

GAHC010151312022



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

Case No. : WP(C)/5303/2022

SMT. KALPANA DEKA AND ANR.
W/O. LT. KAMALESWAR DEKA,

2: HIRAK JYOTI DEKA
BOTH ARE THE RESIDENTS OF VILL. BAMA
P.O. KARARA
P.S. BAIHATA CHARIALI
DIST. KAMRUP (R)
ASSAM
PIN-781381

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HOME AND
POLITICAL DEPTT., DISPUR, GUWAHATI-781006.

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY

REP. BY ITS MEMBER/SECRETARY
BEHIND GAUHATI HIGH COURT (NEW BUILDING)
LATASIL
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781001.

3:THE CHAIRMAN

DIST. LEGAL SERVICES AUTHORITY
KAMRUP (R)
AT AMINGAON
P.O. AMINGAON
P.S. NORTH GUWAHATI

DIST. KAMRUP (R)
ASSAM
PIN-781031.

4:THE DIST. LEGAL SERVICES AUTHORITY

KAMRUP (R) AT AMINGAON
REP. BY ITS MEMBER/SECY.
P.O. AMINGAON
P.S. NORTH GUWAHATI
DIST. KAMRUP (R)
ASSAM
PIN-781031.

5:THE OFFICER IN CHARGE

BAIHATA CHARIALI POLICE STATION
DIST. KAMRUP (R)
ASSAM
PIN-781381

For the Petitioner(s) : Mr. S. I. Akand, Advocate

For the Respondent(s) : Ms. R. S. Choudhury, Advocate

- B E F O R E -

HON'BLE MR. JUSTICE DEVASHIS BARUAH

09.09.2024

The instant writ petition has been filed challenging the inaction on the part of the Respondent Authorities to grant compensation to the Petitioners in terms with the Assam Victim Compensation Scheme, 2012 (hereinafter referred to as "the Scheme of 2012") as well as the notifications issued on 18.10.2012 and 01.02.2019.

2. The Petitioner No.1 herein claims to be the wife of one Kamaleswar Deka (since deceased) and the Petitioner No.2 is the son of Late Kamaleswar Deka. As stated in the writ petition, Late Kamaleswar Deka

was murdered on 14.10.2015. In that respect, a case was registered being Baihata Chariali P.S. Case No.263/2015 under Section 302 of the Indian Penal Code.

3. The Petitioner No.1 thereupon filed an application on 28.10.2021 before the Member/Secretary, District Legal Services Authority, Kamrup (Rural) at Amingaon, Assam stating inter alia the incident which led to the death of her husband and the fact that the entire family has been suffering financially as well as mentally and thereby seeking financial assistance for the purpose of rehabilitation, survival for the victim's family members. However as nothing was done thereafter, the Petitioners have therefore approached this Court under Article 226 of the Constitution seeking a direction upon the Respondent Authorities to grant compensation to the Petitioners as per the Scheme of 2012.

4. This Court has duly perused the materials on record and also taken note of the respective submissions of the learned counsels. This Court have also duly taken note of the Scheme of 2012 and more particular to Clause 4 and 5 of the said Scheme which stipulates eligibility for compensation as well as the procedure for grant of compensation. On the basis of the facts as mentioned in the writ petition, it appears that the Petitioners would come within the ambit of Clause 4.1 of the Scheme of 2012.

5. This Court also finds it relevant to observe that the detail procedure has been set out in Clause No.5. This Court further finds it relevant to take note of the notification dated 01.02.2019 wherein the minimum compensation to be paid is Rs.5,00,000/- (Five Lakhs) on account of death. Under such circumstances, this Court therefore disposes of the

instant writ petition directing the Respondent No.4 i.e. the District Legal Services Authority, Kamrup (Rural) at Amingaon to pass an award in terms with Clause 5 of the Scheme of 2012 as well as the notification dated 01.02.2019. The said exercise be completed within a period of 2 (two) months from the date a certified copy of this order is served upon the Respondent No.4. The Respondent No.1 also be communicated with the award forthwith by the Respondent No.4.

6. This Court further directs the Commissioner and Secretary to the Government of Assam, Home and Political Department to release the funds on the basis of the award passed by the Respondent No.4 within a period of 2 (two) months from the date the award is communicated to the Commissioner and Secretary to the Government of Assam, Home and Political Department by the Respondent No.4. The Respondent No.4 is directed to submit the compliance report to the directions so passed hereinabove within 2 (two) months from the date a certified copy of the instant order is served upon the Respondent No.4.

7. Before parting with the record, this Court observes that any interim compensation if already paid to the petitioners be adjusted at the time of making the final award.

J U D G E