

GAHC010076322021



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

Case No. : WP(C)/3688/2021

MD. HANIF ALI
S/O SUKANA SHEIKH, R/O VILL. KHEKAPARA, P.O. AMBARI, P.S.
DHUPDHARA, DIST. GOALPARA, ASSAM, PIN 783123

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPTT., (RELIEF AND
REHABILITATION) DISPUR, GUWAHATI 781006

2:THE DEPUTY COMMISSIONER
KAMRUP (R) AT AMINGAON
ASSAM
P.O. AMINGAON
P.S. NORTH GUWAHATI
PIN 781031

3:THE DEPUTY COMMISSIONER

GOALPARA
ASSAM
P.O. BALADMARI
P.S. GOALPARA
ASSAM
PIN 783121

4:THE CIRCLE OFFICER

BOKO CIRCLE OFFICE
P.O. AND P.S. BOKO
DIST. KAMRUP (R)

ASSAM
PIN 781123

5:THE OFFICER IN CHARGE

BOKO POLICE STATION
DIST. KAMRUP (R)
ASSAM
PIN 78112

Advocate for the Petitioner : MR. R Deka

Advocate for the Respondent : SC, REVENUE

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE

29.04.2024

None appears for the petitioner on call. Heard Ms. N. Bordoloi, learned Standing Counsel for the Revenue Department.

2. The grievance raised in this writ petition is that the son of the writ petitioner had unfortunately drowned due to flood, for which he has sought for ex-gratia relief amounting to Rs. 4,00,000/- (Rupees four lakhs) only in terms of the Notification dated 16.06.2015.

3. The case projected by the petitioner is that on 16.07.2020 at around 12 Noon, the son of the petitioner, namely, Ajas Ahmed, aged about 14 years along with his cousin brother Sofikul Rahman @ Sofiquil Rahman went to take bath in the fishery pond of Baharul Islam, which was overflowed by flood water. According to the petitioner his son and his cousin fell down in the excess flood

water and they were washed away by the flood. As a result both died due to drowning.

4. The petitioner filed an application 21.12.2020 before the Deputy Commissioner, Kamrup (Rural), Assam, seeking grant of Ex-gratia relief to the petitioner as per the Government Notification dated 16.06.2015. According to the petitioner, the respondent authority has not taken any action depriving the ex-gratia grant to the petitioner as per the policy of the State.

5. Ms. N. Bordoloi, learned Standing Counsel for the Revenue Department submits that the deceased, namely, Ajas Ahmed died due to drowning, when he along with another person, Safiqul Rahman went to take bath in the private fishery (pond) of one Baharul Islam.

6. As per the report, the death took place in the private fishery (pond) of Baharul Islam and in no way it is a flood related death. As per the Assam State Disaster Management Authority, Daily Flood Report dated 16.07.2020, the area was not affected by flood. Therefore, she submits that the case does not fall under the category for "sanction of Ex-gratia grant to next of Kin of person killed due to accident in public places or in public carrier. As per the report of Circle Officer, Boko Revenue Circle, it is stated that the death took place due to drowning in private pond of one Baharul Islam. Hence, the petitioner is not entitled for any ex-gratia grant from the Government in terms of the Notification of the State government.

7. Due consideration has been given to the pleadings and the submissions of the learned counsel for the respondents.

8. The State authority had filed the counter affidavit clearly stating that on the unfortunate day of death of the son of the petitioner there was no flood.

The son of the petitioner had unfortunately drowned in a private fishery (pond).

9. On 22.04.2024, this Court after hearing the learned counsel for the petitioner Mr. S.I. Akand, who has sought for a time to justify the claim for ex-gratia by submitting the as per police report, it is indicated that there was a flood.

10. On the prayer of the learned counsel for the petitioner, the matter was fixed today for consideration and disposal of the matter by giving an opportunity to the learned counsel for the petitioner. As noted above, the learned counsel for the petitioner has remained absent in spite of the information given by the learned Standing Counsel to appear and make his submission on the direction of this Court.

11. Be that as it may, on consideration of the materials, it transpires that on the day of death of the son of the petitioner there was no flood as claimed by the petitioner. The son of the petitioner had unfortunately died due to drowning in the private fishery (pond) which cannot be said to be a public place. That apart, the police does not indicate that on the day of incident there was a flood, it merely recorded the contents of the FIR filed by the petitioner.

12. Having considered above this Court is of the view that the petitioner is not entitled for grant of any ex-gratia amount as per the applicable notification of the State Govt. Accordingly, the writ petition stands dismissed.

13. This Court expresses its displeasure on the conduct of the learned counsel for the petitioner of intentionally remaining absent from this Court despite fixing the matter for final disposal. The conduct may lead to passing of appropriate order in appropriate cases in future, if the same conduct is repeated in future by the learned counsel for the petitioner.

14. With the above observation and direction, this writ petition stands dismissed. No order as to cost.

JUDGE

Comparing Assistant