

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 20 of 2025

1. Miss Rakhi Deb
D/o- Lt. Sankar Deb

2. Smt. Priyanka Das
W/o: Sankar Deb

Both are the residents of TRTC Para,
Ambassa, Dhalai Tripura, PIN: 799289

The petitioner No.1 being a minor is represented by
her natural guardian and mother i.e. the petitioner No.2.

---Petitioner(s)

Versus

1. The State of Tripura,

To be represented by the Secetary, Rural Development Department, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, PS: New Capital Complex, Agartala, West Tripura, PIN: 799010.

2. The Director, Rural Development, Govt. of Tripura

3. The Block Development Officer, Ambassa, RD. Block, Ambassa, Dhalai, Tripura

4. The Sub-Divisional Magistrate, Ambassa Sub-Division, Ambassa, Dhalai Tripura

5. The Accountant General (A&E) Tripura, Agartala, West Tripura, PO: Kunjaban, PIN: 799006

6. Smt. Rekha Paul Deb

W/o: Lt. Sankar Deb

R/o: Bhattapukur Near Apanjan Club

PO: Arundhuti Nagar, West Tripura, PIN: 799003

---Respondent(s)

For Petitioner(s) : Mr. S. Bhattacharjee, Advocate.

Ms. A. Debbarma, Advocate.

For Respondent(s) : Mr. P Gautam, Sr. GA.

Mr. Soumyadeep Saha, Advocate.

Date of hearing and date of
judgment and order

: 20.01.2025

Whether fit for reporting

: Yes.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard learned counsel for the parties.

[2] This is a petition under Section 226 of the Constitution of India for seeking
the following relief(s):

- i. *Issue Rule upon the respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the respondents to sanction and release 1/4th share of the post death benefits such as gratuity, leave encashment benefits, GPFs and pension in favour of the petitioner No.1 which accrued to her on the death of her father, Sankar Deb.*
- ii. *Make the rules absolute.*
- iii. *Call for records*
- iv. *Pass any further order/orders as this Hon'ble Court considered fit and proper.*

[3] It is the case of the petitioners that the petitioners are praying for proportionate share of post death benefits in favour of the petitioner No.1 which became payable and admissible on the death of her father Lt. Sankar Deb who died in harness on 12.04.2022 while he has been serving in a Group-D post under the respondents at the O/o of BDO, Ambassa R.D. Block. The petitioner No.2 is the wife of the deceased and mother of the petitioner no.1. Both claim they are entitled to post death benefits as per their share but the respondents have deprived them of such post death benefits.

[4] On the other hand, Mr. S. Bhattahcharjee, learned counsel for the petitioners have submitted before this court that neither did the respondents take any action in order to comply the order dated 30.05.2023 passed in the earlier writ petition being WP(C) 328 of 2023 nor did the respondents communicate any correspondence to make the petitioners aware of their stand. This has compelled the petitioners to approach before this court seeking relief. While stating thus, the attention was also drawn to the order passed by the court in WP(C) 328 of 2023 and the proceedings which took place thereafter. It is further contended by the counsel for the petitioners that the respondents ought to have complied the order dated 30.05.2025 and communicated the outcome determining the fate of the petitioners.

[5] It is further contended by the counsel for the petitioners that local people came in support of the petitioners. As many as 59 persons of TRTC Para Ambassa submitted a joint representation, dated, 28.04.2022, to the BDO, Ambassa, RD Block, and by that representation, they urged upon the BDO to do the needful to save Priyanka Das, i.e., the petitioner no. 2 and her minor daughter, i.e. the petitioner no. 1. In that

representation, local people stated, that, the marriage between Sankar Deb & the petitioner no. 2 took place about 5 years ago and out of their marriage, one daughter has been born and presently, she is 3 years old. They also stated that it is not in the knowledge of local people, that, Sankar Deb married Priyanka Das despite having a spouse. Local people, in their representation, also stated, that, after the death of Sankar Deb, his wife, i.e., the petitioner no. 2 and his minor daughter i.e, the petitioner No. 1 are in a very desperate and helpless situation and are starving. Stating so, by representation, dated 28.04.2022, it was urged upon the BDO Ambassa to do the needful.

[6] The Government Advocate argued that the writ is not maintainable and should approach the concerned department & civil court to seek appropriate relief by declaration of suit and not under Article 226 of the Constitution of India. It is further prayed the matter may be dismissed and the respondent No.3 is present before this court to assist on the entire facts.

[7] A bare perusal of the record shows that this is a second round of litigation. Earlier the writ petitioners filed a writ petition being WP(C) 328 of 2023 which was disposed of 30.05.2023 by this Court. The said writ petition was dismissed in pursuance of the disputed question of facts with regard to the claiming of the post death benefits when there appears to be more than one wife of the deceased. While dismissing the writ petition this court took a lenient view in respect of the minor daughter and wife of the deceased person and directed the respondents to consider the legal notice dated 26.12.2022 of the petitioner and accordingly decide their case. Thereafter, the office of the Accountant General, Tripura addressed a letter dated 09.06.2023 to the Block Development Officer, Ambassa, Dhalai, Tripura to act upon the order passed by the High Court.

[8] For ready reference, the relevant context of the letter dated 09.06.2023 is reproduced herein below:

“No.Pen-3/Fam/PR-59/2022-23/
To

Date: _____

The Block Development Officer,
Ambassa R.D Block,
Dhalai, Tripura.

Subject: Compliance of Hon'ble High Court of Tripura, Agartala dated 30-05-2023 passed in WP(C) 328 of 2023 order in respect of Smti Priyanka Das vrs the State of Tripura & others.

Sir,

With reference to the subject cited above, I am to request you to comply with the order of the Hon'ble High Court of Tripura, Agartala dated 30-05-2023 (copy enclosed) in respect of Smti Priyanka Das.

You are therefore, requested to consider the legal notice issued on behalf of the petitioners in accordance with law as mentioned in the above cited order of the Hon'ble High Court of Tripura under intimation to this office.

It may be mentioned here that the Court has fixed a time limit of 2 (two) months to do the needful after receipt of the copy of this order.

Yours faithfully

Sd/-

Sr. Accounts Officer

Memo No. No.Pen-3/Fam/PR-59/2022-23/11077-11079

Copy forwarded to:

1. Smti Priyanka Das,
W/o Late Sankar Deb,
C/o Sri Tapan Das, TRTC Para, Ambassa, Dhalai
Tripura, PIN-799289.

2. Sr. Accounts Officer, Lagal (Local)”

[9] Accordingly, when the case was listed on 17.01.2025, this court has summoned the Block Development Officer, R.D.Block, respondent no.3 to ascertain the facts and the matter was adjourned to 20.01.2025. Today i.e. 20.01.2025 when the case is called for consideration, counsel for both sides are present. Ms. Munmun Debbarma, Block Development Officer, Ambassa R.D. Block is also present. When asked about the case, she stated that Smt. Rekha Paul Deb (the respondent No.6) is the first wife of the deceased (Lt. Sankar Deb) and her name is found in the service records and the amounts were released in favour of the respondent no.6.

“She came to know that the deceased had two wives. She had asked Smt Priyanka Das (the petitioner no.2 herein and second wife of the deceased) to furnish survivor certificate before her office but she has failed to do so. It is also submitted that some of post death benefits were already issued in the name of the first wife i.e. Smt. Rekha Paul Deb (the respondent No.6). When the said BDO learnt that the matter has already reached to the threshold of court, she tried her best to resolve the matter asking both the wives to settle the matter without the interference of the court. She had also referred the case to the Director Panchayat

for seeking clarification to resolve the matter since the matter related to family dispute. She also received one reply from Additional Director of Panchayat stating that all death benefits except the family pension can be provided to the survivors considering the legal guardianship certificate of the minor daughter from the competent authority. According to her, the first wife has never shown any willingness to share any benefit received by her with the second wife of the deceased.

[10] It is seen from the record that since no action was taken from the end of the respondents, the petitioners issued another legal notice dated 23.08.2024 upon the respondents. According to the petitioners, the respondents have not acted upon their legal notice dated 23.08.2024 till date neither did they provide any communication stating any valid reason for not complying the order of the High court. Being aggrieved by the action of the respondents, the petitioners have once again approached this court for seeking relief as already sought in the earlier writ petition being WP(C) 328 of 2023 but in a different way.

[11] Having gone through the record and also having considered the submission as advanced by the learned counsel for the parties, it appears to this court that the present litigation is nothing else but it amounts to execution of the earlier order 30.05.2023 passed in WP(C) 328 of 2020. It is needless to say that the under Article 226 no execution proceeding can be ordered to implement earlier order in writ petition. But only contempt proceeding is the remedy available to the petitioners. It is to be seen that the order dated 30.05.2023 passed in WP(C) 328 of 2023 by this Court and the letter dated 09.06.2023 addressed to the BDO, Ambassa by the office of the Accountant General, Tripura, in the both the instances, the respondents were asked to comply the order dated 30.05.2023 which according to the petitioners have not been acted upon.

[12] But the petitioners did not choose to take legal action neither did they file any contempt case nor availed any legal remedy. There are laches on the part of the petitioners.

[13] It is also seen from the affidavit filed by the petitioners herein that none of the facts have been stated herein which the respondent No.3 has submitted before this

court. This court feels that it is a suppression of facts and this conduct of the petitioners cannot be viewed in a lenient manner. Moreover, the petitioners have not approached this court under the Contempt of Courts Act for not complying the order of the High Court. It is now not open for the petitioners to file again a writ petition seeking the reliefs which have already been addressed in the earlier writ petition being WP(C)328 of 2023.

[14] The arguments advanced by the counsel for the petitioner on humanitarian grounds have no place under legal scrutiny. Though this court took measures to provide some accommodation to the petitioners, the case of the petitioners failed as there are no merits to accommodate the writ. The disputed question of facts and claims amongst both the wives of the deceased and amounts already released by the official respondents in favour of the respondent no.6 (first wife) of the deceased and distribution of the amounts cannot be gone into under jurisdiction.

[15] With the observation, this court feels that the instant petition is liable to be dismissed as the relief sought by the petitioners cannot be granted under writ jurisdiction. Accordingly, the same stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

[16] However, it is made clear that the petitioners, if desire, may avail legal remedies before the concerned authorities or concerned civil court as per law.

JUDGE

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DAS**

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