

GAHC010205112017



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

Case No. : WP(C)/7639/2017

RAMESWAR BRAHMA
S/OLT. DEBEN BRAHMA VILL- BATABARI P.O. KOKRAJAHR P.S. and DIST.
KOKRAJAHR, BTAD, ASSAM, PIN - 783370.

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI -06.

2:THE COMMISSIONER and SECRETARY
TO THE GOVT. OF SSAM
REVENUE and DISASTER MANAGEMENT AND RELIEF and REHALITATION
DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE COMMISSIONER and SECRETARY
TO THE GOVT. OF SSAM
HOME DEPARTMENT
DISPUR
GUWAHATI -06.

4:THE DEPUTY COMMISSIONER

KOKRAJHAR
BTAD
ASSAM
P.O. and P.S. and DIST. KOKRAJHAR
BTAD
ASSAM
PIN - 783370.

5:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI -07.

6:THE SUPERINTENDENT OF POLICE

KOKRAJHAR
P.O. and P.S. and DIST. KOKRAJHAR
BTAD
ASSAM
PIN - 783370

7:THE OFFICER-IN-CHARGE

KOKRAJHAR POLICE STATION
P.O. and DIST. KOKRAJHAR
BTAD
ASSAM PIN - 783370

8:THE CIRCLE OFFICER

KOKRAJHAR REVENUE CIRCLE
P.O. and P.S. and DIST. KOKRAJHAR
BTAD
ASSAM PIN - 78337

Advocate for the Petitioner : MR.M HUSSAIN

Advocate for the Respondent : GA, ASSAMR1-8

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 12.06.2024

Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Mr. P. Saikia, learned Government Advocate appearing for the respondents no. 1, 3, 4, 5, 6, 7 & 8 as well as Mr. R. Borpujari, learned Standing Counsel for the Revenue and Disaster Management Department representing the respondent no. 2.

The grievance raised in the present petition by the petitioner pertains to the non-authorization of the ex-gratia compensation due on account of the action on the part of the extremist in kidnapping the brother of the petitioner, namely Gopal Brahma on 06.08.1996, after which he has remained untraced till date. It is contended in the writ petition that the father of the petitioner had lodged an Ejahar on 08.08.1996, stating that the brother of the petitioner herein was on 06.08.1996 kidnapped by some unknown extremists while he was proceeding to Kokrajhar town. On receipt of the said Ejahar, the Kokrajhar Police Station Case No. 263/1996, under Section 365 of the IPC came to be lodged. It is seen that in the said criminal case, the police had carried out the requisite investigation and on not being able to trace out the brother of the petitioner and or, indentify the purported extremists involved in the kidnapping incident, proceeded to submit an FR in the matter on 17.09.1997. The materials on record also demonstrate that the said FR was accepted by the learned Trial Court on 07.10.1997.

It is seen that after the said incident had occasioned in the year 1996

and the FR as noted above was submitted by the police, there was no further steps taken in the matter by the petitioner and or, his family members and only a statement has been made that they were continuously pursuing the matter with the respondent authorities. The FR having been accepted by the learned Trial Court way back on 07.10.1997, there exist no material to demonstrate as to the steps that were purportedly taken in the matter by the petitioner for claiming compensation from the respondent authorities.

It is seen that after lapse of a substantial period of time, on 22.03.2017, the present petitioner had submitted a representation before the Secretary to the Government of Assam, Revenue (R & R) & DM Department, praying for grant of ex-gratia compensation on account of the kidnapping incident involving his untraced brother. The said approach made by the present petitioner not having resulted in authorizing to him the compensation as claimed for, the present proceeding has been instituted.

The learned counsel for the petitioner on being queried by this Court as to the delay in approaching this Court after the incident which forms the basis for claim of compensation herein had occasioned on 06.08.1996, the learned counsel for the petitioner was not able to satisfy this Court on the said ground for delay. However, Mr. R. Borpujari, learned Standing Counsel representing the respondent no. 2 submits that in view of the fact that the respondent authorities had already started a de novo enquiry in the matter, the respondent authorities would carry out due enquiry into the matter and thereafter proceed to submit proposals for release of ex-gratia compensation in respect of kidnapping incident involving said Gopal Brahma. Accordingly,

considering the said submission of Mr. R. Borpujari, this Court is not proceeding to dismiss the present writ petition on the ground of delay and laches.

In view of the above position and also considering the submission as made by Mr. R. Borpujari, learned Standing Counsel, the petitioner herein, is directed to submit a representation before the Deputy Commissioner, Kokrajhar laying out the requisite particulars pertaining to the kidnapping of his brother way back in the year 1996.

The Deputy Commissioner, on receipt of the said representation along with all the requisite particulars mandated from the petitioner herein, shall cause an enquiry into the matter and on conclusion of such enquiry, if it is found that the petitioner herein is covered by the policy of the State for being extended with the ex-gratia compensation on account of the kidnapping of his brother and he being untraced till date, shall proceed to pass a speaking order in the matter and therein, by referring to such materials basing on which the conclusion was so arrived at, forward the proposal to the Secretary to the Government of Assam, Revenue (R & R) & DM Department for necessary approval.

The Deputy Commissioner in the event comes to a conclusion that on account of the kidnapping of Gopal Brahma, on 06.08.1996, his next of kin are eligible for being extended with ex-gratia compensation, the Deputy Commissioner shall also determine the next of kin of the untraced victim herein who would be entitled to receive the ex-gratia compensation and thereafter, only proceed to submit the proposal as required by him herein above.

With the above observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant