

GAHC010261302022



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

Case No. : WP(C)/8229/2022

JALIL UDDIN
S/O- LATE AJGAR ALI,
VILL- KHOLABANDHA,
P.S- KASUMARA, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE
(R AND R) AND DISASTER MANAGEMENT DEPARTMENT
DISPUR, GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM PIN- 783121

4:THE SUPERINTENDENT OF POLICE
GOALPARA
ASSAM PIN- 783121

5:THE CIRCLE OFFICER
RANGJHULI REVENUE CIRCLE

DISTRICT- GOALPARA
ASSAM

PIN- 783130

6:THE OFFICER IN CHARGE
DHUPDHARA POLICE STATION
GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 19-07-2023

Heard Mr. S. Islam, learned counsel for the petitioner. Also heard Mr. S.G. Hazarika, learned standing counsel for Revenue and Disaster Management Department representing respondent no. 1; Mr. K. Gogoi, learned Additional Senior Government Advocate appearing for the respondent nos. 3 to 6 and Mr. A.A. Chaliha, learned standing counsel for the Finance Department, appearing for respondent no. 2.

2. In brief, the case of the petitioner is that on 03.10.2017, at about 7.30 am, the son of the petitioner namely, Late Saddam Hussain, while riding on his cycle from Dhupdhara to Kuthakoti on NH-37, was hit by a vehicle bearing registration No. AS25-CC-3846, near the Daily Bazar of Dhupdhara. The injured son of the petitioner was taken to Bikashi Model Hospital, where he succumbed to his injury. Accordingly, Dhupdhara P.S. Case No. 130/2017, under section 209/304A of the IPC was registered.

3. In course of time, the charge-sheet No. 80/2017 dated 13.12.2017 was submitted. The petitioner has submitted next of kin certificate in respect of his

deceased son, proof of identity of the petitioner and the death certificate of the deceased son and in terms of notification dated 15.11.2014, the petitioner had applied for ex-gratia relief to the next of kin of person killed due to accident, which entitled the petitioner to the grant of for an amount of ex-gratia Rs.200,000/-(Rupees Two lakh only).

4. The petitioner projects that the application for granting ex-gratia relief was submitted before the Office of Deputy Commissioner, Goalpara on 20.09.2022. As the ex-gratia was not released to the petitioner, the present writ petition has been filed under Article 226 of the Constitution of India.

5. The learned Additional Senior Government Advocate has referred to the affidavit-in-opposition filed by the respondent no. 3.

6. The said affidavit has been perused and it appears that the said affidavit was filed on 06.04.2023, by one Hrishiraj Das, Assistant Commissioner, Goalpara and it appears that the said affidavit has been mechanically filed without taking any pain to peruse the contents of this writ petition. The said affidavit filed on behalf of respondent no. 3 does not take into account the Annexures-1, 2, 3 and 4 appending to this writ petition which are (i) Next of kin certificate, (ii) Voter I.D Card of the petitioner, (iii) PAN Card of the petitioner and (iv) Death certificate of the deceased.

7. The stand taken in the said affidavit is that the petitioner is required to submit no objection certificate from the other family members/ next of kin. In the said affidavit there is no statement made that the petitioner was made aware of any requirement to be complied with. In the said affidavit it is stated that the no objection certificate from other family members mentioned in the next of kin is required, if that be so, then the authorities ought to have given a notice to provide the same. If the Deputy Commissioner or any other authority

in the District of Goalpara have any doubt in regard to the no objection from the next of kin, the Court is inclined to direct the Deputy Commissioner, Goalpara or any subordinate authority authorized by him to visit the house of the petitioner to collect such information. However, at this stage, when the petitioner has been waiting for ex-gratia amount, it would not be open to the authorities to ask the petitioner to submit any other documents rather they would have to visit the house of the petitioner to collect the said information.

8. As the petitioner has already produced a copy of next of kin certificate, it would be open to the office of the Deputy Commissioner, Goalpara to cause an appropriate enquiry and to release ex-gratia relief to the petitioner within a period of 60 days from the date of the receipt of the certified copy of this order. The petitioner shall produce a certified copy of this order before the office of the Deputy Commissioner, Goalpara to enable the said authority to comply with the order.

9. With the observations made above, this writ petition stands allowed to the extent as indicated above.

JUDGE

Comparing Assistant