

GAHC010054752017



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

Case No. : WP(C)/7529/2017

GUNA KANTA BORAH and 15 ORS.
S/O- LT. TUPAI CH. BORAH VILL-MAMORANI GAON WARD NO.9 P.O.
MAMORANI MAKUM, P.S. DIGBOI, DIST-TINSUKIA, ASSAM PIN-786170

2: LOKESWAR GOGOI
VILL NO. 2 MUGANGPATHER P.S. PENGRI
DIST- TINSUKIA
ASSAM PIN- 786174

3: KAMALA CHETRY
W/O- LT. BHIM BDRG CHETRY VILL NO. 2 MUGANGPATHER P.S. PENGRI
DIST- TINSUKIA
ASSAM PIN-786174

4: PRANESWAR PROSAD
S/O- LT. GANESH PROSAD VILL- LALMATI
P.S. PENGRI DIST- TINSUKIA
ASSAM PIN- 786174

5: SONAMATI KOWAR
W/O- LT. RAMANUJ PROSAD VILL- LALMATI
P.S. PENGRI
DIST- TINSUKIA
ASSAM PIN- 786174

6: AMOLA MORAN
W/O- LT. AMOL MORAN @ PUNA VILL- BORALIGAON
P.S. KAKAPATHAR
DIST- TINSUKIA
ASSAM
PIN- 786170

7: SAGIRA BEGUM
W/O- LT NURRUDDIN AHMED VILL- BETJAN ROAD

P.S. MAKUM
DIST- TINSUKIA
ASSAM PIN- 786170

8: SIMA BORGOHAIN@PHUKAN
W/O- LT. DIGANTA BORGOHAIN VILL- NO.3 BORBIL
P.S. DIGBOI
DIST- TINSUKIA
ASSAM
PIN- 786171

9: PAMILI MORAN
W/O- LT GANESH MORAN VILL- RANGAJAN
P.S. DOOMDOOMA
DIST- TINSUKIA
ASSAM PIN-786151

10: HASNA BEGUM
W/O- LT. IMRAN SHAH VILL- BETJAN
P.S. MAKUM
DIST- TINSUKIA
ASSAM
PIN-786170

11: BAKKAR AHMED@ BAKNUR
S/O- LT HAFIJUDDIN AHMED VILL- BETJAN
P.S. MAKUM DIST-TINSUKIA
ASSAM PIN-786170

12: ALMONI MINJ
W/O- LT. JAWRU MINJ VILL- KHERBARI LINE
P.S. DOOMDOOMA
DIST- TINSUKIA
ASSAM PIN- 786151

13: RAJESH KALANDI
S/O- KARMA KALANDI VILL- TENGABARI P.S. DOOMDOOMA DIST-
TINSUKIA
ASSAM PIN-786151

14: SOMARI KALANDI
W/O- LT SANJU KALANDI VILL- KHERBARI LINE P.S. DOOMDOOMA DIST-
TINSUKIA
ASSAM PIN-786151

15: SHOHEGI NAYAK
M/O- LT RAJESH NAYAK VILL- SAMAGURI LINE P.S. DOOMDOOMA
DIST- TINSUKIA

ASSAM PIN-786151

16: BINOTI KHARIA
W/O- LT. TIKESWAR KHARIA VILL- KHERBARI LINE
P.S. DOOMDOOMA
DIST- TINSUKIA
ASSAM PIN-78615

VERSUS

THE STATE OF ASSAM and 4 ORS.
REPRESENTED BY THE COMMISSIONER and SECRETARY TO THE GOVT.
OF ASSAM, REVENUE Rand R and DISASTER MANAGEMENT
DEPTT.,DISPUR, GHY-6

2:THE COMMISSIONER and SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-6

3:THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM
PIN-786125

4:THE CIRCLE OFFICER
TINSUKIA REVENUE CIRCLE
TINSUKIA
DIST- TINSUKIA
ASSAM
PIN-786125

5:THE CIRCLE OFFICER
DIGBOI REVENUE CIRCLE
DIGBOI
DIST- TINSUKIA
ASSAM
PIN-78617

Advocate for the Petitioner : MR.A RAHMAN

Advocate for the Respondent : SC, FINANCER NO. 2 TO 5

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

O R D E R

03.06.2024.

Heard Mr. H.R. Ahmed, learned counsel for the petitioners. Also heard Ms. U. Das, learned Addl. Senior Government Advocate appearing for the respondent Nos.3, 4 & 5 and Ms. T. Hazarika, learned standing counsel for the Revenue & Disaster Management Department, Govt. of Assam for respondent No.1 and Mr. R. Borpujari, learned standing counsel, Finance Department appearing for the respondent No.2.

2) The petitioners have jointly approached this Court raising a grievance with regard to the in-action on the part of the respondent authorities in not releasing to them the ex-gratia amount as payable to the next of kin of persons killed by extremists, in terms of the Notification dated 22.06.2004, read with Office Memorandum dated 29.07.2013.

3) As projected in the Writ Petition, the petitioners are the legal heirs of persons who were killed by extremists prior to 22.06.2004. As per the policy in place prior to 22.06.2004, the petitioners herein and/or their predecessors-in-interest were authorized an ex-gratia of Rs.1,00,000/- (Rupees one lakh), on account of death caused due to extremist violence in case of their close relatives. The Government of Assam, vide Notification dated 22.06.2004, proceeded to enhance the ex-gratia amount payable to the next of kin of a person killed in extremist violence to Rs.3,00,000/- (Rupees three lakhs). The application of the said Notification dated 22.06.2004 was further considered vide Office Memorandum dated 29.07.2013 and in terms thereof, the enhanced ex-

gratia amount now brought into force vide Notification dated 22.06.2004, was also extended to the cases of persons killed in extremist violence prior to 2004.

4) The said aspect of the matter as to whether the enhanced ex-gratia amount as brought into effect vide Notification dated 22.06.2004, in the light of the Office Memorandum dated 29.07.2013, would also stand extended to the cases of persons who were killed on account of extremist violence, prior to 2004 was examined by this Court in a number of Writ Petitions and it was held that the said ex-gratia amount would also apply to the cases of persons who were killed in extremist violence prior to 22.06.2004.

5) It is also stated in the Bar that the petitioners herein would also eligible to receive the said enhanced ex-gratia amount of Rs.3,00,000/- (Rupees three lakhs), after deducting the ex-gratia amount paid to them. However, the learned counsel for the respondents have submitted that prior to release of such amount to the petitioners herein, an inquiry in the matter be directed to be carried out by the jurisdictional Deputy Commissioner.

6) In view of the above position and as agreed to by the learned counsel for the parties, the petitioners herein are directed to submit applications staking a claim for enhanced ex-gratia amount, as brought into force vide the Notification dated 22.06.2004, and also by the Office Memorandum dated 29.07.2013 and by spelling out the requisite details pertaining to date and other particulars of death of the close relatives involved and also bringing on record, the orders passed towards sanctioning of ex-gratia amount in their favour, submit the same before the jurisdictional Deputy Commissioner. The jurisdictional Deputy Commissioner shall thereafter prepare a report in respect of each of the petitioners and forward the same to the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch.

On receipt of such proposal from the jurisdictional Deputy Commissioner, in respect of each of the petitioner herein, the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch shall pass a Speaking Order therein and thereby authorize the petitioners, the enhanced ex-gratia amount as brought into force by the Notification dated 22.06.2004.

7) Accordingly, the petitioners shall be released the enhanced ex-gratia amount after deducting the amount already paid, in respect of the death occasioning to the relatives of the petitioners herein, on account of extremist violence.

8) The aforesaid exercise shall be carried out by the jurisdictional Deputy Commissioner as well as by the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch and the Speaking Order be passed with release of the enhanced ex-gratia amount to the petitioners within a period of four months from the date of receipt of a certified copy of this order, along with the representation as required to be filed in the matter, by each of the petitioners herein individually.

9) With the above observations and directions, the Writ Petition stands disposed of.

JUDGE

Comparing Assistant