

GAHC010112282025



2025:GAU-AS:13091

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

Case No. : WP(C)/2877/2025

KISHALAY CHAKRABARTY
S/O NRIPESH LOCHAN CHAKRABARTY R/O WARD NO 3 PO PS AND DIST
KOKRAJHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 OTHERS
REP Y THE COMMISSIONER AND SECRETARY, GOVT OF ASSAM, HOME
DEPARTMENT, GUWAHATI 6 ASSAM

2:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVT OF ASSAM HOME DEPTT DISPUR GUWAHATI 6

3:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM STATE HOME DEPTT DISPUR GUWAHATI 6

4:THE DIRECTOR GENERAL OF POLCIE
ASSAM
B K KAKOTY ROAD ULUBARI GUWAHATI 7

5:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (ADMN)
ASSAM
BK KAKOTY ROAD ULUBARI GUWAHATI 7

6:THE ADDITIONAL INSPECTOR GENERAL OF POLICE (ADMN)
ASSAM
B K KAKOTY ROAD ULUBARI GUWAHATI 7

7:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
ASSAM

8:THE OFFICER COMMANDING
D/4 BN CRPF CAMP KOKRAKJHA

Advocate for the Petitioner : MR. J I BORBHUIYA, MR A HOSSAIN, A B T HAQUE

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

22.09.2025

Heard Mr. L Mohan, learned counsel for the petitioner. Also heard Mr. M Chetia, learned Government Advocate for the respondents.

2. By way of this writ petition under Article 226 of the Constitution of India, the petitioner is seeking release of the admissible amount of money payable to him amounting to Rs. 8,76,591/- (Rupees Eight Lakh Seventy Six Thousand Five Hundred Ninety One) only, to be paid by the respondent authorities on the basis of the 10 KVA Generator hired by them for their requirement.

3. Brief facts of the case are that the petitioner is the owner of the 10 KVA Generator which was hired by the respondents for the period from 10.03.2019 to 31.05.2022 for the purpose of public service and maintaining law and order situation as well as for administrative purpose on urgent requirement at C/129 Bn. CRPF Camp, Maktaigaon, Kokrajhar to meet up their requirements.

4. It is the specific case of the petitioner that on different dates though the bills for the hired 10 KVA Generator as per hire charge rate of Diesel Generator set of APWD Electrical Schedule in total for the period of 10.03.2019 to 31.05.2022 amounting to Rs. 8,76,591/- were submitted before the Superintendent of Police, Kokrajhar, however, despite repeated requests, the bills having not been cleared till date, the instant writ petition has been filed.

5. Mr. L Mohan, learned counsel for the petitioner submits that despite the admitted dues of the petitioner being pending for the period from 10.03.2019 to 31.05.2022, the respondents by not releasing the same, have deprived him of his right to property as protected under Article 300 A of the Constitution of India.
6. Mr. M Chetia, learned Government Advocate fairly submitted before the Court that the respondent No. 7, i.e., the Superintendent of Police, Kokrajhar, Assam has already forwarded the proposal for according necessary sanction and release of the aforesaid admitted hiring charges to the Assam Police Headquarter, Ulubari, Guwahati.
7. Having heard the learned counsels for the parties and also perused the material available on record, it appears that the aforesaid hiring charges as claimed in the instant writ petition are admitted by the respondent No. 7.
9. Apt to refer to the paragraphs 6, 7 & 8 of the affidavit-in-opposition filed by the respondent No. 7 on 31.07.2025, which read as hereunder –

“6. That with regard to the statements made in paragraph 5 of the writ petition, the answering deponent begs to state that the competent authority hired the generators from the above petitioner for use by this respondent for the interest of public service and maintaining the law & order situation. The 10 KVA Generator was used for the period of 10/03/2019 to 31/05/2022. However, this respondent has no authority to sanction the hire charge bills and accordingly all hired charge bills were forwarded to the O/o Assam Police Headquarters, Ulubari, Guwahati in different occasions through memos for according necessary sanction and release of fund for total admissible amount of Rs. 8,76,591/- (Rupees Eight Lakh Seventy Six Thousand Five Hundred Ninety One) only.

7. That with regard to the statements made in paragraphs 6 & 7 of the writ petition the deponent states that the petitioner has submitted the bills for the generators hired by the respondent authorities from time to time and accordingly, all the submitted hired charge bills were forwarded to the Higher Authority for necessary sanction and release of admissible funds as this respondent authority does not have the power to sanction such hired

charge bills. Therefore, the allegation that this authority has forgotten the liability for payment of the hired charges is not true.

8. That with regard to the statements made in paragraph 8 of the writ petition the deponent states that the petitioner had submitted a representation dated 17/04/2025 to the undersigned and accordingly all hired charge bills were again forwarded to the O/o Assam Police Headquarters, Ulubari, Guwahati vide this office memo No. KJR/E/Generator/2025/1211 dated 17/04/2025 for according necessary sanction and release of fund for total admissible amount of Rs. 8,76,591/- (Rupees Eight Lakh Seventy Six Thousand Five Hundred Ninety One) only. Therefore, the allegation that the deponent did not pay attention to the petitioner's plea is not true. This respondent is duty bound to disburse the hired charges as soon as the admissible fund is sanctioned and released from the Higher Authority subject to final verification of the actual claim of the petitioner. "

10. From reading of the aforesaid averments, it appears that the respondent No. 7 has already forwarded the bills of the petitioner to the Assistant Inspector General of Police (A), Assam Police Headquarter by letter dated 17.04.2025 for allotment of necessary approval under the proper Head of Accounts and financial sanction thereof for payment of the pending bills of the petitioner. Relevant portion of the said letter dated 17.04.2025 read as under –

““GOVT OF ASSAM

OFFICE OF THE SUPERINTENDENT OF POLICE,

KOKRAJHAR ASSAM

MemoNo.KJR/E/Generator/2025/1211

Dtd. 17/04/2025

To

*The Asstt Inspector General of Police (A), Assam,
Assam Police Headquarters,
Ulubari, Guwahati-7*

Sub: Proposal for payment of pending Generator Hire Charge Bill.

Sir,

With reference to the subject cited above, I have the honour to inform you that as per approval received from the APHQ vide Memo No. G/XXIII/86/2015-16/16 Dated 21/02/2019, 4 (four) nos of 10 KVA Generators was hired for the following CRPF Camps and one Generator was hired for Recruitment Rally. 2023 Payment of Generator Hire Charge Bill for entire period is pending till date and owners of the Generators repeatedly approaching for early payment of the bill. In this connection representatives submitted by owners of hired Generators viz (1) Smt. Ruma Das, (2) Shn Kishalay Chakraborty and (3) Smt. Priya Das are enclosed and the liabilities against each owner (Beneficiaries) are given below Further details of proposals already submitted to APHQ for according Financial Sanction are furnished separately at annexure-A enclosed.

Sl. No.	Details of beneficiaries	Purpose of Hiring Generator	Period		Total liability in Rs.
			From	To	
03	Shri Kishalay Chakraborty SBI Bank Account No. 31318187320 IFSC Code No. SBIN0000119	For using in the CRPF Camp- Maktaigaon under Gossaigaon P.S.	10/03/2019	31/05/2022	876591

Submitted for favour of your kind perusal and allotment of necessary budget under the proper head of account and convey the financial sanction for payment of the pending bills to the beneficiaries.

Enclo:- As stated above.

*Yours faithfully,
Superintendent of Police,
Kokrajhar, Assam"*

11. In the present case, since the liability is admitted and the proposal for payment of the pending subject Generator hire charge bills of the petitioner is

pending before the respondent No. 4 for necessary budgetary allocation, I cannot be unmindful of the fact that delaying the legitimate Generator hire charge bills of the petitioner from the period from 10.03.2019 to 31.05.2022 amounts to arbitrary deprivation of the petitioner's property in violation of the Article 300 A of the Constitution of India.

11. In view of the aforesaid letter dated 17.04.2025 seeking necessary budgetary allocation in respect of the petitioner's pending dues, I am of the considered view that this writ petition can be disposed of with a direction to the respondent authorities, more particularly, respondent No. 4, to allocate necessary budget under the proper Heads of Accounts and accord financial sanction for payment of the pending bills of the petitioner in accordance with law, within a period of 3 (three) months from the date of receipt of certified copy of this order and as and when such financial sanction is accorded, the respondent No. 7 shall release the same to the petitioner within a period of 1 month from the date of conveying of such sanction.

12. Ordered accordingly.

13. With the above observation and direction, this writ petition, stands disposed of.

JUDGE

Comparing Assistant