

GAHC010166142023



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

Case No. : WP(C)/4546/2023

KARAN KARWA @ KARAN KAROBA
S/O- LATE DUBRAJ KARWA,
R/O- VILLAGE- SESABIL MOHKHUTI,
P.O.- DHOLAGURI,
P.S.- NUMALIGARH OUT POST,
DIST.- GOLAGHAT, ASSAM,
PIN- 785613.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT,
DISPUR, GUWAHATI, ASSAM,
PIN- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST FORCE
BATAHGULI
PANJABARI ROAD

GUWAHATI
ASSAM 781037.

3:THE DEPUTY COMMISSIONER/ DISTRICT COMMISSIONER
GOLAGHAT
COURT RD.
GOLAGHAT
ASSAM- 785621.

4:THE SUPERINTENENT OF POLICE
GOLAGHAT
ASSAM 785621.

5:THE DIVISIONAL FOREST OFFICER
GOLAGHAT
AT KACHUGAON
GOLAGHAT

ASSAM
PIN- 785621.

6:THE OFFICER-IN-CHARGE OF NUMALIGARH POLICE STATION
TELGARAM
DIST.- GOLAGHAT

ASSAM 785613

For the Petitioner(s) : Mr. M. U. Mahmud, Advocate

For the Respondent(s) : Mr. I. Borthakur, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 10.01.2024

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in making the payment of adequate compensation to the Petitioner in terms with the notification dated 06.03.2017 issued by the Principal Secretary, Government of Assam, Environment and Forest Department.
2. It has been stated in the writ petition that the brother of the Petitioner late Aghanu Karwa @ Aghanu Konwar was killed by a wild elephant and survived by his four brothers namely Anup Karwa aged 40 years, Rajen Karwa aged 27 years, Suresh Karwa, aged 26 years and the Petitioner. After the death of Late Aghanu Karwa, the Petitioner duly approached the Deputy Commissioner (now District Commissioner) in writing praying for adequate compensation. However,

the said compensation was not paid in spite of the notification of the Government of Assam dated 26.05.2017 which categorically mentions that payment of Ex-gratia to the families of the deceased person of an amount of Rs.4,00,000/- per deceased person.

3. It has also been mentioned that the house of Late Aghanu Karwa was also damaged for which the Petitioner is also entitled to as per the said notification dated 06.03.2017. The Petitioner is aggrieved that the Respondent Authorities have not taken any steps for which the instant writ petition has been filed.

4. Mr. I. Borthakur, the learned Standing counsel appearing on behalf of the Forest Department submitted that for the purpose of seeking compensation in terms with notification dated 06.03.2017, the Petitioner is required to approach the Divisional Forest Officer and not the District Commissioner and as no application has been filed before the Divisional Forest Officer, the question of issuance of any direction upon the said authority does not arise. He submitted that the mandamus cannot be issued unless there has been a demand for justice.

5. Having heard the learned counsels for the parties, this Court is of the opinion that if the Petitioner herein is entitled to in terms with the notification dated 06.03.2017, the Petitioner is required to approach the concerned Divisional Forest Officer by filing an application and placing before the said authorities the relevant materials evidencing the death of his brother and also his entitlement to the amounts on account of damage to the house of the deceased and as such the Petitioner is given the liberty to approach the Divisional Forest Officer, Golaghat in that regard.

6. It is further made clear that if the Petitioner approaches the Divisional

Forest Officer, Golaghat, the said official shall duly verify as to whether there has been any death as alleged and also as to whether any house was damaged and as to whether the house was a mud house or a thatched house and after making appropriate verifications, if it is found that the Petitioner herein is entitled to any amount, the said amount be paid to the Petitioner. The said exercise be completed within 4 (four) months upon the Petitioner making necessary application along with the certified copy of this order. Further, the Petitioner shall also submit a Next of Kin Certificate of Late Aghanu Karwa along with the application.

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

JUDGE

Comparing Assistant