

GAHC010026652023



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

Case No. : WP(C)/8193/2022

DR. DHRUBA JYOTI CHETIA
S/O CHITRA DHAR CHETIA
R/O QTR. NO TYPE VI/A1
LOKAPRIYA GIPONATH BORDOLOI
REGIONAL INSTITUTE OF MENTAL HEALTH
KALIBARI
TEZPUR
DIST.- SONITPUR
ASSAM
PIN- 784001.

VERSUS

THE UNION OF INDIA AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
NIRMAN BHAWAN
NEW DELHI- 110011.

2:THE LOKOPRIYA GOPINATH BORDOLOI REGIONAL INSTITUTE OF
MENTAL HEALTH
REP. BY ITS DIRECTOR
TEZPUR
SONITPUR
ASSAM
PIN- 784001.

3:S.K. DEURI
PRESENTLY HOLDING THE POST OF DIRECTOR
LOKOPRIYA GOPINATH BORDOLOI REGIONAL INSTITUTE OF MENTAL
HEALTH

TEZPUR
SONITPUR
PIN- 784001.

4:DR. H. DUTTA
ASSOCIATE PROFESSOR (ADDICTED MEDICINE)
OFFICER ON SPECIAL DUTY (OSD) CUM I/C DEPUTY DIRECTOR CUM
CHIEF FINANCE AND ACCOUNTS OFFICER ETC.
LOKOPRIYA GOPINATH BORDOLOI REGIONAL INSTITUTE OF MENTAL
HEALTH
TEZPUR
SONITPUR
PIN- 784001.

Advocate for : MR. U K NAIR
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.03.2023

Heard Mr. U. K. Nair, learned senior counsel assisted by Mr. A. Boro, learned counsel for the petitioner. Also heard Mr. A. K. Dutta, learned counsel for the respondent Nos. 1 and 2.

2. The respondent Nos. 1 and 2 have sought for modification, vacation and alteration of the order dated 21.12.2022 passed in the instant writ petition for which an interlocutory application has been filed which is I.A.(C) No. 630/2023. It is also relevant to take note that the prayer made in the said interlocutory application, the respondent Nos. 1 and 2 have not only sought for modification, vacation and alteration to the order dated 21.12.2022 but have also sought for a direction to the Investigating Agency to investigate the matter and to allow the institute to complete the disciplinary proceedings in an uninfluenced way.

3. Taking in account that any decision in the interlocutory application will

have an effect on the merits of the writ petition, this Court have taken up the matter for final disposal at this stage.

4. I have heard the learned counsels for the parties. This Court also have perused the order dated 21.12.2022 passed in the instant petition. The said order dated 21/12/2022 is a detailed order passed after hearing the respondent Nos. 1 and 2 in the writ petition and after taking into account the various aspects of the matter which was duly placed. Being a Co-ordinate Bench, it would not be appropriate for this Court to sit over the observations and the findings arrived at in the order dated 21.12.2022.

5. It is also submitted by Mr. Nair, learned senior counsel that pursuant to the re-instatement by virtue of the order dated 21.12.2022, the petitioner is no longer serving in the library or in the any administrative work and, therefore, he submits that the question of interfering with the order dated 21.12.2022 does not arise.

6. This Court having perused the order dated 21.12.2022 and taking into account the detailed observations so made by the Co-ordinate Bench and any deviation to the said observations would amount to sitting on appeal over the said order which this Court cannot do, this Court on the basis of the reasons assigned in the said order set asides the suspension order dated 12.10.2022 impugned in the instant proceedings.

7. Taking into account that the impugned suspension order have been interfered with by this Court today for the reasons stated hereinabove, this Court, however, would make it clear that the observations in the order dated 21.12.2022 has to be taken only as observation to the challenge to the suspension order dated 12.10.2022. Therefore, the said observations made in

the order dated 21.12.2022 under no circumstances shall affect the rights of the respondent Nos. 1 and 2 or shall have a bearing in respect to the departmental proceedings if so initiated against the petitioner. In case, such departmental proceedings are initiated against the petitioner, it is made clear that the enquiry officer shall proceed with the enquiry without being influenced by the order dated 21.12.2022.

8. There is also a prayer in the Interlocutory Application seeking a direction to the investigating authority to investigate the matter. Taking into account that the provisions of the Code of Criminal Procedure, 1973 duly provides adequate remedies, this Court is not inclined to pass any direction for making investigation. However, liberty is given to the respondent Nos. 1 and 2 to take appropriate steps as deemed fit in terms with the provisions of the Code of Criminal Procedure, 1973 or such other applicable provisions under law.

9. With the above observations, the instant petition stands disposed of.

JUDGE

Comparing Assistant