

GAHC010050812023



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

Case No. : WP(C)/1444/2023

ABDUL MOJID
S/O- ABDUL HAMID,
R/O- HELAPAKHRI, P.O.- BALADMARI,
P.S.- MORNAI, DIST.- GOALPARA, (ASSAM),
PIN- 783121.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPARTMENT,
DISPUR, GHY-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GHY-6.

3:THE DEPUTY COMMISSIONER
GOALPARA
P.O. AND P.S. AND DISTRICT- GOALPARA
ASSAM
PIN- 783101.

4:THE DEPUTY COMMISSIONER
BARPETA
P.O. AND P.S. AND DIST.- BARPETA
ASSAM
PIN- 781301.

5:THE SUPERINTENDENT OF POLICE

BARPETA
P.O. AND P.S. AND DIST.- BARPETA
ASSAM
PIN- 781301.

6:THE CIRCLE OFFICER
MANDIA REVENUE CIRCLE
P.O.- MANDIA
P.S.- BAGHBAR
DIST.- BARPETA
ASSAM
PIN- 781308

Advocate for the Petitioner : MR. W RAHMAN

Advocate for the Respondent : SC, REVENUE

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE

O R D E R

26.04.2024.

Heard Mr. W. Rahman, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue Department appearing for the respondent No.1 and Mr. M. Chetia, learned Government Advocate appearing for respondent Nos.3—6.

2. By filing this Writ Petition, the petitioner has prayed for a direction to the respondent authorities to pay an ex-gratia amount of Rs.2,00,000/- (Rupees two lakhs) only, to the petitioner on account of death of his son, namely, Omar Ali, in terms of the Notification No.RR.33/2014/66, dated 15.11.2014, issued by the issued by the Addl. Chief Secretary, Revenue & Disaster Management Department, Govt. of Assam.

3. The case of the petitioner is that his daughter Omar Ali had remained missing along with five others after drowning of the hand boat, on which they were travelling on 19.01.2020 in River Brahmaputra near Kapahtali Village under Alopai Char Police Station in Barpeta District. On the following day i.e. on 20.01.2020, the dead body of the deceased son of the petitioner was recovered on the same day. Accordingly an FIR was lodged which has been registered as Alopai Char P.S. U/D. Case No.01/2020. The post mortem was conducted and accordingly the post mortem report dated 29.01.2020 and the death certificate dated 09.05.2022 of the deceased son of the petitioner was issued.

4. The petitioner has submitted an application on 07.10.2021 before the Deputy Commissioner, Barpeta for financial assistance from the Government including ex-gratia. However, according to the petitioner, the application remains unattended in the office of the Deputy Commissioner, Barpeta, till date.

5. Ms. N. Bordoloi, learned Standing Counsel, Revenue Department while referring to the Notification dated 15.11.2014, fairly submits that as per the Government Policy, the case of the petitioner is covered under Sl. No.3, wherein it is provided that ex-gratia to the next of kin of person killed due to accident in public places or in public carriers (other than killed by extremist/terrorist/miscreants and due to the firing of security forces), an amount of Rs.2 lakhs is provided and as such the petitioner is entitled to the said amount. She further fairly submits that the rivers, where the unfortunate incident occurred is a public place, for which there would not be any controversy to that regard.

6. Mr. M. Chetia, learned Government Advocate appearing for respondent Nos.3—6 also fairly submits that since the petitioner is entitled to the ex-gratia in terms of the policy of the State Government, vide Notification dated

15.11.2014, the Deputy Commissioner, Barpeta District will take necessary steps for payment of the ex-gratia to the petitioner, in accordance with the said Notification.

7. I have considered the submissions of learned counsel for the parties and perused the Notification dated 15.11.2014.

8. The State of Assam, by its policy vide Notification dated 15.11.2014 has fixed the quantum of relief in respect of the person for providing ex-gratia who is killed due to accident in public places or public carriers, to an amount of Rs.2 lakhs. It is not disputed that the accident of the boat occurred while crossing the Brahmaputra River, near Kapahtali Village under Alopali Char Police Station in Barpeta District which is a public place.

9. This Court in the case of Gunalata Das vs. State of Assam and others, reported in 2019 (4) GLT 17, has observed that the public places has been defined to be the place open to the public i.e. accessible to all, available, free, unrestricted, community.

10. As noted above, as per the policy of the State, the person who has been killed due to accident in public places or in public carriers, is entitled to be paid ex-gratia to the next of kin.

11. Having considered the submissions of learned counsel for the parties and the policy of the State vide Notification dated 15.11.2014, coupled with the decision of this Court in Gunalata Das (Supra), I am of the considered view that the petitioner is entitled to the ex-gratia amount of Rs.2 lakhs, in terms of the policy of the State vide Notification dated 15.11.2014.

12. Accordingly, the respondents are directed to pay the ex-gratia amount of Rs.2 lakhs to the petitioner.

13. The petitioner is directed to submit the requisite documents before the concerned Deputy Commissioner within a period of fifteen (15) days from today.

14. On such submission and receipt of documents, the concerned Deputy Commissioner is directed to complete the process of submitting the requisite documents before the Government, within a period of one month from the date of receipt of certified copy of this order.

15. The Department of Revenue & Disaster Management, Govt. of Assam shall sanction and release the ex-gratia amount to the petitioner within two months thereafter.

16. Accordingly, the Writ Petition is stands allowed and disposed of with the above direction.

JUDGE

Comparing Assistant