

GAHC010013182024



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

Case No. : WP(C)/321/2024

BISWAJIT GOSWAMI
S/O LT. K GOSWAMI R/O ABHAYAPURI WARD NO. 3 DIST BONGAIGAON
ASSAM PIN 783384

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP BY THE CHIEF SECRETARY TO THE GOVT OF ASAM DISPUR
GUWAHATI 6

2:THE SECRETARY
TO THE GOVT OF ASSAM PERSONNEL (A) DEPTT DISPUR GUWAHATI 6

3:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM PANCHAYAT AND RURAL DEVELOPMENT
DEPTT DISPUR GUWAHATI

Advocate for the Petitioner : MR P BHARDWAJ

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 05-02-2024

Heard Mr. M.K. Choudhury, learned Sr. counsel assisted by Mr. P. Bharadwaj, learned
counsel for the writ petitioner.

Perused the averments made in the writ petition.

The writ petitioner herein, who is employed in the department of Panchayat & Rural Development (P&RD), Assam had been subjected a departmental proceeding. A criminal case in the form of ACB P.S. Case No. 53/2023 has also been registered against the petitioner under Section 7(A) of the PC Act. In the departmental proceeding, the date of filing of his written statement has been fixed today, i.e. 05-02-2024. Aggrieved thereby the petitioner has approached this Court by filing the instant writ petition, contending that before charges are framed in connection with the ACB P.S. Case No. 53/2023, he cannot be compelled to disclose his defence by submitting written statement in connection with the departmental proceeding.

The aforesaid argument is premised on the law laid down in the case of ***Eastern Coal Fields Ltd. & Ors. Vs. Rabindra Kr. Bharti*** reported in ***(2022) 12 SCC 390***.

By order dated 22-01-2024, this Court had asked the learned departmental counsel to seek instruction and address this Court. Today, when the matter is called up, Mr. S. Dutta, learned standing counsel, P&RD Department, Assam as well as Mr. C.K.S. Baruah, learned Govt. Advocate, Assam have appeared and made their submission.

According to Mr. Dutta, if the limited prayer of the petitioner is only to defer the filing of written statement in the departmental proceeding till the stage of framing charge in connection with ACB P.S. Case No. 53/2023, then he would have no objection, if such a prayer is granted by this Court. Similar is the stand of Mr. C.K.S. Baruah, learned Govt. Advocate, Assam.

Mr. M.K. Choudhury, learned Sr. counsel submits that his client will be satisfied if filing of written statement in the departmental proceeding is deferred till the stage of charges

framing in connection with the criminal proceeding.

Taking note of the submissions made by the learned counsel for both the sides and as agreed to by them, this writ petition is being disposed of at the stage of motion hearing by providing that filing of written statement and further proceeding in the departmental proceeding initiated against the petitioner shall remain suspended till the stage of framing charges in connection with the criminal proceeding, viz. ACB P.S. Case No. 53/2023. Thereafter, it will be open for the authorities to proceed with the departmental proceeding in accordance with law.

With the above observation, this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant