

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.306 of 2025**

1. Sri Pradip Kumar Ghosh

S/O Late Paresh Chandra Ghosh,
resident of Bordowali, NBRC Para, opposite of NBRC Club,
PO: AD Nagar, Pin-799003, Agartala, District: West Tripura.

----- Petitioner

Versus

1. The State of Tripura,

Represented by the Secretary,
Health & Family Welfare Department
Government of Tripura, Agartala, PO: New Secretariat,
Pin:799010, Agartala, District: West Tripura.

2. The Secretary, GA(AR) Department,

Government of Tripura, PO:New Secretariat,
PIN:799010 Agartala, District: West Tripura.

3. The Director of Health Services,

Government of Tripura,
P.O: Kunjaban, PIN:799006, Agartala,
PIN:799001, District-West Tripura.

**4. The I/C Director of Health Services,
[Prof. (Dr.) Sanjib Kumar Debbarma]**

Disciplinary authority Government of Tripura,
P.O- Kunjaban, PIN:799006, Agartala,
PIN:799001, District-West Tripura.

5. The Sub-Divisional Magistrate,

Sadar, PO:Agartala, PIN:799001, District: West Tripura.

----- Respondents

For Petitioner(s)	:	Mr. Debalay Bhattacharya, Sr. Adv., Mr. Agniva Chakrabarti, Adv.
For Respondent(s)	:	Mr. Dipankar Sarma, Addl. G. A., Mr. Prabir Saha, Adv.
Date of hearing	:	17.11.2025
Date of delivery of Judgment & Order	:	20.11.2025
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The petitioner has filed this writ petition seeking the following
reliefs:

i) admit this petition;

ii) call for the records.

iii) issue writ in the nature of Certiorari calling upon the respondents to show cause as to why the suspension order dated 14-04-2024, should not be revoked and the petitioner be reinstated in no time.

iv) issue writ in the nature of Certiorari calling upon the respondents to show cause as to why the disciplinary proceeding initiated vide Memorandum dated 07-03-2025 and the alleged charges therein should not be set aside and quashed.

v) Pass an interim order staying the operation of suspension order as well as the disciplinary proceeding initiated vide Memorandum dated 07-03-2025 pending disposal of the writ petition.

vi) Pass any other order/orders which your Lordship may deem fit and proper;

2. Heard Learned Senior Counsel Mr. Debalay Bhattacharya assisted by Learned Counsel Mr. Agniva Chakraborty appearing on behalf of the petitioner. Also heard Learned Addl. G.A., Mr. Dipankar Sarma appearing on behalf of the State-respondents and further heard Learned Counsel, Mr. Prabir Saha appearing on behalf of the respondent-Chief Electoral Officer.

3. Taking part in the hearing, Learned Senior Counsel appearing on behalf of the petitioner has drawn the attention of the Court that the present petitioner has filed the writ petition seeking two reliefs-one for revoking the suspension order and another for quashing of the initiation of Departmental Proceeding vide memorandum dated 07.03.2025 issued by the State-respondents but during pendency of the writ petition, the respondent-authority has revoked the suspension order and as such, the petitioner is now only seeking relief for quashing the initiation of Departmental proceeding vide memorandum dated 07.03.2025.

In support of his contention, Learned Counsel first of all drawn the attention of the Court that by memo dated 07.03.2025 (Annexure-IV), the respondent-authority drawn up Departmental Proceeding against the present petitioner. Learned Senior Counsel also drawn the attention of the Court referring the connected documents of Annexure-4 i.e. Annexure-I, Annexure-II, Annexure-III and Annexure-IV and submitted that in the memo dated 07.03.2025, it was specifically mentioned by the respondent-authority that an inquiry will be held in respect of Articles of Charge framed against the petitioner based upon the Facebook posts as described in the complaint have been found in the Facebook account in the name of Pradip Kumar Ghosh i.e. the present petitioner but surprisingly no complaint filed against the petitioner was supplied to the petitioner by the respondent-authority at any time. Even the name of the complainant was not disclosed and as such in absence of the name of the complainant or in absence of citing the said alleged complainant as witness in the charge-sheet, no proceeding can lie against the present petitioner. Learned Senior Counsel further drawn the attention of the Court that the suspension order has been issued by the In-charge, Director of Health Services, Tripura and but the said In-charge had no authority as Disciplinary Authority to issue any suspension order and furthermore from the annexed documents it will transpire that Dr. Sanjib Kumar Debbarma, In-charge, Director has been cited as witness in the charge-sheet by the respondent-authority, as such, the disciplinary authority cannot be cited as witness to substantiate the alleged charge levelled against the

