

GAHC010244192022



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

Case No. : WP(C)/7731/2022

NIBHAJYOTI DUTTA @ NIVAJYOUTI PHUKAN DUTTA
W/O- LATE DIGANTA DUTTA,
RESIDENT OF VILL- MIRI PATHAR,
P.O.- DOIGRUNG, P.S.- GOLAGHAT,
DIST.- GOLAGHAT, ASSAM,
PIN- 785702.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
HOME AND POLITICAL DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REPRESENTED BY ITS MEMBER/SECRETARY
BEHIND GAUHATI HIGH COURT
NEW BUILDING
P.S.- LATASIL
GUWAHATI
DIST.- KAMRUP(METRO)
ASSAM. PIN- 781001.

3:THE CHAIRMAN
DISTRICT LEGAL SERVICES AUTHORITY
GOLAGHAT
P.O. AND P.S.- GOLAGHAT
DIST.- GOLAGHAT
ASSAM
PIN- 785621.

4:THE DISTRICT LEGAL SERVICES AUTHORITY
GOLAGHAT

REPRESENTED BY ITS MEMBER/SECRETARY
P.O. AND P.S.- GOLAGHAT
DIST.- GOLAGHAT
ASSAM
PIN- 785621.

5:THE OFFICER-IN-CHARGE
GOLAGHAT POLICE STATION
P.O. AND DIST.- GOLAGHAT
ASSAM
PIN- 785621

Advocate for the Petitioner : MR. R Deka

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 09-02-2024

Heard Mr. S.I. Akand, learned counsel for the petitioner; Mr. R. Chouhan, learned counsel representing Ms. R.S. Choudhury, learned Standing Counsel ASLSA for the respondent no. 2; and Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent no. 1, 3, 4 & 5.

2. The petitioner has preferred the instant writ petition seeking a direction to the respondent authorities to release compensation under the Assam Victim Compensation Scheme, 2012, as amended.

3. From the instructions placed by Mr. Chouhan, it is noticed that on the basis of the petitioner's application, a case, *Victim Compensation Case no. 15/2022* was registered by the District Legal Services Authority, Golaghat. From the order sheets of *Victim Compensation Case no. 15/2022*, placed before the Court by Mr. Chouhan, it is noticed that an amount of Rs. 75,000/- has been disbursed to the applicant-petitioner vide a Cheque bearing no. 168539 dated 27.12.2023. From the Order dated 27.12.2023 passed by the Secretary, District Legal Services Authority, Golaghat, it is further noticed that the said authority has disbursed

the amount of Rs. 75,000/- towards full compensation. With the disbursement of Rs. 75,000/-, the District Legal Services Authority, Golaghat has disposed of the case, *Victim Compensation Case no. 15/2022*.

4. It is the contention of the petitioner that the husband of the petitioner, Diganta Dutta died due to injuries sustained in an incident of assault. In connection with the alleged murder, a crime case, Golaghat Police Station Case no. 43/2022 was registered and after completion of investigation, the investigating authority has already submitted a charge-sheet being Charge-Sheet no. 81/2022 against 5 [five] accused-persons finding a *prima facie* case for committing the offences under Sections 341/342/325/302/34, Indian Penal Code [IPC]. It is the further contention of the petitioner that under the Assam Victim Compensation Scheme, 2012, as amended, the amount of compensation payable in case of death is Rs. 5,00,000/- and as such, the direction to make payment for an amount of Rs. 75,000/- as full compensation, by the Order dated 27.12.2023, is clearly not in conformity of the Assam Victim Compensation Scheme 2012, as amended.

5. As per Clause 8 of the Assam Victim Compensation Scheme, 2012, as amended, any victim aggrieved of the denial of compensation by the District Legal Services Authority, may file an appeal before the State Legal Services Authority within a period of ninety days from the date of denial. It has been provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

6. If the petitioner's contentions are that the petitioner is entitled to an amount of Rs. 5,00,000/- under the Assam Victim Compensation Scheme, 2012, as amended, and the petitioner has been unjustly denied such quantum of compensation, with the payment of a lesser quantum of compensation, then such grievance will be appealable as denial of lesser compensation would come under the ambit and scope of Clause 8 of the Assam Victim Compensation Act, 2012, as amended.

7. As the remedy of appeal under Clause 8 of the Assam Victim Compensation Scheme, 2012, notified vide the Notification dated 18.10.2012, is available to the petitioner, the

petitioner is required to prefer an appeal if aggrieved by the disbursement of the amount of Rs. 75,000/- by the District Legal Services Authority, Golaghat as full compensation. As an alternative and efficacious remedy of appeal is available to the petitioner, the present writ petition is not entertained, reserving the liberty to prefer an appeal under Clause 8 of the Assam Victim Compensation Scheme, 2012, as amended, before the State Legal Services Authority.

JUDGE

Comparing Assistant