

GAHC010028952020



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

Case No. : WP(C)/1206/2020

NAGENDRA BARO
S/O. LT. SANTIRAM BARO, VILL. GERUA, P.O. GERUA, P.S. BARBARI, DIST.
BAKSA, ASSAM, PIN-781344.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, HOME
AND POLITICAL DEPTT., DISPUR, GHY.-06.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
REVENUE (R AND R) AND D.M. DEPTT.
DISPUR
GHY.-06.

3:THE DY. COMMISSIONER

BAKSA
MUSHALPUR
ASSAM
PIN-781343.

4:THE SUPDT. OF POLICE

BAKSA
MUSHALPUR
ASSAM
PIN-781343.

5:THE OFFICER IN CHARGE

BARBARI POLICE STATION
BARBARI
BAKSA
ASSAM
PIN-781344.

6:THE CIRCLE OFFICER

BAGANPARA
BAKSA
ASSAM
PIN-781344

Advocate for the Petitioner : MD H R AHMED, MD A ISLAM

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

25.10.2024

Heard Mr. A. Islam, learned counsel for the petitioner. Also heard Ms. U. Das, learned Addl. Senior Government Advocate for the State respondents and Ms. P.R. Mohanta, learned Standing Counsel, Revenue Department (respondent No. 2).

2. By way of this petition under Article 226 of the Constitution of India, the petitioner is seeking adequate compensation in respect of killing of his brother by the PTCA extremists on 16.05.1991.

3. The facts of the case is that the brother of the petitioner, i.e., Indrajeet Baro was kidnapped by the PTCA extremists, when they had gone to Nayabasti Weekly Market on 16.05.1991 at about 11:30 AM to sale the Paddy and after

selling, when he alongwith his brother was going to cycle repairing shop, 5/6 PTCA extremists armed with postol etc. attacked them and kidnapped both of them and confined in unknown place. However, later on, Mupan Baro was released from confinement but Indrajeet Baro was not released and Police also could not get any clue about him. Accordingly, a case was registered as Barbari P.S. Case No. 46/1991 under Section 143/364 IPC and investigation was carried out.

4. During the course of the investigation, the Police could not traced any clue as regards the brother of the petitioner and finally came to the conclusion that the brother of the petitioner might have been murdered by the PTCA extremists and accordingly, submitted a report on 03.04.1992.

5. Pursuant to the aforesaid, the petitioner filed representation before the respondent No. 3 seeking appropriate ex-gratia under the Govt. Notification dated 15.11.2014. However, since no payment has been made, the present writ petition has been filed.

6. Mr. A. Islam, learned counsel for the petitioner submits that it is an admitted fact that the brother of the petitioner had been murdered by the PTCA extremists and accordingly, the petitioner is entitled for Rs. 2 Lakhs ex-gratia payment in terms of the Notification in force.

7. Per contra, Ms. U. Das, learned Addl. Senior Government Advocate for the State respondents submits that the mother of the petitioner had already received an amount of Rs. 1 Lakh from the Government in the year 2001 as ex-gratia compensation in respect of the death of her son. She accordingly submits

that the present petition is not maintainable.

8. I have given my prudent consideration to the arguments made by the learned counsels for the contesting parties and have perused the materials available on record.

9. It appears that the brother of the petitioner was killed by PTCA extremists as revealed from the report of the Superintendent of Police, Baksa.

10. Paragraph No. 6 of the affidavit-in-opposition filed by the respondent No. 3 on 21.04.2024 is reproduced hereunder for ready reference:-

“6. That with regard to the averments made in paragraph- 4 of the writ petition the deponent begs to state that on 05-03-2021 a detailed report had been sought from the Superintendent of Police, Baksa and the Circle Officer, Baganpara Revenue Circle. The report from the Circle Officer, Baganpara Revenue Circle was received on 26-04-2021.

The report from the Superintendent of Police, Baksa was received on 27-04-2021. The said report reveals that after receipt of the FIR, Barbari P.S. Case No. 46/1991 u/s 364/143 IPC was registered and investigated. The case was submitted FR vide FR No.7 dated 03-01-1992 as true.

On the basis of the reports a letter dated 26-07-2021 addressed to the Secretary to the Govt of Assam, Revenue and Disaster Management, Relief and Rehabilitation Branch, Dispur Guwahati-6 regarding sanction of ex-gratia grant to the NOK of Late Indrajeet Boro has been sent. Response is awaited regarding the matter.

It is mentioned herein that in response to a letter dated 08-2021 issued by the Joint Secretary to the Govt of Assam, Revenue and Disaster Management, Relief and Rehabilitation Branch a communication dated 27-09-2021 was sent from the office of the Deputy Commissioner, Baksa inter alia stating that the petitioner of the instant writ petition was called for and he gave a statement that he had not applied for ex-gratia in Baksa District. However he had filed case before Hon'ble High Court in the year 2018. Moreover, he also mentioned that his mother Smti Khodri Boro had applied for ex-gratia in Nalbari District and received an amount of Rs.1 lakh from the Govt. in the year 2001 and copy of sanction letter dated 19-06-2001 was also submitted.

Copy of the report of the Circle Officer, Baganpara Revenue Circle dated 26-04- 2021, report of the Superintendent of Police dated 27-04-2021, letter dated 26-07-2021, communication dated 27- 09-2021 and sanction letter dated 19- 06-2001 are annexed herewith and marked as Annexure-A, B, C, D and E, respectively.”

- 11.** A perusal of the aforesaid paragraph No. 6 of the affidavit-in-opposition further appears that in respect of the killing of the petitioner's brother by PTCA extremists, the mother of the petitioner, i.e., Smti Khodri Boro had already received an amount of Rs. 1 Lakh from the Government in the year 2021.
- 12.** It further appears that the respondent authorities have no record of any application filed by the petitioner for grant of ex-gratia as prayed for.
- 13.** Pertinent also to reproduced paragraph No. 8 of the aforesaid affidavit-in-opposition for ready reference:-

“8. That with regard to the averments made in paragraph- 11 of the writ petition, the deponent states that a notification vide No. RR.33/2014/66 dated 15/11/2014 had been issued by the Additional Chief Secretary, Revenue & D.M. Department regarding revised quantum of relief for an amount of Rs. 5,00,000.00 to the NOK of persons who were kidnapped/ abducted by extremist/ terrorist/ miscreants. As per the order, the notification would come into force with immediate effect. The revised rates shall be applicable in respect of the incidents, which may occur in the State as on or after the date of issue of the notification in super session of the previous notifications in this regard. The incidents prior to 15th November, 2014 would be governed by the OM/ notifications relevant to the period concerned.”

- 14.** A perusal of the aforesaid paragraph No. 7 of the affidavit-in-opposition further indicates that as per Notification dated 15.11.2014 issued by the Addl. Chief Secretary, Revenue and Disaster Management Department, a sum of Rs. 5 Lakhs has been quantified as adequate compensation in respect of persons who were kidnapped/abducted by extremists.

15. It further appears that the revised rates is said to be applicable in respect of incidents which may occur in the State as on or after the date of issue of the notification in supersession of the previous notification in this regard.

16. Ms. U. Das, learned Addl. Senior Government Advocate for the State respondents and Ms. P.R. Mohanta, learned Standing Counsel, Revenue Department submits that the Notification dated 15.11.2014 shall also apply to the incidents which has occurred prior to 15.11.2014.

17. In view of the above endorsement, this Court deems appropriate in the interest of justice to dispose of the said writ petition by directing the petitioner to file appropriate application before the respondent authorities for grant of ex-gratia compensation and upon filing of such application, the respondent authorities shall dispose of the same in accordance with law within a period of 2 (months) from the date of receipt of the said application.

18. Ordered accordingly.

19. Accordingly, the writ petition stands disposed of.

JUDGE

Comparing Assistant