

GAHC010238342023



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

Case No. : WP(C)/6179/2023

RAJKUMARI GIRIA
W/O- SANDIP GIRIA, R/O- J.D. ROAD, WARD NO. 5, P.O. AND DIST.
KOKRAJHAR, ASSAM, PIN- 783370.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, DEPARTMENT
OF HOME, DISPUR, GUWAHATI-781006.

2:THE DIRECTOR GENERAL OF POLICE
ULUBARI
GUWAHATI
ASSAM
PIN- 781007.

3:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
KOKRAJHAR
PIN- 783370.

4:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
ASSAM
PIN- 783370

Advocate for the Petitioner : MR. A LAL

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

28.02.2024

Heard Mr. M. Pandit, learned counsel for the petitioner. Mr. M. Chetia, learned counsel appears for the respondent Nos. 1, 2 and 4, while Mr. S.R. Rabha, learned counsel appears for the respondent No.3 (BTC).

2. The case of the petitioner is that she is a registered owner of 2 [two] nos. of vehicles bearing registration nos. AS-16/D-4777 and AS-16/G-1888. It has been averred that during the period from 01.01.2015 – 31.03.2023, the office of the respondent no. 4 had requisitioned the said vehicles on a number of occasions and thereafter released them on different dates. The petitioner had thereafter submitted bills towards hiring charges amounting to Rs. 50,16,521/- including daily allowance of the driver/staff and the Value Added Tax. It is stated that despite repeated requests to the respondent authorities seeking disbursement of the said amount, the respondent authorities did not take any discernible action for disbursement of the bill amount. The petitioner is thus constrained to approach this Court by way of this writ petition, seeking disbursal of the said amount.

3. Mr. M. Chetia, learned counsel appearing for the respondent Nos. 1, 2 and 4 submits that the petitioner is entitled to receive Rs.48,85,429/-, after deducting 2% from the admissible amount of Rs.50,16,521/-. He submits that the deduction of 2% had been made after negotiating with the petitioner. Further, the petitioner has already been paid Rs.8,37,718/-.

4. I have heard the learned counsels for the parties.

5. Para 6 of the affidavit-in-opposition filed by the respondent No. 4 on 12.12.2024 states as follows:-

“6. That as regards the statements made in Paragraph No. 7 of the writ petition, the answering deponent states that the competent authority hired the vehicles from the above petitioner for the use of this respondent for the interest of public service and maintaining the law & order situation. However, the deponent has no authority to sanction the hired charge bills and accordingly all hired charge bills were forwarded to the O/O Assam Police Headquarters, Ulubari, Guwahati in different occasions for necessary sanction and release of fund for total admissible amount of Rs.50,16,521/- (Rupees fifty lakhs sixteen thousand five hundred twenty one) only, wherein he got payment of Rs.8,37,718/- (Rupees eight lakhs thirty seven thousand seven hundred eighteen) only. The petitioner has claimed in 04 nos. bills vide vehicle No. AS-16G/1888 w.e.f. 24/08/2018, 24/08/2018 to 31/03/2020, for Rs.2,73,942.00, 3,07,972.00, 2,60,330.00 and 1,54,836.00 wherein after negotiations with the petitioner in connection with one time settlement with Minutes of the conference of the Superintendents of police held on 3rd & 4th Jan/2022 with the Hon'ble chief Minister of Assam, at Duliajan the bill have been prepared after deducting 2% from the total amount of bills (excluding VAT) and sent to APHQ, Assam, Guwahati vide this office Memo No. KJR/MT/2022/5852 Dtd.29/10/2023 for early payment. The rest amount is payable to him.”

6. As can be seen from the above, the petitioner is liable to be paid Rs.48,85,429/- as per the verification and admission made by the Superintendent of Police, Kokrajhar, Assam. However, in terms of the Full Bench judgment of this Court in the case of **Tamsher Ali Vs. State of Assam & Others**, reported in **2008 (4) GLT 1**, the verification and admission of the outstanding liability has to be made by the Head of the Department, which, in this case, would be the respondent No.2.

7. Accordingly, the respondent No.2 is directed to re-verify the amount

payable to the petitioner after going through the verification made by the Superintendent of Police, Kokrajhar and take a decision on the same. Thereafter, the admitted amount should be paid to the petitioner. The entire exercise should be completed within a period of 3(three) months from the date of receipt of a certified copy of this order.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant