

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 563 OF 2024

Sri Debasish Shil (aged about 42 years) son of Kajal Baran Shil, resident of Sreepalli, Badharghat, P.O.- A.D. Nagar, P.S. A.D. Nagar, Sub-Division- Agartala, District- West Tripura, Pin-799003.

..... **Petitioner**

V E R S U S

1. The State of Tripura, represented by its Secretary, Department of Home, Government of Tripura, New Capital Complex, PO-New Secretariat, PS-New Capital Complex, Agartala, District-West Tripura, Pin- 799010;

2. The Inspector General of Prisons, Office of the Inspector General of Prisons, Prison Directorate, Government of Tripura, Jail-Ashram Road, near Old Central Jail Complex, PO-Dhaleswar, PS-East Agartala, Agartala, District-West Tripura, Pin- 799007;

3. The Superintendent, Kendriya Sansodhanagar, Tripura, Bishalgarh, P.O. + P.S. Bishalgarh, District-Sepahijala, Tripura, Pin- 799102;

4. The Superintendent, Belonia Sub-Jail, P.O. + P.S. Belonia, District- South Tripura, Pin- 799155;

..... **Respondents.**

For the petitioner (s) : Mr. S. Lodh, Advocate.
Mr. S. Majumder, Advocate.

For the respondent (s) : Mr. M. Debbarma, Addl. G.A.

Whether fit for
reporting : Yes

HON'BLE MR. JUSTICE ARINDAM LODH

27.09.2024

Judgment & Order(Oral)

By means of filing the instant writ petition, the petitioner has prayed for quashing the order dated 12th August, 2024 [*Annexure-6* to the writ

petition] issued by the respondent no.2 whereby and whereunder the suspension order of the petitioner was extended after its review.

2. Shortly stated, the facts of the case are that the petitioner while discharging his duties as Sub-Jailor under the respondents has been suspended vide order dated 16.05.2024 on the ground of alleged misconduct. It is stated that the respondent no.2 vide order dated 09.08.2024 constituted a Review Committee to review the suspension order of the petitioner. The main contention of the petitioner is that the review of the suspension order extending the period of suspension vide order dated 12th August, 2024, suffers from serious infirmity as it was passed in violation of Rule 10(6) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short, CCS(CCA) Rules. The impugned order dated 12th August, 2024 may be reproduced here-under, which reads thus:

*“Government of Tripura,
Office of the Inspector General of Prisons,
Prisons Director, Agartala.*

No.F.X-704/IGP/2024/2344-51

Dated, the 12th August, 2024.

ORDER

WHEREAS, Shri Debashis Shil, Sub-Jailor, the then Jailor In-charge of Kendriya Sansodhanagar Tripura, Bishalgarh has been placed under suspension vide order No. No.F.X-704/IGP/2024/1419-25 dated 16/05/2024 and a disciplinary proceeding has been initiated against him.

WHEREAS, the Standing Review Committee has recommended that period of suspension of Sri Debashis Shil, Sub-Jailor, Belonia Sub-Jail may be extended.

NOW, THEREFORE, it has been decided to extend the suspension period of Shri Debashis Shil, Sub-Jailor, the then Jailor In-Charge of Kendriya Sansodhanagar Tripura, Bishalgarh for further period of 90 (ninety) days w.e.f. 14/08/2024 to 11/11/2024. During suspension period the headquarter of Sri Shil, Sub-Jailor will be the existing place i.e. Belonia Sub-Jail, South Tripura.

Sd/-

*Inspector General of Prisons,
Tripura.”*

3. I have heard Mr. S. Lodh, learned counsel appearing for the petitioner and Mr. M. Debbarma, learned Addl. G.A. appearing for the State-respondents.

4. According to Rule 10(6) of CCS (CCA) Rules, 1965-- *“An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.”*

5. Chapter-2 & Chapter-3 of Swamy's *Compilation of the CCS (CCA) Rules* encapsulated various Govt. of India instructions stipulating guidelines for dealing with the various aspects of suspension *vis-à-vis* the matter of review. Clauses 13 and 23 in this regard are very much relevant in regard to the suspension order as contemplated under Rule 10(6) of the CCS(CCA) Rules. Clause 13 of Chapter-2 of the CCS(CCA) Rules speaks about the composition of Review Committee, which reads thus:

“13. Review of suspension:

Rule 10 has been amended providing that an order of suspension shall be reviewed by the competent authority on the recommendations of the Review Committee constituted for this purpose. Further, an order of suspension shall not be valid after 90 days unless it is extended after review before the expiry of 90 days.

The composition of Review Committee(s) may be as follows:-

“(i) The disciplinary authority, the appellate authority and another officer of the level of disciplinary/appellate authority from the same office or from another Central Government office (in case another officer of same level is not available in the same office), in a case where the president is not the disciplinary authority or the appellate authority.

(ii) The disciplinary authority and two officers of the level of Secretary/Additional Secretary/ Joint Secretary who are equivalent of higher in rank than the disciplinary authority from the same office or from another Central Government office (in case another officer of same level is not

available in the same office), in a case where the appellate authority is the President.

(iii) Three officers of the level of Secretary/Additional Secretary/Joint Secretary who are higher in rank than the suspended official from the same Department/Office or from another Central Government Department/Office (in case another officer of same level is not available in the same office), in a case where the disciplinary authority is the president.”

Clause 23 of Chapter-3 of the said compilation also speaks in the similar tune, which is as under:

“(23) Suspension of Government servants—Constitution of Review Committees.—Rule 10 (suspension) of the CCS (CCA) Rules, 1965 is being amended to provide that an order of suspension made or deemed to have been made under this Rule shall be reviewed by the Competent Authority on recommendation of the Review Committee constituted for the purpose. It is also being provided in the Rules that an order of suspension made or deemed to have been under sub-rule(1) or (2) of Rule 10 shall not be valid after 90 days unless it is extended after review for a further period before the expiry of 90 days, it is further being provided that extension of suspension shall not be for a period exceeding 180 days at a time.

2. It is, therefore, necessary to constitute Review Committee(s) to review the suspension cases. The composition of Review Committee(s) may be as follows:--

“(i) The Disciplinary Authority, the Appellate authority and another officer of the level of Disciplinary/Appellate authority from the same office or from another Central Government office (in case another officer of same level is not available in the same office), in a case where the President is not the Disciplinary Authority or the Appellate Authority.

(ii) The Disciplinary Authority and two officers of the level of Secretary/Additional Secretary/ Joint Secretary who are equivalent of higher in rank than the Disciplinary Authority from the same office or from another Central Government office (in case another officer of same level is not available in the same office), in a case where the appellate authority is the President.

(iii) Three officers of the level of Secretary/Additional Secretary/Joint Secretary who are higher in rank than the suspended official from the same Department/Office or from another Central Government Department/Office (in case another officer of same level is not available in the same office), in a case where the Disciplinary Authority is the president. The Administrative Ministry/Department/Office concerned may constitute the review committees as indicated above on a permanent basis or ad hoc basis.”

6. Mr. Lodh, learned counsel referring to the Govt. of India, Department of Personnel & Training, Office Memorandum (for short, O.M.) No.11012/4/2003-Estt.(A) dated the 7th January, 2004 argues that the review of the suspension order of the petitioner was not made by the competent authority. Learned counsel has placed on record the order dated 9th August, 2024 [*Annexure-5* to the writ petition] wherein the Inspector General of Prisons constituted the Review Committee to review the suspension/revocation including disciplinary action against Group-C staff of Home (Jail) department. The composition of the Committee under order dated 9th August, 2024 may be reproduced here-under, in verbatim, for convenience:

“GOVERNMENT OF TRIPURA
OFFICE OF THE INSPECTOR GENERAL OF PRISONS
PRISONS DIRECTORATE, AGARTALA

No.F.X-704/IGP/2024/(P)/2315-33

Dated 09th August, 2024.

ORDER

Subject: Review committee of Home (Jail) Department.

The committee has been constituted with the following officials of Home (Jail) Department, Government of Tripura to review the suspension/revocation including disciplinary action against Group-C staff of Home (Jail) department which is lying in Prisons Directorate, Agartala. The committee is valid until further order.

1. Shri Arindam Das, OSD, Head of Office, Prisons Directorate, Agartala, **Chairman** of the Committee.

2. Shri Rakesh Chakraborty, (SDM) Superintendent, Kendriya Sansodhanagar Tripura, Bishalgarh, **Member** of the Committee.

3. Shri Anupam Chakraborty, OSD, Nodal Officer, Prisons Directorate, Agartala, **Member** of the Committee.

4. Smt. Sima Debbarma, U.D. Clerk, Prisons Directorate, Agartala, **Member** of the Committee.

The committee should report to the undersigned from time to time, as per existing rule. This order shall take immediate effect.

Sd/-

(A.R. Reddy, IPS)

*Inspector General of Prisons
Tripura.”*

7. Referring to the above composition of the Review Committee, Mr. Lodh, learned counsel appearing for the petitioner has submitted that the O.M. No. 11012/4/2003 which had been published in GSR No.2 of the Gazette dated 07.01.2004 has grossly been violated by the respondents.

According to learned counsel, the Committee has been constituted without the Disciplinary Authority and the Appellate Authority. As such, the review order extending the suspension period by the said Committee is illegal, arbitrary and not tenable in law.

8. On the other hand, Mr. Debbarma, learned Addl. G.A. appearing for the respondents has relied upon the order dated 9th August, 2024, quoted here-in-above and has tried to defend the action of the respondents.

9. I have considered the submissions of learned counsel appearing for the parties.

10. Rule 10(6) of CCS (CCA) Rules clearly stipulates that a suspension order shall not be valid after 90 (ninety) days unless it is extended after review for a further period before the expiry of 90(ninety) days and such review has to be made by the authority which is competent to modify or revoke the suspension order.

11. On careful consideration of the Order dated 9th August, 2024, I find substantial force in the submission of Mr. Lodh, learned counsel appearing for the petitioner. Under Order dated 9th August, 2024 the Review Committee had been constituted without inclusion of the Disciplinary Authority and the Appellate Authority. As such, the composition of the Review Committee under Order dated 9th August, 2024 itself is inconsistent to the Govt. of India instructions published under O.M. No.11012/4/2003, dated 07.01.2004 read with Rule 10(6) of CCS(CCA) Rules and made the Review Committee incompetent to exercise the power of review for the purpose of extension of suspension period.

12. An order or decision issued by an authority lacking the necessary competence or jurisdiction is fundamentally flawed, striking at the very

foundation of its authority. Consequently, such an order or decision is null and void from its inception (*ab initio*) and being devoid of legal validity is not enforceable against the person upon whom such order is passed.

13. In the instant case, what has been emerged is that the competent authority of the respondents constituted the Review Committee without inclusion of the Disciplinary Authority and the Appellate Authority ignoring the mandate of Govt. of India guidelines/instructions published under O.M. dated 07.01.2004 read with Rule 10(6) of the CCS (CCA) Rules. In view of this, the Review Committee so constituted is incompetent to review the extension of the suspension period of the petitioner leading to its order unenforceable at the very inception.

14. As sequel, the review order extending the period of suspension of the petitioner after 90 (ninety) days w.e.f. 14.08.2024 to 11.11.2024 is not sustainable being violative of the provision of Rule 10(6) of the CCS(CCA) Rules and the related Govt. of India instructions as stated here-in-above. Accordingly, the impugned review order dated 12th August, 2024 passed by the respondent no.2, the Inspector General of Prisons, based on the report and decision of the incompetent Review Committee, is hereby set aside and quashed.

15. For the aforesaid narration of facts, relevant law and the reasons recorded thereof, the instant writ petition stands allowed and disposed of.

JUDGE