

GAHC010237602022



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

Case No. : WP(C)/7680/2022

PHULENDRA KALITA
S/O. LT. KASHINATH KALITA, INSPECTOR OF SCHOOL, BARPETA (LAST
PLACE OF POSTING), PRESENTLY UNDER SUSPENSION, VILL.
JYOTINAGAR, P.S. AND P.O. PATSHALA, DIST. BARPETA, ASSAM, PIN-
781325.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE SECRETARY, TO THE GOVT. OF ASAM, DEPTT. OF SCHOOL
EDUCATION (SECONDARY EDUCATION), BLOCK-C, ASSAM CIVIL
ECRETARIAT, JANATA BHAWAN, DISPUR, GUWAHATI, ASSAM, PIN-781006.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN-781019.

3:THE INSPECTOR OF SCHOOLS

BARPETA DISTRICT CIRCLE
BARPETA
ASSAM

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

04.01.2023

Heard Mr. B Purkayastha, learned counsel for the petitioner. Also heard Ms. S Saikia, learned counsel for the respondents in the Secondary Education Department, Government of Assam.

2. The petitioner who is the Inspector of Schools, Barpeta was placed under suspension under Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964 (for short, the Rules of 1964), *inasmuch as*, the petitioner was in detention beyond 48 hours in connection with Special Case No.15/2017 in the Court of Special Judge, Guwahati. Subsequently, by the order dated 04.06.2021 in IA(Crl.)No.46/2021, the petitioner was released on bail. Being aggrieved by the consequential order of suspension dated 01.09.2022 by which the petitioner was deemed to have been suspended under Rule 6(2) of the Rules of 1964, this writ petition is instituted.

3. The proviso to Rule 6(2) of the Rules of 1964 *inter alia* provides that the appointing authority may vacate the order of suspension made or deemed to have been made under Rule 6(2) of the Rules of 1964, upon the employee being released from detention if the authority arrives at its conclusion that the detention was not made on account of any charge not connected with his position as a Government servant or continuance in office is not likely to

embarrass the government or the Government servant in the discharge of his duties or the charge does not involve moral turpitude, the appointing authority may vacate the suspension order made or deemed to have been made under Rule 6(2) of the Rules of 1964.

4. As it is a statutory provision under the proviso to Rule 6(2) of the Rules of 1964 for the appointing authority to consider as to whether an order of suspension made under Rule 6(2) is required to be vacated, if the three conditions referred to the proviso to Rule 6(2) is satisfied, we direct the Secretary to the Government of Assam in the Secondary Education Department to pass a reasoned order upon examination of the claim of the petitioner for vacating the suspension order as indicated above, if so advised. While passing the reasoned order, the Secretary to the Government of Assam shall arrive at its own satisfaction that the detention of the petitioner was not made on account of any charge not connected with his position as a Government servant or continuance in office is not likely to embarrass the government or the Government servant in the discharge of his duties or the charge does not involve moral turpitude. If the order is in favour of the petitioner, the suspension order may be vacated. In the event, the order is against the petitioner, the petitioner be duly communicated with such order.

5. The reasoned order be passed within a period of one month from the date of receipt of a certified copy of this order.

6. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant