

GAHC010055452023



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

Case No. : WP(C)/1485/2023

PRADIP KALITA
S/O BHOGIRAM KALITA, R/O HOUSE NO. 12, MONALISA PATH, ZOO ROAD,
P.S.-GEETANAGAR, GUWAHATI-24, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
HOME DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DEPUTY COMMISSIONER OF POLICE
SECURITY AND INTELLIGENCE
PANBAZAR GUWAHATI-01

3:ASSISTANT DIRECTOR GENERAL OF POLICE (SECURITY)
SPECIAL BRANCH
KAHILIPARA GUWAHATI-19

4:ASSISTANT COMMISSIONER OF POLICE (RESERVE)
POLICE COMMISSIONERATE
PANBAZAR GUWAHATI-01

5:DEPUTY COMMISSIONER OF POLICE (ADMINISTRATION)
PANBAZAR GUWAHATI-01

6:RESERVE INSPECTOR
POLICE RESERVE
PALTANBAZAR GUWAHATI-0

Advocate for the Petitioner : MR. N J GOGOI, MS S KAR,MR. J KALITA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 20.08.2024

Heard Mr. J. Kalita, learned counsel for the petitioner and Mr. D. Nath, learned Senior Government Advocate for all the respondents.

2. The petitioner's case is that the petitioner, who is a businessman and is also a labour contractor, having around 3600 personnel worker under him, has approached the authorities for being provided with a Personal Security Officer (PSO), as he is having some threat perception from some unknown persons.

3. The petitioner's counsel submits that the petitioner had been threatened by some unknown persons in the year 2012, demanding payment of Rs.5 Lakh and also in the year 2018. As he apprehended that physical harm would come to him, if he did not pay the demanded amount, the petitioner made a representation to the authorities for being provided with a PSO. A PSO was accordingly provided to the petitioner on 04.12.2018, pursuant to a FAX/WT message dated 01.12.2018 sent by the Director General of Police (DGP) (SB), Assam, Guwahati to the Deputy Commissioner (DC) (Security & Intelligence), Guwahati. However, the PSO that had been provided to the petitioner was subsequently withdrawn on 02.02.2022.

4. The petitioner's counsel submits that the petitioner thereafter approached the authorities for being provided with another PSO, as the threat perception against the petitioner remained. As the petitioner's representation to the authorities was not being considered, the petitioner preferred WP(C)

1052/2022, praying for being provided a PSO on payment of the required charges/fees. This Court disposed of WP(C) 1052/2022, vide order dated 07.04.2022, by directing the petitioner to approach the authorities, particularly the State Security Review Committee, who was to examine the prayer of the petitioner and take a decision on the same. As nothing was being done by the authorities, the petitioner has filed the present writ petition.

5. The petitioner's counsel submits that as the threat perception against the petitioner still exists, the petitioner should be provided with a PSO.

6. Mr. D. Nath, learned Senior Government Advocate has produced the minutes of the State Security Review Committee meeting held on 21.01.2022 and 31.01.2022, wherein the State Security Review Committee reviewed the list of protectees under different categories. After examination and due deliberation by the State Security Review Committee meeting held on 31.01.2022, wherein the threat perception of 357 individuals was considered, the committee decided to withdraw the security provided to the petitioner, amongst others.

7. Mr. D. Nath submits that as the experts in the field have taken a decision not to provide a PSO to the petitioner any further, the said decision should not be substituted by this Court. He further submits that if there is any fresh threat perception to the petitioner, the petitioner always has the liberty to approach the State respondents again. He also submits that in a similar matter, i.e. WP(C) 2555/2022 "*Bhabakrishna Barman vs. State of Assam and 3 others*", this Court had allowed the petitioner in that case to approach the authorities again, in the event the petitioner therein faced a fresh threat perception or apprehension to his life. He accordingly submits that a similar order should be passed in this

case.

8. I have heard the learned counsels for the parties.

9. The petitioner had applied for a PSO, on the ground that some unknown persons had demanded money in the year 2012 and 2018, failure of which could have resulted in physical harm to the petitioner. The respondents had accordingly granted a PSO to the petitioner on payment of the required fees/charges in the year 2018 and the same had been removed in the year 2022. There is nothing in the writ petition to indicate that there is any fresh threat perception to the petitioner made from any party, except with regard to the threat allegedly made to the petitioner in the years 2012 and 2018. The minutes of the State Security Review Committee meeting held on 31.01.2022 show that the Committee had undertaken a review of the security provided to 357 individuals in the State of Assam and it is noticed that the security given to approximately 159 individuals was withdrawn, which included the petitioner. The requirement of giving security cover to individuals and the necessity of continuing with the security should be left in the hands of the State Government, as they are in a better position to understand the threat perception faced by individuals. It would not be proper for this Court to substitute its view with the view taken by the experts in the field, as to whether the petitioner was entitled to be given security, inasmuch, there is nothing in the writ petition to indicate that the petitioner has been under any threat lately.

10. The above being said, this Court is unable to understand as to why the petitioner cannot avail of Private Security Guards, if he feels he is under any threat perception. Instead of paying the police for a PSO, he can always avail

the services of a Private Security Guards, by paying the required charges/fees to the private security firm.

11. In any event, as the State Security Review Committee in its meeting held on 31.01.2022 had withdrawn the PSO given to the petitioner, this Court does not find any reason to interfere with the decision of the State respondents to withdraw the PSO cover given to him or deny him further PSO protection. However, liberty is given to the petitioner to approach the respondent authorities again, if there is a fresh threat to his life.

12. In view of the reasons stated above, this Court does not find any ground for exercising its discretion in the present case. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant