

GAHC010012702017



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

Case No. : WP(C) 859/2017

1:NISHAMONI BORAH and ANR.
D/O MR. ROHINI BORAH R/O BORIGAON, P.O. DHALPUR P.S. BIHPURIA
DIST. LAKHIMPUR.

2: NORTH-EAST NETWORK NEN
REP. BY ITS PROGRAM MANAGER
ASSAM HEAD OFFICE
J.N. BAROOAH LANE
JORPUKHURI
GUWAHATI - 781001

VERSUS

1:THE STATE OF ASSAM and 10 ORS.
REP. BY THE CHIEF SECRETARY, GOVT. OF ASSAM, DISPUR, GUWAHATI -
781005.

2:THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM
DEPARTMENT OF SOCIAL WELFARE
DISPUR
GUWAHATI - 781005.

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
DEPARTMENT OF HEALTH AND FAMILY WELFARE
DISPUR
GUWAHATI- 781005.

4:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME AND POLITICAL AFFAIRS
GUWAHATI - 781005.

5:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI- 781005.

6:THE DISTRICT LEGAL SERVICES AUTHORITY
REP. BY ITS SECRETARY
REP. BY ITS SECRETARY
DISTRICT AND SESSIONS JUDGE OFFICE CAMPUS
KAMRUP
ASSAM.

7:THE ASSAM STATE LEGAL SERVICES AUTHORITY
REP. BY ITS SECRETARY
DIGHALIPUKHURI
GUWAHATI
ASSAM.

8:OFFICER IN CHARGE
BAHARALUMUKH POLICE STATION
GUWAHATI - 781009.

9:OFFICERIN-CHARGE
WOMEN POLICE STATION
PANBAZAR
GUWAHATI --781001.

10:SANJEEVANI HOSPITAL
A.T. ROAD
MALIGAON
GUWAHATI - 781011.

11:UNION OF INDIA
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS
JAI SINGH ROAD
NEW DELH

Advocate for the Petitioner : MR.A PHUKAN

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE UJJAL BHUYAN**

ORDER

Date : 29-04-2019

Heard Ms. V Grover, learned counsel for the petitioners and Mr. M Mahanta, learned counsel appearing for Assam State Legal Services Authority as well as District Legal Services Authority, Kamrup (M).

Petitioner No.1, who is a lawyer by profession, is a victim of acid attack which took place on 19.03.2016. This has reference to Bharalumukh PS Case No.122/2016 registered under Section 326A IPC. The attack has caused extensive facial damage to the victim including disfigurement and damage to the right eye; details of which are mentioned in paragraphs 11 to 15 of the writ petition.

Ms. Grover, learned counsel for the petitioner submits that petitioner No.1 is under regular medical treatment and monitoring. She has been forced to undergo multiple surgeries. All of these have come at a great cost. She further submits that more surgeries are required but because of financial constraints, petitioner No.1 was compelled to avail loan from financial institutions causing further distress to her.

Petitioner No.1 was paid a sum of Rs.2 lakhs by the District Legal Services Authority, Kamrup (M). Thereafter, this Court by an order dated 23.02.2017, directed payment of further amount of Rs.1 lakh in terms of Assam Victim Compensation Scheme, 2012.

National Legal Services Authority (NALSA) has prepared a scheme called, Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018 following observation of the Supreme Court in **WP(C) No.565/2012 (Nipun Saxena Vs. Union of India)**. Sl. No.13 of the Schedule applicable to Women Victim of Crimes deals with victims of acid attack. In case of disfigurement of face, minimum limit of compensation has been fixed at Rs.7 lakhs while upper limit is Rs.8 lakhs. In case of injury more than 50%, minimum limit of compensation is Rs.5 lakhs while the upper limit is Rs.8 lakhs. As per note appended to the Schedule, if a victim is covered under more than one category, she shall be entitled to the combined value of compensation.

Learned counsel for the petitioner submits that petitioner No.1 has not only suffered

disfigurement of face but her injury is more than 50% which includes damage to the right eye. This has adversely affected petitioner No.1 leading to a situation where she is unable to carry on with her professional life as a lawyer, thus jeopardizing her livelihood.

It is further seen that Government of Assam in the Home and Political Department has issued notification dated 01.02.2019 in terms of the Supreme Court order in **Nipun Saxena** (supra), providing identical quantum of compensation. Supreme Court in **Nipun Saxena** (supra) took the view that the scheme prepared by NALSA contains the best practices of all similar schemes and should be implemented by all the State Governments and Union Territories making it clear that the scheme postulates only the minimum requirement; not precluding the State Governments and Union Territories from adding to the scheme without taking away anything from the scheme.

That being the position and taking an overall view of the matter, it is directed that a further amount of Rs.5 lakhs be released to petitioner No.1 by respondent Nos.6 and 7 within a period of 30 days from the date of receipt of a certified copy of this order.

List this matter for further consideration on 08.08.2019.

JUDGE

Biplab

Comparing Assistant