

GAHC010265882022



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

Case No. : WP(C)/8389/2022

RANJIT GOSWAMI
S/O. LT. RAMA PRASANNA GOSWAMI, VILL. SAWTALBASTI, P.O.
ERALIGOOL, DIST. KARIMGANJ, ASSAM, PIN-788723.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPTT., ASSAM SECRETARIAT,
DISPUR, ASSAM-06.

2:THE DIRECTOR OF LAND RECORDS AND SURVEYS
ASSAM
RUPNAGAR
GUWAHATI-32.

3:THE DEPUTY COMMISSIONER
KARIMGANJ
ASSAM
PIN-788710.

4:THE CIRCLE OFFICER
KARIMGANJ SADAR CIRCLE
KARIMGANJ
ASSAM
PIN-788710

Advocate for the Petitioner : MR. A B T HAQUE
Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

02.01.2023

Heard Mr. ABT Hoque, learned counsel for the petitioner, Mr. S Dutta,

learned counsel for the respondents No. 1 and 2 being the authorities in the Revenue and Disaster Management Department, Government of Assam and Mr. R Dhar, learned Additional Senior Government Advocate for the respondents No. 3 and 4 respectively being the Deputy Commissioner and Circle Officer, Karimganj.

2. The petitioner who was serving as a Mondal in the office of the Karimganj Sadar Revenue Circle in the Karimganj district, was detained in custody beyond 48 hours in connection with ACB Case No. 34/2022 under Section 7(a) of the Prevention of Corruption Act, 1988 having been arrested on 26.08.2022. Subsequently, by the order dated 28.09.2022 of the Learned Special Judge, Assam, Guwahati, the petitioner was released from detention. In the circumstance, by the order dated 29.10.2022, it was provided that there was a deemed suspension of the petitioner under Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964 (in short Rules of 1964) inasmuch as, the petitioner was in detention for a period exceeding 48 hours. This writ petition is instituted assailing the order dated 29.10.2022 providing for the deemed suspension of the petitioner under Rule 6(2) of the Rules of 1964.

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 accordingly direct the Deputy Commissioner, Karimganj 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 Deputy Commissioner 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. If the order is against the petitioner, the petitioner be duly communicated with such order.

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

The writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant