

GAHC010185922019



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

Case No. : WP(C)/5675/2019

NABIRAN KHATUN
W/O MD. AYNAL HAQUE, R/O DARANDHA, SIX MILE, P.O. AND P.S.
DISPUR, PIN-781006, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE (P AND R) AND DISASTER MANAGEMENT DEPTT. DISPUR,
GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT. DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER
KAMRUP (METRO)
GUWAHATI-781001

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
GUWAHATI-78100

Advocate for the Petitioner : MR. S S S RAHMAN, MR S S ALI

Advocate for the Respondent : GA, ASSAM, SC, FINANCE, SC. REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

28.10.2024

Heard Mr. S.S.S. Rahman, learned counsel for the petitioner. Also heard Ms. S. Konwar, learned Government Advocate for the respondent Nos. 3 & 4 and Ms. N. Bordoloi, learned Standing Counsel, Revenue (respondent No. 1).

2. By way of this petition under Article 226 of the Constitution of India, the petitioner is seeking payment of ex-gratia amounting to Rs. 4 Lakhs to the petitioner.

3. The case of the petitioner is that the petitioner's son, i.e., Nur Islam died by slipping on the footpath and falling into the flood water and died on 04.08.2018 and his body was recovered on the next date from Bahini river. Since the petitioner's son died in public place due to flood, the petitioner represented for compensation in terms of the existing scheme. However, since the same was not granted, the present writ petition has been filed.

4. Mr. S.S.S. Rahman, learned counsel for the petitioner submits that the Under Secretary to the Government of India by Notification dated 13.08.2019 has conveyed the Chief Secretary, Government of Assam as regards the Prime Minister's sanctioning ex-gratia from the Prime Minister National Relief Fund to the tune of Rs. 2 Lakhs each to the NOK of the persons deceased of floods/landslides/cyclonic storms/lightning etc. in Assam. He accordingly submits that the case of the petitioner is entitled to be considered in terms of the aforesaid notification.

- 5.** Ms. S. Konwar, learned Government Advocate for the respondent Nos. 3 & 4 submits that in terms of the affidavit-in-opposition filed on 17.11.2023, it appears from the Circle Report submitted therein that the death of the petitioner's son was due to drowning in the public river on 04.08.2018.
- 6.** Ms. N. Bordoloi, learned Standing Counsel, Revenue draws the attention of this Court to the Notification dated 15.11.2014, wherein an ex-gratia amount of Rs. 2 Lakhs is provided to the NOK of person killed due to accident in public places or in public carriers (other than killed by extremist/terrorist/miscreants and due to the firing of security forces).
- 7.** I have given my prudent consideration to the submissions made by the learned counsels for the parties and have perused the materials available on record.
- 8.** It appears from the affidavit-in-opposition filed by the respondent No. 4 on 17.11.2023 that as per the record available, it appears that the petitioner's son died due to drowning in Bahini river on 04.08.2018 at PIBCO Bus Stand near Reliance Trend, Rukmingaon, Guwahati.
- 9.** Relevant portion of the report dated 04.08.2018 of the jurisdictional Circle Officer is reproduced hereunder for ready reference:-

“DROWNING REPORT

Dist./ Circle : Kamrup (Metro)/ Dispur Revenue Circle

Date: 04/08/2018

Sl No	Date/ Time of occurrence	Land Details			Name of the Land Owner	Name of the Deceased Person	Age	Name and Relation of NOK	Remarks
		Name of the Villages	Daa g No.	Patt a No.					
1	03.08.201 (Friday) at 04:45 PM (Evening)	Rukminigao n	-	-	-	Lt. Nur Islam	13 yrs	Nabirun Khatun Ph. 6900293698	A minor boy was fallen into the Bahini river at PIBCO Bus Stand near Reliance Trends, Rukminigaon while he was picking up waste bottles in the river. He was living in the rented house with his Mother and Grandmother at Dwarandha. As per report they are originally from Balampur, Kokrajhar.

Circle Officer
Dispur Revenue Circle
Kamrup Metro”

10. Apt that the petitioner’s son died accidentally at the public place.

11. In view of the aforesaid, this Court, in the interest of justice deems appropriate to dispose of this writ petition by directing the respondent authorities to verify the claim of the petitioner and pay the ex-gratia compensation, if so entitled, in terms of the Notification dated 15.11.2014 issued by the Government of Assam, Revenue & Disaster Management Department, Relief & Rehabilitation Branch within a period of 3 (three) months from the date of receipt of the claim of the petitioner.

12. Ordered accordingly.

13. Accordingly, the writ petition stands disposed of.

JUDGE

Comparing Assistant