

GAHC040000832023



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

Case No. : WP(C) 17/2023

1:Michung Khamba
S/o Temphi Khamba,
R/o Mankota Village, PO and PS Tuting, Upper Siang District, Arunachal Pradesh,
Mobile 8132079417

VERSUS

1:THE STATE OF AP and Anr.
Through the Commissioner, Department of Education, Govt. of Arunachal Pradesh,
Itanagar.

2:The Director
of Elementary Education
Govt. of Arunachal Pradesh

Advocate for the Petitioner : Rajesh Sonar

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 07-02-2023

Heard Mr. R. Sonar, learned counsel for the petitioner. Also heard Mr. T. Jamoh, learned Standing counsel for the Education Department.

2. This writ petition is directed against the order dated 24.08.2022, issued

by the Commissioner, Department of Education, Government of Arunachal Pradesh, vide File No. EED-12015/5/2022, whereby, the petitioner was placed under suspension in exercise of power conferred by Sub-Rule (1) of Rule 10 of the CCS (CCA) Rule, 1965, w.e.f. 04.08.2022, on account of the petitioner having been arrested on 04.08.2022, in connection with the Case No. YKG/PSC/NO29/22U/S-120(B)/153(A)/295(A)/34 IPC and detained in Police custody beyond 48 hours.

3. The contention of the petitioner is that the suspension order dated 24.08.2022 has been issued as far back as 6 (six) months, whereafter, there has been no review of the said suspension order and accordingly, in terms of Rule 10 Sub-Rules (6) & (7) of the CCS (CCA) 1965, the suspension order issued would no longer remain valid.

4. By an order of this Court dated 25.01.2023, Mr. Jamoh, learned Standing counsel for the Education Department was given time to obtain instructions as to whether the suspension order dated 24.08.2022, issued against the petitioner, was reviewed or not. Upon receipt of the instructions, Mr. Jamoh, learned Standing counsel for the Education Department, has submitted that suspension order dated 24.08.2022 issued against the petitioner has not been reviewed by the respondent authority, as is required to be done under the law.

5. It is no longer a *res integra* that the order of suspension issued, is required to be reviewed before the expiry of 90 (ninety) days as provided under Rule 10 Sub-Rule 6 of the CCS (CCA) Rule, 1965 and when such a review is not done, Rule 10 Sub-Rule (7) of the CCS (CCA) Rule, 1965, provides that the suspension order issued earlier would no longer be valid in

view of the review of the suspension order issued earlier having not been done by the competent authority before expiry of 90 days.

6. Reference may be made to the order passed by this Court in WP(C)No.143 of 2020, dated 10.02.2021, on this point.

7. The above settled position of law has not been disputed by Mr. Jamoh, learned Standing counsel for the Education Department.

8. In view of the above and for the reasons and discussions made hereinabove, the impugned suspension order dated 24.08.2022, issued by the Commissioner, Department of Education, Government of Arunachal Pradesh, vide File No. EED-12015/5/2022, is hereby set aside and quashed and the respondent authorities are directed to reinstate the petitioner in service forthwith.

9. Consequent upon reinstatement of the petitioner in service, the petitioner would be entitled to the financial benefits as provided under the relevant rules.

10. The writ petition stands disposed of, in terms above.

JUDGE

Comparing Assistant