

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 272 of 2022

Sri. Tapan Debbarma, TPS., Gr. I.

S/o Late Ashwini Kumar Debbarma

Mukta Chandra Para, Jirania, Khumlwng,

West Tripura, Pin 799045, Age-57

---Petitioner

Versus

1. The State of Tripura

Represented by Secretary to the Government of Tripura
in the GA (A&R) Department, having his office at
Civil Secretariat, New Capital Complex,
Pin 799010, Agartala, West Tripura

2. Director General of Police,

Government of Tripura,
Having his office at Fire Brigade Choumohani,
Akhaura Road, Pin 799001, Agartla, West Tripura.

3. Commandant,

2nd Bn. Tripura States Rifles
Government of Tripura,
having his office at R.K. Nagar,
P.O. Bodhjungnagar, Agartala, West Tripura

4. Principal Secretary,

Government of Tripura in the GA(P&T)Department,
having his office at Civil Secretariat,
New Capital Complex, Pin 799010, Agartala, West Tripura

5. Inquiry Authority,

Departmental Inquiries,
Government of Tripura,
Having its office at Civil Secretariat,
New Capital complex, Pin 799010,
Agartala, West Tripura.

---Respondents

For the Petitioner(s)	:	Mr. T. D. Majumdar, Sr. Advocate Mr. Tapash Halam, Advocate
For the Respondent(s)	:	Mr. D. Sarma, Addl. G.A.

HON'BLE MR. JUSTICE ARINDAM LODH

Order

29.03.2023

Heard Mr. T. D. Majumdar, learned senior counsel assisted by Mr. Tapash Halam, learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents-State.

2. The short fact is this that the petitioner was arrested for hatching murder to a journalist out of conspiracy. Charge-sheet was submitted against four police officers. The petitioner is one of them.

3. Initially, a Special Investigation Team(in short, 'SIT') was constituted and after investigation the SIT also submitted charge-sheet and trial was also going on. But later on, the State of Tripura decided to investigate the matter by the Central Bureau of investigation(in short, 'CBI'). Accordingly the CBI was entrusted for investigation. The CBI also submitted charge-sheet and trial is now going on.

4. The respondents have also initiated disciplinary proceedings against the petitioner. The petitioner has challenged the initiation of disciplinary proceedings against him during the pendency of the criminal trial. Other accused also has challenged the continuation of disciplinary proceedings in view of the criminal trial which has been in seisin.

5. In a case of ***Shri Amit Debbarma Vs. State of Tripura and Ors.*** [WP(C) No.1201 of 2019] disposed of on 11.02.2021, a learned Single Judge of this Court had observed thus:-

“20. In my opinion this is a fit case which falls under the exceptional category where the departmental inquiry must be stayed till the criminal trial is completed. The allegations in the departmental charge-sheet and the criminal case may be, as is bound to be, worded differently. Nevertheless, they both relate to the same incident and implicate the petitioner for the same misconduct/offence. The witnesses cited in the departmental charge-sheet are also cited in the criminal trial. Of course, some of the witnesses in both proceedings are uncommon. The allegations are grave and case involves extremely complicated facts and applicable of law. It was presumably because of such complexities that the State which had previously resisted handing over investigation to the CBI before the High Court in a petition filed by the relative of the deceased, later on agreed to the same and even after the investigation was completed by the SIT and which resulted into filing of the charge-sheet, the case was handed over to the CBI for further investigation. Under such circumstances, forcing the petitioner to participate in the departmental proceedings would seriously prejudice him in the pending criminal trial. The petitioner would be compelled to disclose his defence in the departmental inquiry which will hamper his defence in the criminal trial. Merely because the petitioner is alleged to have committed a heinous crime, he cannot be dismissed from his service in a summary manner. As in the criminal case, also in the departmental inquiry he must have full opportunity to defend himself, of course inconsonance with the service rules governing the departmental

inquiry proceedings and the principles of natural justice which generally have applicability to such domestic inquiries. If the petitioner is compelled to participate in the departmental proceedings, he would have a difficult choice to make. He may either be handicapped in his defence in the departmental proceedings and invite the possibility of dismissal from service without full defence, or make full disclosures in his defence in such inquiry, inviting a possibility of his defence in the criminal trial being seriously prejudiced and thereby exposing him to a graver risk of being convicted of a serious offence of pre-planned murder. For him the situation would be like devil and the deep sea.

21. Having said this, one cannot ignore the need for the departmental inquiry and criminal trial being completed expeditiously. The other co-accused are not before the Court, nor is the CBI a party in the present petition. This would not however prevent him from making broad recommendations and suggestion to the prosecution as well as to the trial Court to complete the trial expeditiously. While therefore allowing this petition and staying the departmental proceedings against the petitioner till completion of the criminal trial, the learned trial Judge is requested to give priority to the present case and to dispose of the case expeditiously and preferably within one year from today.

Learned Government Advocate may please ensure that a copy of this order is placed before the learned Judge.”

6. No appeal has been preferred against this judgment passed by the learned Single Judge.

7. Following the judgment, another officer filed a writ petition before this Court challenging continuation of disciplinary proceeding which is

titled as *Swarupananda Biswas Vs. The State of Tripura and ors.* [WP(C) No. 393 of 2021] and the learned Single Judge had arrived at a similar conclusion.

8. The present case filed by the petitioner stands also on the similar footings and in view of this, I direct the respondents not to prosecute departmental proceedings against the petitioner till the conclusion of criminal trial pending before the criminal court.

With the aforesaid order, the instant writ petition stands allowed and disposed.

JUDGE

Rohit