on 30-06-2019.
- 4) Vehicle Registration No. AS-01 DP-6463 hired on 01-07-2020, released on 31-12-2020.
- 5) Vehicle Registration No. AS-01 EM-8268 hired on 17-10-2020, released on 31-12-2020.
- 6) Vehicle Registration No. AS-01 HC-1271 hired on 01-01-2020, released on 31-01-2020.
- 7) Vehicle Registration No. AS-01 HC-1271 hired on 01-02-2020, released on 29-02-2020.
- 8) Vehicle Registration No. AS-01 HC-1271 hired on 01-03-2020, released on 31-03-2020.
- 9) Vehicle Registration No. AS-01 HC-1271 hired on 01-04-2020, released on 30-04-2020.
- 10) Vehicle Registration No. AS-01 HC-1271 hired on 01-05-2020, released on 31-05-2020.
- 11) Vehicle Registration No. AS-01 HC-1271 hired on 01-06-2020, released on 30-06-2020.
- 12) Vehicle Registration No. AS-01 HC-2040 hired on 23-05-2020, released on 28-02-2019.
- 13) Vehicle Registration No. AS-01 HC-2040 hired on 01-06-2020, released on 30-06-2020.
- 14) Vehicle Registration No. AS-01 HC-1271 hired on 09-07-2020, released on 31-07-2020.
- 15) Vehicle Registration No. AS-01 HC-2040 hired on 01-08-2020, released on 31-08-2020.
- 16) Vehicle Registration No. AS-01 HC-1271 hired on 09-11-2020, released on 30-11-2020.
- 17) Vehicle Registration No. AS-01 HC-1271 hired on 01-12-2020, released on 30-12-2020.
- 18) Vehicle Registration No. AS-01 HC-1271 hired on 25-10-2020, released on 26-10-2020.

- 19) Vehicle Registration No. AS-01 HC-2040 hired on 01-07-2020, released on 31-07-2020.
- 20) Vehicle Registration No. AS-01 HC-1271 hired on 01-07-2020, released on 08-07-2020.
- 21) Vehicle Registration No. AS-01 HC-1271 hired on 01-08-2020, released on 21-08-2020.
- 22) Vehicle Registration No. AS-01 EL-5301 hired on 01-09-2020, released on 30-09-2020.
- 23) Vehicle Registration No. AS-01 DP-6463 hired on 01-01-2021, released on 30-06-2021.
- 24) Vehicle Registration No. AS-01 DV-2656 hired on 01-01-2021, released on 30-06-2021.
- 25) Vehicle Registration No. AS-01 EM-8268 hired on 01-01-2021, released on 30-06-2021.
- 26) Vehicle Registration No. AS-01 DX-4585 hired on 01-01-2021, released on 30-06-2021.
- 27) Vehicle Registration No. AS-01 DX-4585 hired on 01-01-2021, released on 31-12-2021.
- 28) Vehicle Registration No. AS-01 EM-8268 hired on 01-07-2021, released on 31-12-2021.
- 29) Vehicle Registration No. AS-01 DV-2656 hired on 01-01-2021, released on 30-06-2021.
- 30) Vehicle Registration No. AS-01 EM-8268 hired on 01-01-2021, released on 30-06-2021.
- 31) Vehicle Registration No. AS-01 DP-6463 hired on 01-07-2021, released on 01-08-2021.
- 32) Vehicle Registration No. AS-01 DV-2656 hired on 01-07-2021, released on 31-12-2021.

It is also pertinent to mention herein that, the petitioner was given the hire charges of vehicles at the rate shown as below along with driver allowances of Rupees 200/-(Rupees Two Hundred) per day and Handyman Allowances of Rupees 150/-(Rupees One Hundred Fifty) per day:

- 1) Vehicle Registration No. AS-01 DX-4585 hire rate Rs. 990 per day and dues pending is Rs. 73,130/-
- 2) Vehicle Registration No. AS-01 DX-4585 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 3) Vehicle Registration No. AS-01 DX-4585 hire rate Rs. 990 per day and dues pending is Rs. 89,244/-
- 4) Vehicle Registration No. AS-01 DP-6463 hire rate Rs. 1732.50 per day and dues pending is Rs. 3,71,520/-
- 5) Vehicle Registration No. AS-01 EM-8268 hire rate Rs. 1732.50 per day and dues pending is Rs. 1,38,254/-
- 6) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 7) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 35,946/-
- 8) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 9) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 37,186/-
- 10) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 11) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 37,186/-

- 12) Vehicle Registration No. AS-01 HC-2040 hire rate Rs. 990 per day and dues pending is Rs. 11,156/-
- 13) Vehicle Registration No. AS-01 HC-2040 hire rate Rs. 990 per day and dues pending is Rs. 37,186/-
- 14) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 28,508/-
- 15) Vehicle Registration No. AS-01 HC-2040 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 16) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 27,270/-
- 17) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 18) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 2,480/-
- 19) Vehicle Registration No. AS-01 HC-2040 hire rate Rs. 990 per day and dues pending is Rs. 38,424/-
- 20) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 9,916/-
- 21) Vehicle Registration No. AS-01 HC-1271 hire rate Rs. 990 per day and dues pending is Rs. 26,030/-
- 22) Vehicle Registration No. AS-01 EL-5301 hire rate Rs. 990 per day and dues pending is Rs. 37,186/-
- 23) Vehicle Registration No. AS-01 DP-6463 hire rate Rs. 1732.50 per day and dues pending is Rs. 3,65,463/-
- 24) Vehicle Registration No. AS-01 DV-2656 hire rate Rs. 990 per day and dues pending is Rs. 2,24,350/-
- 25) Vehicle Registration No. AS-01 EM-8268 hire rate Rs. 1732.50 per day and dues pending is Rs. 3,29,263/-
- 26) Vehicle Registration No. AS-01 DX-4585 hire rate Rs. 990 per day and dues pending is Rs. 2,24,350/-
- 27) Vehicle Registration No. AS-01 DX-4585 hire rate Rs. 990 per day and dues pending is Rs. 2,28,068/-
- 28) Vehicle Registration No. AS-01 EM-8268 hire rate Rs. 1732.50 per day and dues pending is Rs. 3,34,720/-
- 29) Vehicle Registration No. AS-01 DV-2656 hire rate Rs. 990 per day and dues pending is Rs. 2,24,350/-
- 30) Vehicle Registration No. AS-01 EM-8268 hire rate Rs. 1732.50 per day and dues pending is Rs. 3,29,263/-
- 31) Vehicle Registration No. AS-01 DP-6463 hire rate Rs. 1732.50 per day and dues pending is Rs. 64,612/-
- 32) Vehicle Registration No. AS-01 DV-2656 hire rate Rs. 990 per day and dues pending is Rs. 2,28,068/-"

The respondent No. 3 i.e. Commissioner of Police, Kamrup(M), Guwahati, has filed an affidavit-in-opposition, wherein, in paragraphs No. 4, 5 & 6; it has been stated, as under:

“4. That as regards to the statements made in paragraph 3 of the writ petition the answering deponent begs to state that the averment made therein is a fact. It is stated that as per the available records altogether 32 Nos. of hire charge bills were received from the petitioner on various dates.

5. That as regards to the statements made in paragraphs 4 & 5 of the writ petition the answering deponent begs to state that these bills were checked and verified with the concerned records. After observing required formalities the said bills were forwarded to the sanctioning authority i.e. Office of the Director General of Police (Respondent No. 2) for according sanction of the fund required against each hire charge bill to make payment to the petitioner.

The status of the proposals forwarded to the sanctioning authority are as follows:

Sl. No.	Vehicle No.	Period	Amount	Proposal No. & Date
1.	AS-01-DX-4585(Tata Sumo)	01.01.2019 to 28.02.2019	73,130.00	285-307(RV) Dt. 08.12.2022
2.	AS-01-DX-4585(Tata Sumo)	01.03.2019 to 31.03.2019	38,424.00	
3.	AS-01-DX-4585(Tata Sumo)	20.04.2019 to 30.06.2019	89,244.00	
4.	AS-01-DP-6463(Innova)	01.07.2020 to 31.12.2020	3,71,520.00	
5.	AS-01-EM-8268(Innova)	17.10.2020 to 31.12.2020	1,38,254.00	
6.	AS-01-HC-1271(Bolero)	01.01.2020 to 31.01.2020	38,424.00	
7.	AS-01-HC-1271(Bolero)	01.02.2020 to 29.02.2020	35,946.00	
8.	AS-01-HC-1271(Bolero)	01.06.2020 to 30.06.2020	37,186.00	
9.	AS-01-HC-2040(Bolero)	23.05.2020 to 31.05.2020	11,156.00	

10.	AS-01-HC-2040(Bolero)	01.06.2020 30.06.2020	to	37,186.00	
11.	AS-01-DP-6463(Innova)	01.01.2021 30.06.2021	to	3,65,463.00	
12.	AS-01-DV-2656(Bolero)	01.01.2021 30.06.2021	to	2,24,350.00	
13.	AS-01-EM-8268(Innova)	01.01.2021 30.06.2021	to	3,29,263.00	
14.	AS-01-HC-1271(Bolero)	01.05.2020 31.05.2020	to	38,424.00	
15.	AS-01-HC-1271(Bolero)	01.04.2020 30.04.2020	to	37,186.00	
16.	AS-01-DV-2656(Bolero)	01.07.2020 31.12.2020	to	2,28,068.00	
17.	AS-01-DX-4585(Tata Sumo)	01.07.2020 31.12.2020	to	2,28,068.00	
18.	AS-01-HC-1271(Bolero)	01.08.2020 21.08.2020	to	26,030.00	
19.	AS-01-HC-1271(Bolero)	01.12.2020 31.12.2020	to	38,424.00	
20.	AS-01-HC-1271(Bolero)	09.11.2020 30.11.2020	to	27,270.00	
21.	AS-01-HC-2040(Bolero)	01.08.2020 31.08.2020	to	38,424.00	
22.	AS-01-HC-1271(Bolero)	09.07.2020 31.07.2020	to	28,508.00	
23.	AS-01-HC-1271(Bolero)	01.03.2020 31.03.2020	to	38,424.00	
24.	AS-01-DP-6463(Innova)	01.07.2021 01.08.2021	to	64,612.00	
25.	AS-01-DV-2656(Bolero)	01.07.2021	to	2,28,068.00	502-510(RV) Dt.

		31.12.2021		
26.	AS-01-HC-1271(Bolero)	25.10.2020 to 26.10.2020	2,480.00	
27.	AS-01-EL-5301(Bolero)	01.09.2020 to 30.09.2020	37,186.00	
28.	AS-01-HC-2040(Bolero)	01.07.2020 to 31.07.2020	38,424.00	
29.	AS-01-DX-4585(Tata Sumo)	01.01.2021 to 30.06.2021	2,24,350.00	16.12.2022
30.	AS-01-EM-8268(Innova)	01.07.2021 to 31.12.2021	3,34,720.00	
31.	AS-01-DX-4585(Tata Sumo)	01.07.2021 to 31.12.2021	2,28,068.00	
32.	AS-01-HC-1271(Bolero)	01.07.2020 to 08.07.2020	9,916.00	

6. That as regards to the statements made in paragraphs 6, 7 & 8 of the writ petition the answering deponent respectfully states that as and when sanctioned of the required fund received necessary steps will be taken to make payment to the petitioner.”

On perusal of the paragraphs No. 4, 5 & 6 of the affidavit-in-opposition filed by the respondent No. 3; it is noticed that respondent No. 3 has not denied the liability to pay to the petitioner a sum of Rs. 36,86,193/- for hiring of his various vehicles mentioned by the petitioner in paragraph No. 3 of the writ petition, which has been confirmed by the respondent No. 3 in paragraph No. 5 of the affidavit-in-opposition.

It is also noticed from the stand taken by the respondent No. 3 in the affidavit-in-opposition filed, that the payment of the aforesaid amount to the petitioner for the various vehicles requisitioned by the authority could not be made due to non-sanctioning of the required amount by the respondent No. 2 i.e. Director General of Police, Ulubari, Kamrup(M), Guwahati.

Since the respondents in the affidavit-in-opposition filed, have not denied the liability to pay to the petitioner, a sum of Rs. 36,86,193/-, as hiring charge for the vehicles requisitioned from the petitioner; this writ petition stands allowed with a direction to the respondent authorities, more particularly, the respondents No. 2 & 3, namely, Director General of Police, Ulubari, Kamrup(M), Guwahati, and Commissioner of Police, Kamrup(M), Guwahati, respectively, to pay to the petitioner, a sum of Rs. 36,86,193/-, being the hiring charge of the various vehicles of the petitioner within a period of 2(two) months from the date of the receipt of a certified copy of this order.

The writ petition accordingly disposed of in terms above.

JUDGE

Comparing Assistant