

GAHC010239002017



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

Case No. : WP(C)/4348/2017

ABU TALEB
S/O. CHAN ULLAH, VILL. MOIRAKUCHI, P.O. FAKIRGANJ, P.S. FAKIRGANJ,
DIST. DHUBRI, ASSAM, PIN-783330.

VERSUS

THE STATE OF ASSAM and 8 ORS.
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GUWAHATI-
781006.

2:THE COMM. and SECY. TO THE GOVT. OF ASSAM

POLITICAL and HOME DEPTT.
DISPUR
GUWAHATI-781006.

3:THE COMM. and SECY. TO THE GOVT. OF ASSAM

PERSONNEL B DEPTT.
DISPUR
GUWAHATI-781006.

4:THE COMM. and SECY. TO THE GOVT. OF ASSAM

DISASTER MANAGEMENT DEPTT.
RELIEF AND REHABILITATION BRANCH
DISPUR
GUWAHATI-781006.

5:THE CHAIRMAN OF STATE LEGAL SERVICES AUTHORITY
ASSAM

P.O. PANBAZAR
DIST. KAMRUPMETRO
ASSAM
PIN-781001.

6:THE CHAIRMAN OF DISTRICT LEGAL SERVICE AUTHORITY
DHUBRI

P.O. DHUBRI
DIST. DUBRI
ASSAM
PIN-783101.

7:THE DY. COMMISSIONER
DHUBRI

P.O. and P.S. DHUBRI
DIST. DHUBRI
ASSAM
PIN-783101.

8:THE SUPERINTENDENT OF POLICE
DHUBRI

P.O. DHUBRI
DIST. DHUBRI
ASSAM
PIN-783101.

9:THE OFFICER-IN-CHARGE OF FAKIRGANJ POLICE STATION

P.O. FAKIRGANJ
DIST. DHUBRI
PIN-783330

For the Petitioner(s) : Mr. M. R. Khandakar, Advocate

For the Respondent(s) : Mr. H. Sarma, SC, Deputy Commissioner
: Mr. A. Bhattacharjee, SC, Revenue

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 04.10.2023

1. The instant writ petition was filed by the Petitioner stating inter alia that his son one Abdullah Sheikh @ Abdullah Sk was kidnapped by the miscreants on 15.10.2016 at about 3 PM. Thereafter, it was alleged that on 25.10.2016, some unknown persons demanded an amount of Rs.12,00,000/- for releasing the son of the Petitioner else threatened to kill his son if the said demanded money was not paid. Under such circumstances, the Petitioner lodged an F.I.R. before the Fakirganj Police Station which was registered and numbered as Fakirganj P.S. Case No.258/2016 under Section 365/384 of the Indian Penal Code. Subsequently, in the said case, two other sections were added i.e. Section 302 and 201 of the Indian Penal Code.

2. The Petitioner herein applied for compensation before the Deputy Commissioner, Dhubri for grant of ex-gratia compensation to the next of kin of the victims killed by extremists/miscreants as well as also compensation as per Section 357A of the Code of Criminal Procedure for providing compensation to the victims. The Petitioner therefore requested the Deputy Commissioner, Dhubri to pay appropriate compensation of Rs.3,00,000/- to Rs.9,00,000/- under the Government notification as well as the Assam Victims Compensation Scheme. The Petitioner thereupon had also approached the Chairman, District Legal Services Authority, Dhubri making similar prayer. However, as no compensation was paid to the Petitioner, the Petitioner has approached this Court by filing the present writ petition.

3. It reveals from the records that vide an order dated 24.07.2017 notice was

issued. The record further reveals that the Commissioner and Secretary to the Government of Assam, Revenue and Disaster Management Department had filed an affidavit-in-opposition through the Deputy Secretary of the Revenue and Disaster Management Department. In the said affidavit, it was mentioned that the cases of missing persons due to kidnapping by miscreants are not covered by the Government's letter No.ABP.121/92/Pt.-V/136 dated 22.06.2004 and the notification No.RR.69/2004/16 dated 14.12.2004. It was further mentioned that the Government has revised the ex-gratia amount from Rs.1,00,000/- to Rs.5,00,000/- w.e.f. 15.11.2014 in respect of persons (whose age is 18 years or above) killed/kidnapped by extremists/terrorists/miscreants on or after 15.11.2014 in the State of Assam and the revised rate is Rs.3,00,000/- in respect of persons whose age is 18 years or below. It was further mentioned that there is no scheme/provision to provide ex-gratia grant to the next of the kin of killed person as a result of private dispute. It was further mentioned that it was not possible for the Revenue and Disaster Management Department to release ex-gratia amount without receiving proposal from the concerned Deputy Commissioner along with all relevant reports like the S.P. report, Magisterial enquiry report etc.

4. I have heard the learned counsels appearing on behalf of the Deputy Commissioner, Dhubri as well as the Revenue and Disaster Management Department. This Court have also perused the notification dated 15.11.2014 wherein at Serial No.1, Ex-gratia grant paid to the next of kin of a person killed and whose (the person killed) age is 18 years or above by extremists/terrorists/miscreants other than being killed as a result of private dispute.

5. From the materials on record, it transpires that the Petitioner had duly

submitted representations before the Deputy Commissioner, Dhubri. The stand of the Deputy Commissioner, Dhubri is not placed before this Court. But when a representation is submitted on the basis of making a claim for ex-gratia, it is the bounden obligation of the Deputy Commissioner, Dhubri to make necessary enquiry into the same and thereupon if entitled to, should forwarded it to the Revenue and Disaster Management Department so that if entitled to as per the notification dated 15.11.2014, the ex-gratia payment can be paid to the next of the kin. As the stand of the Deputy Commissioner, Dhubri has not been placed before this Court, it is therefore not known as to what steps the Deputy Commissioner, Dhubri had taken pursuant to the representation submitted by the Petitioner.

6. Taking into account the above, this Court therefore disposes of the instant writ petition with a direction to the Deputy Commissioner, Dhubri to make necessary verification as regards the entitlement of the Petitioner in terms with the notification dated 15.11.2014 by taking due note of the Fakirganj P.S. Case No.258/2016. The Officer-in-Charge of the Fakirganj Police Station is further directed to apprise the Deputy Commissioner, Dhubri as regards the investigation so carried out in respect to Fakirganj P.S. Case No.258/2016. The Deputy Commissioner, Dhubri thereupon after making necessary verification shall send the proposal, if found eligible and entitled to the Revenue and Disaster management Department of the Government of Assam. Thereupon, the Respondent No.4 shall take appropriate steps for disbursement of the amount to the Petitioner, if found entitled to.

7. The entire exercise be carried out within a period of 3 (three) months from the date a certified copy of the instant order is served upon the Deputy Commissioner, Dhubri.

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

JUDGE

Comparing Assistant