

GAHC010062522020



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

**Case No. : WP(C)/2032/2020**

JULIFA BEGUM  
D/O LT. NUR MAHAMMAD SHEIKH, VILL. BARNARJHAR, P.O. BILASIPARA,  
P.S BILASIPARA, DIST. DHUBRI, ASSAM, PIN-783348

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,  
HOME AND POLITICAL DEPTT. DISPUR, GUWAHATI-6

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY  
REP .BY ITS MEMBER SECRETARY BEHING GAUHATI HIGH COURT  
NEW BUILDING  
P.O. MEGHDOOT BHABAN  
PANBAZAR  
GUWAHATI-1

3:THE CHAIRMAN  
DISTRICT LEGAL SERVICES AUTHORITY DHUBRI  
ASSAM  
P.O. AND P.S. AND DHUBRI  
ASSAM PIN-783301

4:THE DISTRICT LEGAL SERVICES AUTHORITY  
DHUBRI  
ASSAM  
REP. BY ITS SECRETARY P.O. AND P.S. AND DHUBRI  
ASSAM PIN-78330

**For the petitioner (s) : Mr. M. Hussain, Advocate**

**For the respondent (s) : Mrs. U. Das, Addl. Sr. Govt. Advocate**

BEFORE  
**HON'BLE MR. JUSTICE DEVASHIS BARUAH**

29.01.2024

The instant writ petition has been filed by the petitioner challenging the order dated 27.06.2019 passed by the Secretary, District Legal Services Authority (DLSA), Dhubri whereby the said respondent No.4 did not reconsider the enhancement of the compensation to be payable to the petitioner.

2. The case of the petitioner herein is that she was a victim in connection with Bilasipara P.S. Case No.433/2013, registered under Sections 120(B)/417/493/376/323/34 of the Indian Penal Code. The said Bilasipara P.S. Case No.433/2013 was charge sheeted and thereupon the Session Case No.68/2014 was registered. Vide the judgment and order dated 10.08.2017, the learned Additional Sessions Judge, Bilasipara had convicted the accused under Section 376 of the IPC and sentenced him to rigorous imprisonment of 7 years along with a fine of Rs.3,000/-, in default another 2 months of simple imprisonment and the five accused persons were acquitted from the charges.

3. It is relevant to take note of that in the said judgment dated 10.08.2017, the learned Sessions Court further held that the petitioner herein would be entitled to compensation under Section 357A of the Cr.P.C. under the Victim Compensation Scheme and the Secretary, DLSA, Dhubri was directed to determine the quantum of compensation payable to the victim, i.e. the petitioner.

4. Consequently thereupon, on 07.11.2017, the petitioner submitted an

application before the Secretary, DLSA, Dhubri. Pursuant thereto, an amount of Rs.2,00,000.00 was paid to the petitioner on the basis of an order dated 10.05.2018. The petitioner being aggrieved had preferred a writ petition before this Court which was registered and numbered as WP(C) No.704/2018 and this Court vide an order dated 25.04.2019 observing the Schemes namely Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018 as well as the notification of the Government of Assam dated 01.02.2019 had remitted the matter back to the DLSA, Dhubri for relook into the compensation to be paid to the petitioner. Pursuant thereto, the impugned order was passed whereby the Secretary, DLSA, Dhubri had rejected the said enhancement of the compensation in terms with the notification dated 01.02.2019 of the Government of Assam on the ground that the petitioner did not apply within 6 months from the date of the crime which was the mandate as per Clause 7 of the Assam Victim Compensation Scheme, 2012.

5. This Court has duly heard the learned counsel for the petitioner as well as the learned counsel appearing on behalf of the respondents and their contentions have been duly taken into account.

6. The question which arises in the instant proceedings is as to whether the petitioner would be entitled to compensation in terms with the notification pertaining to the Assam Victim Compensation Scheme, 2012 as it existed on the date on which the compensation was paid to the petitioner or in terms with the notification dated 01.02.2019.

7. This Court has duly taken note of the judgment passed by the learned Sessions Court dated 10.08.2017 wherein there was a direction to

the Secretary, DLSA, Dhubri to determine the quantum of compensation in terms with Section 357A of the Cr.P.C. Pursuant thereto, the petitioner duly submitted an application on 07.11.2017 and pursuant to the order dated 10.05.2018, the petitioner was paid the compensation amount of Rs.2,00,000.00. The petitioner thereupon challenged the said order dated 10.05.2018 of awarding Rs.2,00,000.00 on the ground that the petitioner ought to have been awarded in terms with the notification dated 01.02.2019 wherein the compensation has been fixed in the range of Rs.3,00,000.00 to Rs.5,00,000.00. It is under such circumstances, this Court vide an order dated 25.04.2019 had directed the Secretary, DLSA, Dhubri to relook at the compensation paid to the petitioner taking into account the notification of the Government of Assam dated 01.02.2019 and the Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018 of NALSA.

8. During the course of hearing, the learned counsel appearing on behalf of the petitioner has placed before this Court the then existing notification bearing No.PLA.524/2015/16 dated 05.03.2016 whereby the compensation to be payable for rape victim was Rs.3,00,000.00.

9. This Court is of the opinion that the petitioner would be entitled to payment of compensation on the basis of the notification which existed at that relevant point of time and not on the basis on the notification dated 01.02.2019 in as much as the petitioner has already paid pursuant to its application in the year 2018 itself.

10. Be that as it may, as per the notification dated 05.03.2016, the compensation which was requested to be paid is Rs.3,00,000/-. However, the Secretary, DLSA, Dhubri vide the impugned order had rejected the

enhancement of the compensation beyond Rs.2,00,000/-.

11. In the opinion of this Court the rejection of the prayer for enhancement was not in conformity with the existing notification at that relevant point of time. Accordingly, this Court therefore disposes of the instant writ petition with a direction to the Secretary, DLSA, Dhubri to pass an additional award of an amount of Rs,1,00,000/- to be paid to the petitioner as compensation under Section 357A of the Cr.P.C. read with the Assam Victim Compensation Scheme, 2012.

12. The said award be passed within a period of 2 (two) months from the date a certified copy of the instant order is served upon the Secretary, DLSA, Dhubri.

13. The said award be further forwarded to the Commissioner and Secretary, Home Department of the Government of Assam. Upon receipt of the said award, the Commissioner and Secretary, Home Department of the Government of Assam is directed to disburse the amount of Rs.1,00,000/- to the Secretary, DLSA, Dhubri within a period of 2 (two) months from the date of receipt of the said award and thereupon, the Secretary, DLSA, Dhubri shall disburse the same to the petitioner within a period of 15 (fifteen) days.

14. With the above observations and directions, the instant writ petition stands disposed of.

**JUDGE**