

GAHC010176252023



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

Case No. : WP(C)/4571/2023

JAGAT CHANDRA NATH
S/O LT. NARAYAN NATH VILL. PANINDRA ROAD W/NO. 3 NORTH
LAKHIMPUR P.S. NORTH LAKHIMPUR DIST LAKHIMPUR

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT. DISPUR GUWAHATI 6

2:THE DIRECTOR OF ACCOUNTS AND TREASURIES
ASSAM
KAR BHAWAN DISPUR GUWAHATI 6

3:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR ASSAM PIN 787001

4:THE TREASURY OFFICER BIHPURIA
DIST. LAKHIMPUR ASSAM PIN 78700

Advocate for the Petitioner : MR A KHANIKAR
Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

29.09.2023

Heard Shri A. Khanikar, learned counsel for the petitioner. Also heard Shri TC Chutia, learned Additional Senior Government Advocate, Assam and Shri A.

Chaliha, learned Standing Counsel for the Treasury. Shri Chutia has also received instructions in terms of the earlier directions passed by this Court

2. The grievance of the petitioner is with regard to an order of suspension which has been continued without any review.

3. The petitioner was working as a Junior Accounts Assistance in the Office of the Lakhimpur Treasury since 2015. However, on 17.12.2022 he was arrested under the Prevention of Corruption Act. Subsequently, on 22.02.2023 the petitioner was granted bail by this Court and in the meantime, an order was passed on 22.02.2023 placing the petitioner under suspension w.e.f., 18.12.2022. It is the case of the petitioner that on 12.05.2023, he had submitted a representation for revoking the order of suspension and without there being any steps for reviewing and extending the same, suspension order is being continued.

4. Shri Khanikar, learned counsel for the petitioner has submitted that mandate of law laid down by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India & Anr.** reported in **(2015) 7 SCC 291** has been further explained by the Hon'ble Division Bench of this Court in the case of **Rakibuddin Ahmed Vs. State of Assam** reported in **2019 (5) GLT 600** whereby it has been held that the requirement of review would also be necessary in case of deemed suspension.

5. Shri Chutia, learned Additional Senior Government Advocate however has submitted that the contentions made on behalf of the petitioner may not be wholly correct and the charge involved is a serious one which constitutes accepting of bribe. He has also placed before this Court an order dated 13.06.2023, as per which, a review has been done and the suspension has been

decided to be continued until further orders.

6. The principles laid down by the Hon'ble Supreme Court on this issue is clear that there has to be a review of an order of suspension within a period of 90 days unless a disciplinary proceeding is initiated before the said period. In the instant case, the order of review is dated 13.06.2023 whereby almost six months have lapsed from the date of suspension.

7. In that view of the matter, this Court is left with no other option but to allow the writ petition and set-aside the order dated 22.02.2023 by which the petitioner was suspended. However, taking into consideration the nature of charge, the respondents are at liberty to post the petitioner in any non-sensitive place. The respondents may also expedite the disciplinary proceeding.

8. The writ petition accordingly stands disposed of.

9. A copy of the order dated 13.06.2023 is made a part of the records.

JUDGE

Comparing Assistant