

GAHC010207032023



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

Case No. : WP(C)/5441/2023

SMTI. ANJALI PATAR
W/O LT. LAKSHMI PATAR, VILL- KHOLAPATHAR (SILCHANG), P.O.-
SILCHANG, P.S.-DHARAMTUL, DIST- MORIGOAN, ASSAM, PIN-782425

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPTT., RELIEF
AND DISASTER BRANCH, DISPUR, GUWAHATI-06

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06

3:THE DEPUTY COMMISSIONER
MORIGAON
P.O.-MORIGAON
DIST-MORIGAON
ASSAM
PIN-782105

4:THE SUPERINTENDENT OF POLICE
MORIGAON
P.O.-MORIGAON
DIST-MORIGAON
ASSAM
PIN-782105

5:THE OFFICER-IN-CHARGE
JAGIROAD POLICE STATION

P.O.-JAGIROAD
DIST-MORIGAON
ASSAM
PIN-782410

6:THE CIRCLE OFFICER OF MORIGAON REVENUE CIRCLE
P.O.-MORIGAON
DIST- MORIGAON
ASSAM
PIN-78210

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 19.07.2024

Heard Mr. M.R. Khandarkar, learned counsel for the petitioner. Also heard Ms. M. Barman, learned Government Advocate and Ms. P.R. Mahanta, learned Standing Counsel, Revenue Department.

The petitioner is aggrieved by non-release of ex-gratia payment, which she is entitled to be released in view of the fact that her husband died in a road accident.

The learned counsel for the petitioner has referred to the notification dated 15.11.2014, where the ex-gratia announced by the Government of Assam

in cases of persons killed in road accident is of Rs. 2,00,000/-. Although, she has been running from pillar to post but her claims has not been redressed. Being aggrieved the present writ petition has been filed.

Pursuant to issuance of notice, the respondent No.3 has filed an affidavit, wherein it is stated that the investigation of police has concluded and final report being FR No.19/2017 dated 27.02.2017 in connection with Jagiraod P.S. Case No. 39/2017 under Section 279/304(A) of the Indian Penal Code has been submitted. There is also a statement in the affidavit that the petitioner did not submit the next of kin certificate, which is considered as essential document for sanctioning the ex-gratia payments.

The learned Government Advocate submits relying upon the affidavit that unless the next of kin certificate is furnished, the further process of sanctioning of the ex-gratia cannot proceed.

Mr. Khandarkar, learned counsel for the petitioner submits that he will file the next of kin before the Deputy Commissioner, Morigaon within 2(two) weeks and accordingly the writ petition be disposed of directing the respondent authorities to process the prayer for grant of ex-gratia of the writ petitioner upon the next of kin certificate being submitted by the writ petitioner.

Heard learned counsel for both the sides the and have perused the pleadings available on record. It is seen that there is no dispute that the writ petitioner's husband succumbed to injuries sustained in the road accident, which occurred on 18.01.2017. In connection to that Jagiraod P.S. Case No. 39/2017 under Section 279/304(A) of the Indian Penal Code was instituted. In terms of the affidavit filed by the respondent No.3 a final report being F.R. No. 19/2017 has been submitted on 27.02.2017.

It is submitted by the learned counsel for the petitioner before this Court that he would furnish a next of kin certificate within a period of 2(two) weeks. This Court finds that *prima facie*, it appears that the petitioner could be entitled for grant of ex-gratia in terms of the notification dated 15.11.2014.

Accordingly, this Court is of the view that the writ petition need not be kept pending for want of instructions and, therefore, the same can be disposed of with the direction to the respondent No.3. Accordingly, the writ petition is disposed of permitting the petitioner to furnish a copy of the next of kin certificate before the respondent No.3, Deputy Commissioner, Morigaon within a period of 2(two) weeks from today. Upon such submission of the next of kin certificate, the Deputy Commissioner, Morigaon will thereafter make necessary enquiries in the matter and if it is found that the petitioner is indeed entitled to be granted an ex-gratia of Rs. 2,00,000/- in terms of notification dated 15.11.2014 as per Sl. No.3 of the said notification, a proposal to that effect will be put up by the Deputy Commissioner, namely, respondent No.3 before the respondent No.1, namely, the Commissioner and Secretary to the Govt. of Assam, Revenue Department Management.

Any proposal placed before this Court by the Deputy Commissioner in pursuant to such enquiry made shall be disposed of by the respondent No.1 within a further period of 90 days from the date of receipt of such a proposal from the Deputy Commissioner, Morigaon, namely, respondent No.3.

It is made clear that the proposal will be processed by the Deputy Commissioner will upon furnishing of the next of kin certificate by the petitioner as directed.

With the above observation the writ petition stands disposed of.

Interim order, if any, shall merged.

JUDGE

Comparing Assistant