

GAHC010175392015



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

Case No. : WP(C)/1307/2015

MASTER PRAGYAN BAISHYA
R/O BY HIS FATHER SRI KHARGESWAR BAISHYA, PRESENTLY R/O QRT.
NO.2, O/O THE ADDLL. CHIEF ENGINEER, PHE COLONY, DIPHU, P.O., P.S.
DIPHU, DIST- KARBI ANGLONG, PIN-782460, ASSAM, PERMANENT R/O S/O
KHARGESWAR BAISHYA, R/O BANGAON, P.O. BANAGRAM, P.S. BELSOR,
DIST- NALBARI, ASSAM, PIN-781303

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
DEPTT. OF PHE, DISPUR, GHY-6, ASSAM

2:THE CHIEF ENGINEER
DEPTT. OF PHE
HENDERABARI
GHY-36

3:THE ADDL. CHIEF ENGINEER
DEPTT. OF PHE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
PIN-782460
ASSAM

4:THE EXECUTIVE ENGINEER
PHE
DIPHU RURAL W/S DIVISION
DIPHU
PIN-782460
ASSAM

5:THE PRINCIPAL SECY.
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU-782460
ASSAM

6:THE ASSAM POWER DISTRIBUTION CO. LTD.
REP. BY ITS CHAIRMAN CUM MANAGING DIRECTOR
HAVING ITS REGISTERED OFFICE AT BIJULEE BHABAN
PALTAN BAZAR
GHY-1
ASSAM

7:THE ASSTT. EXECUTIVE ENGINEER
DIPHU ELECTRICAL SUB DIVISION NO.1
DIPHU
KARBI ANGLONG
PIN-782460

8:MS. ANIMA TEROPI
THE CONTRACTOR WHO WAS CONSTRUCTING THE BUILD
R/O CHANDRA NAGAR
P.O.
P.S. DIPHU
W/NO.7
KARBI ANGLONG
ASSAM
PIN-782460

9:THE CHIEF ELECTRICAL INSPECTOR
GOVT. OF ASSAM
1ST FLOOR
HOUSEFED COMPLEX
BELTOLA-BASISTHA ROAD
WEST END BLOCK
HOUSEFED
DISPUR
GUWAHATI
ASSAM-781006

Advocate for the Petitioner : MR.T MADHUKALLYA

Advocate for the Respondent : SC, APDCL

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

01.09.2022

Heard Mr. P. Mahanta, learned counsel for the writ petitioner. Also heard Mr. S. M. Hasan, learned Standing Counsel, PHE Department, Assam appearing for the respondent Nos.1 and 2 and Mr. J. Chutia, learned Standing Counsel, KAAC, appearing for the respondent Nos.3, 4 and 5. Mr. B. Choudhury, learned Standing Counsel, APDCL, has appeared for respondent Nos.6 and 7 whereas Ms. S. Sharma, learned Govt. Advocate, Assam, has appeared for the respondent No.9. None has appeared for the respondent No.8.

This writ petition arises out of a very tragic incident which took place on 27.07.2014 when the petitioner, while he was aged 8 years 1 month 12 days, had come in contact with exposed 11 KV electrical line while climbing the rooftop of an under-construction building meant for the Additional Chief Engineer (PHE), Karbi Anglong and suffered grievous burn injuries. The petitioner was rushed to the hospital for immediate treatment whereafter, he was also shifted to the Sir Gangaram Hospital at New Delhi. However, the nature of injuries suffered in both the upper limbs of the petitioner was of such nature that the doctors had to amputate both the limbs from the shoulder at the arm level.

The Chief Electrical Inspector, Assam i.e. the respondent No.9 had carried out an enquiry in the matter and submitted report dated 11.10.2019, a perusal of which prima-facie goes to show that there was some negligence on the part of the official respondents in their failure to maintain safety clearance of the 11 KV overhead line while constructing the new building premises.

Mr. Mahanta has argued that this is a fit case where the Court should

impose strict liability on the official respondents and direct payment of adequate compensation.

After hearing the submission of learned counsel for both the sides, this Court is of the opinion that considering the age and keeping in mind the future of the boy and with a view to ensure that the writ petitioner enjoys a wholesome life as long as he survives, it would be necessary to think beyond granting monetary compensation to the petitioner. There is consensus at the bar that such an approach would be better suited for the welfare of the petitioner.

At this stage, Mr. B. Choudhury, learned Standing Counsel, APDCL submits that without conceding to the allegation of negligence made in the writ petition, the APDCL would be willing to pay an amount of Rs.4,00,000/- (Rupees Four Lakhs) to the petitioner so as to provide immediate relief to him.

This Court is also of the opinion that apart from providing financial relief, an attempt should be made to also provide prosthetic limbs to the petitioner and also to secure him employment under the 100% physical disability category so as to ensure that the petitioner can survive for the rest of his life without being dependent on others.

In view of the above, by way of interim relief, it is provided that the APDCL may make payment of Rs.4,00,000/- (Rupees Four Lakhs) to the petitioner within two weeks from today.

The Assam State Legal Services Authority be impleaded as respondent No.10 in the writ petition. Registry to make necessary correction in the cause title of the writ petition.

A copy of this writ petition be served upon the learned Standing Counsel, ASLSA.

List this matter again on 16.09.2022 as a fixed part-heard matter by showing the name of learned Standing Counsel, Assam State Legal Services Authority in the Cause List.

The respondents' counsel to examine the issue and come up with proper instructions.

JUDGE

Comparing Assistant