

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 576 of 2023

Sri Ananta Das

---Petitioner(s)

Versus

The State of Tripura and 3 Ors.

---Respondent(s)

For Petitioner(s)	:	Mr. S. M. Chakraborty, Sr. Advocate. Ms. Ankita Pal, Advocate.
For Respondent(s)	:	Mr. K. De, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

19.03.2024

This is petition under Article 226 of the Constitution of India for seeking the following reliefs:

- (i) *Admit the petition;*
- (ii) *Issue rule of Nisi upon the respondents to show cause as to why a Writ of Certiorari shall not be issued cancelling/quashing the impugned Inquiry report given in Case No.182/INQ/CDI/GA(AR)2019 signed on 11.02.2022 the order of penalty dated 08.09.2022 and the order of the appellate authority dated 30.06.2023 shall not be quashed/set aside*
- (iii) *As to why a Writ of Mandamus shall not be issued commanding upon the respondents to restore two cumulative increments which has been withheld by the impugned order of penalty*
- (iv) *Issue Writ in the nature of Prohibition retraining the respondents from giving effect to the impugned order of penalty till disposal of the writ petition.*
- (v) *Issue Writ(s) in the light of the prayers made above and make the Rule absolute.*
- (vi) *Any other appropriate order of direction as this Hon'ble Court deems fit and proper may kindly be passed.*
- (vii) *In the interim pass order in the light of the prayer No.iv above.*

[2] It is the case of the petitioner that in the campuses of the Tripura State Rifles (TSR) battalions different pujas like Durga puja, Biswakarma puja, Kali puja, Laxmi puja are voluntarily celebrated on the basis of subscription collected from the members of the said battalions of different ranks, and to celebrate the said pujas in an organized and disciplined manner puja committees are constituted from the members of the battalion.

[3] For the purpose of celebrating puja in the year 2016 in the campus of the 8th BN TSR there was a committee of which the Assistant Commandant of the battalion

was made the Secretary to head the committees. All the items and materials connected with the Durga puja were collected/purchased by the said committee which inter alia included planks of Simul timber for construction of puja pandal, which was absolutely a voluntarily and private work, having no relation with the official duties and responsibilities of the petitioner. That after purchase of the said Simul planks by the puja committee a team of Forest Official come to the campus of 8th BN TSR and seized the said planks, as forest marking was not there. Along with the said planks some other old logs and timbers already lying in the campus from long before the joining of the petitioner as commandant of the said battalion were also seized by the Forest Officials on the same ground. After such seizure a departmental proceeding was initiated against the petitioner by framing four numbers of charges and was sent for inquiry before the Commissioner of Inquires, Government of Tripura.

[4] The allegations brought against the petitioner were not sustained in the said proceeding but the respondent No.3, in the capacity of Disciplinary Authority, did not accept the said report and remitted the matter for fresh enquiry before the same authority i.e. respondent No.4 and the respondent No.4 submitted his report signed on 11.02.2022 to the effect that the charges made against the petitioner in charge No. i, iii and iv have not been proved but the charge No. ii has been proved on the purported ground that as Commandant of the battalion the petitioner committed gross negligence in supervising his subordinate officer who collected unmarked Simul planks etc and on the basis of the said report major punishment was given to the petitioner by the respondent No.3 by withholding two increments with cumulative effect. The petitioner preferred appeal against that order of punishment before the respondent No.3 but the said respondent rejected the said appeal and upheld the order of punishment.

[4] Since the enquiry report, the order of punishment and the order of the appellate authority are all arbitrary, mechanical, unreasonable and unconstitutional the petitioner has filed this Writ petition for appropriate redress.

[5] To examine the matter, it is apposite to extract herein below the charge framed against the petitioner.

Article II

That the said Shri Ananta Das, T.P.S Gr-I while functioning as Comdt. 8th Bn. T.S.R at Lalcherra, Chalilengta, Dhalai District, Tripura during the aforesaid period had committd gross misconduct as has allowed to purchase Simul timber without following the financial norms and permission from the Forest Department for Durga Puja Pandal, 2016.

By the above mentioned activity, Shri Das has failed to maintain absolute integrity and devotion to duty violating the Rule 3 of TCS(Conduct) Rules, 1988 which is most unbecoming of an officer of disciplined Police Force.

[6] It is contended by the findings of the respondent No.4 after the purported fresh inquiry on the charges framed against the petitioner with reference to charge No.II is totally arbitrary, unreasonable, mechanical and contrary to settle principle of law and justice as the said respondent No.4 while giving his finding on charge No.II against the petitioner totally failed to consider and/or ignored the fact that the purchase/collection of simul timber/planks by the Durga Puja Committee for construction of Puja Pandal was not a part of his official duty as Commandant of the Battalion to supervise nor any payment for the said timber was made by him and thereby there was no justification to entangle the petitioner with the said act when it was totally a private act of the puja committee of the battalion associated with the celebration of Durga Puja and payment was also made from the fund of the said Puja Committee, over which the petitioner had no administrative control.

[7] On the contrary, Mr. K. De, learned Addl.GA by way of his counter affidavit has contended before this court that the prosecution has been able to prove the article of charge-II for gross negligence of the petitioner in supervising his subordinate officers who collected unmarked simul planks without having forest marking and his

inaction to supervise his subordinate staff was found to be a gross negligence which was considered to be a misconduct on the part of the petitioner.

[8] Heard learned counsel for the parties.

[9] It appears to this court that the petitioner ought to have been more vigilant while such purchase of simul timber was taking place. Mere making such statement that all the items and materials connected with the Durga puja were collected/purchased by the Puja Committee which inter alia included planks of Simul timber for construction of puja pandal, which was absolutely a voluntarily and private work, having no relation with the official duties and responsibilities of the petitioner does not exonerate the petitioner from performing his duties cautiously. However, punishing the petitioner by way of withholding 2(two) increments with cumulative effect under provision Rule 11 (v) of CCS(CCA) Rules, 1965 will be too harsh. At the same time, this court feels that it is a fit case for imposing a minor penalty upon the petitioner. The petitioner, being an Officer of TSR, cannot bring his ignorance to shield his case before this Court.

[10] Having perused the record and also having considered the submission as advanced by the learned counsel for the parties, this court is of the view that the petitioner be imposed with the punishment of Censure under provision of Rule 11(i) of CCS(CCA) Rules, 1965 setting aside the impugned order dated 08.09.2022 withholding of 2(two) increments with cumulative effect under provision Rule 11 (v) of CCS(CCA) Rules, 1965 upon the petitioner.

[11] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak

**DIPAK
DAS**

Digitally signed by
DIPAK DAS
Date: 2024.03.21
16:57:15 +05'30'