

GAHC010129702024



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

Case No. : WP(C)/3385/2024

GITANJALI DEKA DAS
W/O- SRI DEBAJIT DAS,
RESIDENT OF VILL- BALIKARIA,
P.S.- NALBARI, DIST.- NALBARI,
ASSAM, PIN- 781335.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT OF
ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
PIN- 781031.

3:THE CIRCLE OFFICER
KAMALPUR REVENUE CIRCLE
PIN- 781380

Advocate for the Petitioner : MR. J PATOWARY, MR. R BARTHAKUR

Advocate for the Respondent : SC, REVENUE, GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

13.08.2024

Heard Shri J. Patowary, learned counsel for the petitioner. Also heard Shri T.C. Chutia, learned Addl. Senior Government Advocate, Assam and Ms. G. Hazarika, learned Standing Counsel, Revenue Department.

2. The matter relates to a challenge to an order of suspension from service. It is the specific allegation that there was no periodic review of the suspension order dated 05.04.2023.

3. When the matter was listed on the last occasion i.e., 29.07.2024, this Court was informed that the enquiry was over and the second Show Cause Notice was also responded to by the petitioner. Under those conditions, on the prayer made on behalf of the respondents, 15 days time was granted to pass final orders with a further observation that in case no final orders are passed within the said time, the petitioner can revive the prayer for revocation of the order of suspension.

4. Shri T.C. Chutia, learned Addl. Senior Government Advocate, Assam has however submitted that though instructions were given for completion of the Disciplinary Proceeding in terms of the earlier order, some more time has been prayed for. The allegations *prima facie* pertains to illegal gratification in connection with which, the petitioner was arrested. More than a year has passed since the order of suspension and it is a matter of serious concern that the departmental proceeding is not yet over.

5. In view of the aforesaid facts and circumstances and the observations

made by this Court in the last order dated 29.07.2024, this Court has no other option but to examine the validity / legality of the suspension order dated 05.04.2023.

6. The law is well settled in this field by a catena of judgments of the Hon'ble Supreme Court including the case of ***Ajay Kumar Choudhary Vs. Union of India & Anr.***, reported **(2015) 7 SCC 291**.

7. The aforesaid principles laid down in the case of ***Ajay Kumar Choudhary*** (supra) came up for consideration before a Division Bench on the aspect as to whether in case of a deemed suspension, the same principles would apply. In the said case of ***Rakibuddin Ahmed vs. State of Assam***, reported in **2019 (5) GLT 600**, the Hon'ble Division Bench has held that the same rigours would also be applicable for a case of deemed suspension under Rules 6 (2) of the Assam Services (Discipline and Appeal) Rules, 1964.

8. In view of the aforesaid facts and circumstances, the order of suspension dated 05.04.2023 is interfered with.

9. The petitioner is accordingly directed to be reinstated in the service. However, considering the seriousness of the allegations, the respondents would be at liberty to post the petitioner in any non-sensitive post.

10. The present direction for interference with the order of suspension shall not cause any prejudice in completion of the disciplinary proceeding in accordance with law.

11. Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant