

GAHC010100422023



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

Case No. : WP(C)/2734/2023

FORID AHMED CHOUDHURY
S/O ABDUL SATTAR CHOUDHURY, VILL-ALGAPUR PART-1, P.O.-KALIBARI
BAZAR, P.S.-ALGAPUR, DIST-HAILAKANDI (ASSAM)

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
HAILAKANDI
P.O. AND P.S.-HAILAKANDI
DIST-HAILAKANDI
ASSAM

4:THE CHIEF EXECUTIVE OFFICER
HAILAKANDI ZILA PARISHAD
HAILAKANDI (ASSAM)

5:THE BLOCK DEVELOPMENT OFFICER
ALGAPUR DEVELOPMENT BLOCK
DIST-HAILAKANDI
ASSA

Advocate for the Petitioner : F K R AHMED

Advocate for the Respondent : SC, P AND R.D.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER**

17.05.2024

Heard Mr. F.K.R. Ahmed, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned Additional Senior Government Advocate, Assam, and Mr. P. Handique, learned Standing Counsel, Panchayat & Rural Development Department.

2] This writ petition is filed by the petitioner assailing the impugned suspension order dated 06.07.2022 issued to the writ petitioner by the respondent no.3, namely, the Deputy Commissioner, Hailakandi. The petitioner is a casual employee (Tax Collector) working under the Algapur Gaon Panchayat in the district of Hailakandi. Pursuant to some allegations raised against the petitioner, the petitioner was placed under suspension by order dated 06.07.2022 by the Deputy Commissioner, Hailakandi. Learned counsel for the petitioner submits that the petitioner is an employee under the Department of Panchayat and Rural Development and therefore, the Deputy Commissioner, Hailakandi is not a competent authority to place the petitioner under

suspension. He further submits that the petitioner is a casual employee and therefore, the provisions of Assam (Discipline and Appeal) Rules, 1964 is not applicable in respect of a casual employee.

3] An affidavit has been filed on behalf of the respondent no.3, namely, the Deputy Commissioner. The said affidavit, however, does not throw any light on the source of power of the Deputy Commissioner to suspend an employee of the Panchayat and Rural Development.

4] Mr. R. Dhar, learned Additional Senior Government Advocate, Assam as well as Mr. P. Handique, learned Standing Counsel, P&RD fairly submits that there is no Office Memorandum or Notification empowering the Deputy Commissioner to suspend the employees belonging to the other Departments. A Notification available at present only empowers the Deputy Commissioner to transfer the casual employees, contractual employee etc within the Districts. However, that notification does not empower the Deputy Commissioner to suspend an employee of the P&RD Department.

5] Under the Rule 6 of the Assam (Discipline and Appeal) Rules, it is the Appointing Authority or any other person delegated with the Authority to is competent to issue orders placing the employee under suspension. The Rules make it very clear that it is the Appointing Authority or any such Authority on

whom the powers have been delegated who has been empowered to suspend an employee.

6] It is apparent from the pleadings on record that the petitioner is a casual employee under the Algapur Gaon Panchayat and his appointment order was issued from the Office of the Commissioner, Panchayat and Rural Development Department.

7] Under such circumstances, it is clear that the petitioner is an employee under the Panchayat and Rural Development Department and not under any of the Office of the District Administration. Under such circumstances, this Court is compelled to take a view that the impugned suspension order dated 06.07.2022 passed by the Deputy Commissioner, Hailakandi is contrary to the provisions of law as the Deputy Commissioner is not the Appointing Authority of the writ petitioner or is an authority who is vested with such powers to issue the suspension order and place the petitioner under suspension.

8] In that view of the matter, the impugned suspension order dated 06.07.2022 is set aside and quashed. The petitioner is directed to reinstated in service forthwith and his period of suspension shall be treated as period under regular duty.

9] The writ petition is accordingly stands allowed and disposed of in terms of

the above.

JUDGE

Comparing Assistant