

GAHC010052302024



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

Case No. : WP(C)/1539/2024

MRIDUSHMITA BORA @ MRIDUSHMITA BORAH DUTTA
W/O- LATE PAPU DUTTA,
RESIDENT OF VILLAGE- 1 NO. MAGHNOWA,
P.O.- PADMAPUR,
P.S.- NARAYANPUR,
DIST.- LAKHIMPUR, ASSAM,
PIN- 784164.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
REVENUE (RELIEF AND REHABILITATION BRANCH) AND DISASTER
MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DISTRICT COMMISSIONER OF LAKHIMPUR DISTRICT
ASSAM
NORTH LAKHIMPUR
PIN- 787001.

4:THE CIRCLE OFFICER
LAKHIMPUR REVENUE CIRCLE
NORTH LAKHIMPUR
PIN- 787001.

5:THE OFFICER-IN-CHARGE
NARAYANPUR POLICE STATION
P.O.- PADMAPUR

DIST.- LAKHIMPUR
ASSAM

PIN- 784164

Advocate for the Petitioner : S I AKAND

Advocate for the Respondent : SC, REVENUE

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
ORDER

18.03.2024

Heard Mr. S. I. Akand, learned counsel for the petitioners. Also heard Ms. S Sarma, learned counsel for the respondent No. 1, 3, 4 and 5 and Mr. B. Gogoi, learned counsel for the respondent No. 2.

Mr. Akand, learned counsel for the petitioners, who submits that the petitioner's husband expired on 03.10.2021 due to injury sustained in a bike accident. In this connection, an FIR was lodged before the Narayanpur Police Station which was registered as Narayanpur P.S. Case No. 133/2021 under Section 279/304(A)/427 of IPC.

2. The petitioner's counsel submits that the petitioners are entitled to the ex-gratia grant of Rs. 2 lakhs in terms of the Notification dated 15.11.2014, issued by the Govt. of Assam. He accordingly prays that an enquiry may be instituted by the Deputy Commissioner, Lakhimpur to ascertain whether the petitioners are eligible to be given

the ex-gratia grant of Rs. 2 lakhs in terms of the Notification dated 15.11.2014.

3. The relevant Clause 3 of the Notification dated 15.11.2014 is reproduced below as follows :

“No. RR.33/2014/66

Dated Dispur, the 15th November, 2014. NOTIFICATION:

The Governor of Assam is pleased to revise the quantum relief in respect of persons who were killed/injured due to extremist violence/terrorist violence/acts of miscreant/communal violence/ethnic violence/group clash/firing of security forces/accident etc., who were kidnapped/abducted by extremist/terrorist/miscreants and whose dwelling houses are fully burnt/damaged whether due to acts of extremist/terrorist/miscreants or during communal violence/ethnic violence/group clash.

This notification shall 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 will be governed by the O.M./notifications relevant to the period concerned.

SL No.	Nature of Incident	Quantum of relief
3.	Ex gratia to the NOK, of person killed due to accident in public places or in public carriers (other than killed by extremist/terrorist/miscreants and due to the firing of security forces)	Rs. 2,00,000.00

*Sd/- Additional Chief Secretary,
Revenue & D.M. Department”*

4. As can be seen from Serial No. 3 of the Notification dated 15.11.2014, ex-gratia grant of Rs. 2 lakhs is to be paid to the next of kin of persons killed due to accident in public places or in public carriers.

5. This Court finds that a similar matter has been disposed of by this Court vide order dated 24.03.2021 passed in WP(C) No. 2034/2021. The relevant paragraph of the order dated 24.03.2021 passed in WP(C) No. 2034/2021 states as follows:-

“Considering the aforesaid stand of the Government read with the Notifications, I dispose of this writ petition. The petitioner seeking for the benefit under the Notification dated 15.11.2014 or any amendments subsequent thereto i.e. for ex-gratia grant of Rs. 2.00 lakhs shall approach the concerned Deputy Commissioner. On receipt of such claim petition the concerned Deputy Commissioner shall make an enquiry whether the accident took place in the public place on the basis of the investigation report by the jurisdictional police officials and any of the required criteria in the Notification dated 15.11.2014 including the status of the claimants as the next of kin of the deceased and once the satisfaction is drawn, necessary proposal from the concerned Deputy Commissioner shall be sent to the respondent No. 1 i.e. the Commissioner & Secretary to the Government of Assam, Revenue (Relief & Rehabilitation) and Disaster Management Department, Dispur, to accord sanction of the exgratia grant to the next of kin of the deceased in the light of the Notification dated 15.11.2014 read with the Notification dated 15.10.2014. On receipt of the sanction order, the Revenue and Disaster Management Department, Government of Assam shall take necessary steps towards disbursal of the said amount to the petitioner. It is pointed out that the enquiry required to be carried out by the concerned Deputy Commissioner shall be completed within a period of 60 days from the date of receipt of the claim petition with a further extension of 30 days if the situation demands but supported by reasons thereof. With the said direction and observation this writ petition stands disposed of.”

6. On considering the above order passed in WP(C) No. 2034/2021 and in view of the consent of the counsels for the parties, the Deputy Commissioner, Lakhimpur is directed to cause an enquiry as to the accident that allegedly took place, resulting in

the death of the petitioner's son/brother. The same would however have to be preceded by a Claim Petition and a Next of Kin certificate to be submitted by the petitioner, which should be submitted within a period of 10 (ten) days from today. If the Deputy Commissioner comes to a finding that the petitioner's case comes within the provision of Serial No. 3 of the notification dated 15.11.2014, the ex-gratia grant of Rs. 2 lakhs payable in terms of Serial No. 3 of the said notification dated 15.11.2014, should be paid to the petitioner, after getting the approval of the Commissioner and Secretary to the Government of Assam, Revenue (Relief & Rehabilitation) and Disaster Management Department, Dispur. The entire exercise should be concluded within a period of 4 (four) months from the date of receipt of a certified copy of this order and a copy of the Claim Petition to be submitted by the petitioner.

7. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant