

GAHC010071722021



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

Case No. : WP(C)/7834/2022

MANI KANTA BRAHMA
S/O- BANGAL BRAHMA
R/O- VILL- BHOURAGURI
P.O. NAYA BASTI SUBANKHATA
P.S. BARBORI
DIST.- BAKSA
(BTAD)
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
DISPUR
GHY-6

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

3:THE ASSAM STATE LEGAL SERVICE AUTHORITY
ADJACENT BLOCK TO GAUHATI HIGH COURT NEW BUILDING
KAMRUP (M)
ASSAM
PIN- 781001

4:THE DISTRICT LEGAL SERVICE AUTHORITY, BAKSA
OFFICE AT DISTRICT AND SESSION JUDGE COMPLEX
BAKSA
MUSALPUR
DIST.- BAKSA
ASSAM

Advocate for : MR I HAQUE
Advocate for : GA ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 19.06.2023

Heard Mr. I. Hoque, learned counsel for the petitioner; Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 1, 4 & 5; Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 2; and Ms. R.S. Choudhury, learned Standing Counsel, Assam State Legal Services Authority [ASLSA] for the respondent no. 3.

2. The petitioner has preferred this writ petition seeking inter alia a direction in the nature of mandamus to the respondent authorities to pay an amount of Rs. 5,00,000/- to the petitioner in respect of the death of his mother as per the provisions of the Assam Victim Compensation Scheme, 2012, framed by the State Government in exercise of the powers conferred by Section 357A of the Code of Criminal Procedure [CrPC], 1973 and in terms of the Schedule providing for the amounts of compensation, notified by a Notification dated 01.02.2019.

3. It is the case of the petitioner that the petitioner submitted an application for disbursement of compensation before the District Legal Services Authority, Baksa as a crime case under Section 302, Indian Penal Code [IPC] in respect of death of the petitioner's mother, was registered as Borbari Police Station Case no. 53/2021. It is found that after completion of investigation in connection with Borbari Police Station Case no. 53/2021, a charge-sheet was laid under Section 173[2], CrPC against an accused person and after commitment the case to the Court of learned Sessions Judge, Baksa, Sessions Case no. 87/2021 was registered and the accused was tried for the offence under Section 302, IPC. The learned Sessions Judge, Baksa delivered the judgment and order in Sessions Case no.

87/2021 on 24.03.2023 recommending the matter to the Legal Services Authority to explore the option of providing of proper victim compensation to the legal heirs of the deceased, Hafang Brahma.

4. The Secretary, District Legal Services Authority, Baksa considered the application stated to have been submitted by the petitioner seeking compensation under the Assam Victim Compensation Scheme, 2012 along with the judgment and order dated 24.03.2023 passed by the learned Sessions Judge, Baksa in Sessions Case no. 87/2021. The petitioner and other witnesses were heard in respect of the petitioner's application, which was registered and numbered as VCI - 01/2023 and by a Final Order dated 10.05.2023, the District Legal Services Authority, Baksa had dismissed the application dated 30.08.2022, filed by the petitioner as the applicant seeking victim compensation by stating the reasons for such dismissal.

5. Clause 8 of the Assam Victim Compensation Scheme, 2012, as amended, has provided for a provision for appeal. As per Clause 8, any victim aggrieved of the denial by the District Legal Services Authority, may file an appeal before the State Legal Services Authority within a period of 90 [ninety] days from the date of order of denial. It is further provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

6. As the petitioner's claim for compensation under the Assam Victim Compensation Scheme, 2012, as amended, has been rejected and there is a provision for appeal under Clause 8 of the Assam Victim Compensation Scheme, 2012, as amended, against such rejection, this writ petition is not entertained, reserving liberty to the petitioner to avail the remedy of appeal before the Assam State Legal Services Authority [ASLSA], if so advised. The petitioner in order to avail the remedy, may obtain a certified copy of the order dated 10.05.2023 from the District Legal Services Authority, Baksa. The writ petition is accordingly, disposed of. No cost.

7. A copy of the Final Order dated 10.05.2023 passed by the District Legal Services

Authority, Baksar in Case no. VCI - 01/2023 is to be kept as part of the case record.

JUDGE

Comparing Assistant