

GAHC010106182024



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

Case No. : WP(C)/2797/2024

MD. ALTAF ALI
S/O- YUISUF ALI,
R/O- VILLAGE BOIRAGIMOTH,
P.O- BAIRAGIMOTH,
DIST- DIBRUGARH, ASSAM, PIN-786003

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY, TO THE GOVT. OF ASSAM,
COOPERATION DEPARTMENT, ASSAM SECRETARIAT ,
DISPUR, GHY-06

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI- 781022.

3:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
JORHAT
ASSA

Advocate for the Petitioner : MR. A B T HAQUE

Advocate for the Respondent : SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 24.06.2024

Heard Mr. A. B. T. Haque, learned counsel for the petitioner. Also heard Ms. M. D. Bora, learned Standing Counsel for the Co-operative Department.

The challenge made in the present proceedings is the order of suspension dated 07.09.2023, placing the petitioner under suspension on account of the detention in connection with Tinsukia P.S. Case No. 279/2023, under Sections 406/420 of the IPC. The petitioner was so placed under detention in connection with the said criminal case on 01.09.2023.

The learned counsel for the petitioner submits that on being enlarged on bail, in connection with the said police case by the learned Chief Judicial Magistrate, Tinsukia, the petitioner had on 30.11.2023 intimated the said aspect of the matter to the respondent authorities.

Mr. Borah, learned Standing Counsel, on instructions received has submitted that no review in respect of the order of suspension dated 07.09.2023, issued against the petitioner has been carried out by the respondent authorities.

In the above view of the matter, applying the decision of Hon'ble Supreme Court in the case of *Ajay Kumar Choudhury Vs. Union of India & Ors.*, reported in *2015 7 SCC 291*, more particularly, Paragraph-21 thereof, this Court is of the considered view that the review as mandated in the

matter and/or the charge-sheet either in the criminal case or towards initiation of a departmental proceedings having been issued, the order of suspension cannot survive any further.

Accordingly, the order of suspension dated 07.09.2023, stands set aside. However, the respondent authorities are at liberty to post the petitioner against any post at a different location in terms of the liberty so granted by the Hon'ble Supreme Court in Paragraph-21 of the decision of *Ajay Kumar Choudhury (supra)*.

The instructions, as produced by Ms. Borah, learned Standing Counsel is kept on record and marked as 'X' for identification.

JUDGE

Comparing Assistant