petitioner. So, Learned Counsel drawn the attention of the Court that based on the vague charge-sheet which has got no legal basis the proceeding cannot be continued against the petitioner and asked for setting aside the Departmental Proceeding initiated against the petitioner.

For the sake of convenience, the relevant Articles of Charge are mentioned herein below:

Statement of articles of charges framed against Shri. Pradip Kumar Ghosh, Pharmacist (Allo), IGM Hospital, Agartala.

ARTICLE-I

That the said Shri. Pradip Kumar Ghosh, Pharmacist (Allo), IGM Hospital, Agartala., while he is functioning as Pharmacist (Allo), IGM Hospital, Agartala violation of Model Code of Conduct (MCC) & the provisions of the Tripura Civil Services (Conduct) Rules 1988, because Shri. Pradip Kumar Ghosh, Pharmacist (Allo), IGM Hospital, Agartala was involved in political campaign in the year of 2024 during Look Sabha Election as per inquiry report submitted by the Assistant Returning Officer (Sub-Divisional Magistrate), 8 Town Bordowali A/S, Sadar, West Tripura vide. No.F.17(37)-SDM/DSR/ELECT/COMPT/2024/964-67, date13-04-2024 and also Facebook Posts as described in the complaint have been found in the Facebook account in the name of one Pradip Kumar Ghosh.

Through the above activities, Shri. Pradip Kumar Ghosh, Pharmacist (Allo), IGM Hospital, Agartala, like his status, has shown a lack of integrity and also gross negligence for performing government duty, which is most unbecoming on his part and thus violated Rule-5 of TSCS (Conduct) Rules, 1988.

In support of his contention, Learned Senior Counsel relied upon one judgment of the Hon'ble the Supreme Court of India reported in **(2010) 10 SCC 539 [titled as Mohd. Yunus Khan V. State of Uttar Pradesh and others]** wherein in para No.33, Hon'ble the Apex Court observed as under:

"33. We are of the considered opinion that the initiation of disciplinary proceedings against the appellant and the conclusion thereof by the imposition of the punishment by the Commandant, who had himself been a witness, was in flagrant violation of the principles of natural justice and thus, stood vitiated. "Principles of natural justice are to some minds burdensome but this price-a small price indeed-has to be paid if we desire a society governed by the rule of law." All other consequential orders passed in

appeal, etc. remained inconsequential. More so, a protest/disobedience against an illegal order may not be termed as misconduct in every case. In an appropriate case, it may be termed as revolting to one's sense of justice. In view of the above, we are of the considered opinion that the protest raised by the appellant against the punishment imposed for his absence could not give rise to a cause of action for initiating the disciplinary proceedings."

Referring the same, Learned Senior Counsel submitted that in the present case at hand the Disciplinary Authority has been cited as witness of the proceeding and as such in view of the judgment of the Hon'ble Supreme Court of India, this present proceeding cannot be sustained against the petitioner and urged for quashing of the proceeding.

Reliance was further placed upon another citation of the Hon'ble Supreme Court of India reported in **(2009) 12 SCC 78 [titled as Union of India and other V. Gyan Chand Chattar]** wherein in para No.35, Hon'ble the Apex Court observed as under:

"35. In view of the above, law can be summarised that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice. The charges should be specific, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively. Finding should not be perverse or unreasonable, nor the same should be based on conjectures and surmises. There is a distinction in proof and suspicion. Every act or omission on the part of the delinquent cannot be a misconduct. The authority must record reasons for arriving at the finding of fact in the context of the statute defining the misconduct."

Referring the same, Learned Senior Counsel submitted that in view of the observation of the Hon'ble Supreme Court of India, the present proceeding cannot lie against the present petitioner on vague charge.

Reliance was again placed upon another citation of the Hon'ble Supreme Court of India reported in **(1979) 4 SCC 289**

[titled as Krishna Kumar V. Divisional Assistant Electrical Engineer and others], wherein in para No.5, Hon'ble the Apex Court observed as under:

"5. In defence of the legality of the order of removal, counsel for the respondents relies on paragraph 2 of respondent 1's affidavit, dated January 7, 1978, wherein he has stated that the power to make appointments to the post of the Train Lighting Inspector was delegated to certain other officers including the Divisional Assistant Electrical Engineer. It is urged that since the Divisional Assistant Electrical Engineer has been given the power to make appointments to the post of the Train Lighting Inspector, he would have the power to remove any person from that post. We cannot accept this contention. Whether or not an authority is subordinate in rank to another has to be determined with reference to the state of affairs existing on the date of appointment. It is at that point of time that the constitutional guarantee under Article 311(1) becomes available to the person holding, for example, a civil post under the Union Government that he shall not be removed or dismissed by an authority subordinate to that which appointed him. The subsequent authorization made in favour of respondent 1 in regard to making appointments to the post held by the appellant cannot confer upon respondent 1 the power to remove him. On the date of the appellant's appointment as a Train Lighting Inspector, respondent 1 had no power to make that appointment. He cannot have, therefore, the power to remove him."

Referring the same Learned Senior Counsel has drawn the attention of the Court that the ratio of the said citation can be applied in this case.

Finally, Learned Counsel again relied upon another citation reported in **(2009) 2 SCC 570 [titled as Roop Singh Negi V. Punjab National Bank and others]** wherein in para No.18, Hon'ble the Apex Court observed as under:

"18. In **Narinder Mohan Arya v. United India Insurance Co. Ltd.:(2006) 4 SCC 713** whereupon both the learned counsel relied, this Court held: (SCC p. 724, para 26)

"26. In our opinion the learned Single Judge and consequently the Division Bench of the High Court did not pose unto themselves the correct question. The matter can be viewed from two angles. Despite limited jurisdiction a civil court, it was entitled to interfere in a case where the report of the enquiry officer is based on no evidence. In a suit filed by a delinquent employee in a civil court as also a writ court, in the event the findings arrived at in the departmental proceedings are questioned before it, it should keep in mind the following: (1) the enquiry

officer is not permitted to collect any material from outside sources during the conduct of the enquiry. (See *State of Assam v. Mahendra Kumar Das*:(1970) 1 SCC 709.) (2) In a domestic enquiry fairness in the procedure is a part of the principles of natural justice. (See *Khem Chand v. Union of India*:AIR 1958 SC 300 and *State of U.P. v. Om Prakash Gupta*:(1969) 3 SCC 775.) (3) Exercise of discretionary power involves two elements-(i) objective, and (ii) subjective and existence of the exercise of an objective element is a condition precedent for exercise of the subjective element. (See *K.L. Tripathi v. SBI*:(1984) 1 SCC 43) (4) It is not possible to lay down any rigid rules of the principles of natural justice which depend on the facts and circumstances of each case but the concept of fair play in action is the basis. (See *Sawai Singh v. State of Rajasthan*:(1986) 3 SCC 454.) (5) The enquiry officer is not permitted to travel beyond the charges and any punishment imposed on the basis of a finding which was not the subject-matter of the charges is wholly illegal. (See *Export Inspection Council of India v. Kalyan Kumar Mitra*:(1987) 2 Cal LJ 344) (6) Suspicion or presumption cannot take the place of proof even in a domestic enquiry. The writ court is entitled to interfere with the findings of the fact of any tribunal or authority in certain circumstances. (See *Central Bank of India Ltd. v. Prakash Chand Jain*:AIR 1969 SC 983 and *Kuldeep Singh v. Commr. of Police*:(1999) 2 SCC 10)""

Referring the same, Learned Senior Counsel drawn the attention of the Court that if the proceeding is allowed to be continued in that case the inquiry officer could not be permitted to travel beyond the charges and as such on the basis of vague charge the proceeding cannot continue against the present petitioner.

Learned Senior Counsel also referred another office memorandum dated 18.10.2013 issued by the Government of India wherein in para No.3(i), the Government of India observed as under:

"3. In view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informers' Resolution-2004(PIDPI), the following procedure is laid down for handling anonymous and pseudonymous complaints, in supersession of instructions contained in DoP&T's OM No.321/4/91-AVD.III dated 29th September, 1992:

(i) No action is required to be taken on anonymous complaints, irrespective of the nature of allegations and such complaints need to be simply filed."

Referring the same, Learned Senior Counsel submitted that based upon anonymous complaint there is no scope to proceed

further in a case of this nature and as such the present case is squarely covered by the aforesaid judgments of the Hon'ble Apex Court and the said notification of the Government of India and urged for allowing this writ petition.

Learned Senior Counsel also drawn the attention of the Court referring the Counter Affidavit filed by the State-respondents and submitted that save and except denial nothing has been projected by the respondent-authority countering the case of the present petitioner and as such, Learned Senior Counsel submitted that the Counter Objection cannot be accepted and the writ petition be allowed imposing cost.

4. On the other hand, Learned Addl. G.A., Mr. D. Sarma, appearing on behalf of the State-respondents submitted that the suspension order issued against the petitioner by this time has been revoked. It was further submitted by Learned Addl. G.A. that the case is at the very nascent stage and at this stage, there is very limited scope on the part of writ Court to issue any mandamus or certiorari against the State-respondents. It was further submitted that since the Departmental Proceeding is pending for adjudication and the present petitioner shall have enough opportunity to contest the proceeding, so, at this preliminary stage, there is no scope to challenge the memorandum issued by the respondent-Authority. It was further submitted by Learned Addl. G.A. referring Annexure-E and submitted that based upon the recommendation of Chief Electoral Officer dated 29.04.2024, the Departmental Proceeding was initiated against the present petitioner and there was no infirmity to the proceeding

initiated and further submitted that there is no merit in the petition filed by the present petitioner and urged for dismissal of this writ petition.

Learned Addl. G.A., Mr. D. Sarma, also pointed out that there is no legal bar regarding citing of the In-charge Director, Mr. Sanjib Kumar Debbarma as witness in the departmental proceeding because according to Learned Addl. G.A. for the State-respondent, the suspension order was issued by said Sanjib Kumar Debbarma as the Disciplinary authority being the Director In-charge but he has been cited as witness to substantiate the prosecution charge and in this regard, the role of in-charge Director and Sanjib Kumar Debbarma will be different and there is no legal bar that said Sanjib Kumar Debbarma could not have made as witness in the charge-sheet or in the departmental proceeding.

5. Learned Counsel Mr. Prabir Saha appearing on behalf of the Chief Electoral Officer drawn the attention of the Court that by this time suspension order issued against the petitioner has been revoked and he relied upon Annexure-R/1 i.e. the order dated 23.09.2025 issued by In-charge, Director of Health Services, Government of Tripura and it was further submitted that based upon the report of authority the action was taken and the Election authority has got no role in this matter because the Disciplinary proceeding has been initiated by the State authority and Chief Electoral authority has got no role in this subject matter and as such according to Learned Counsel the Election Department has been falsely implicated as party

in this case and urged for striking out the name of Chief Electoral Officer from this case.

6. I have perused the writ petition supported by the documents on record as well as the counter affidavit filed by the respondents annexed with the documents. Admittedly, by this time the suspension order issued against the petitioner has been revoked by the authority but the Disciplinary Proceeding is still pending against the petitioner. Based upon the report of Returning Officer, 1-Tripura West Parliamentary constituency (District Magistrate & Collectors) which was further based upon the inquiry report submitted by Assistant Returning Office(sub-Divisional Magistrate), 8-Town Bordowali Assembly Constituency, Sadar, West Tripura, the present petitioner was put under suspension by the authority and by the memo dated 07.03.2025, Departmental proceeding has been ordered to be drawn up against him which is still pending for adjudication. It is not known to this Court that what would be the ultimate result of the proceeding. At the time of hearing, Learned Senior Counsel for the petitioner has drawn the attention of the Court that the In-charge, Director of Health Services being the Disciplinary authority cannot be cited as witness in the charge-sheet. In this regard it is submitted that the order of suspension was issued by the In-charge, Director of Health Services being the Disciplinary Authority and in the charge-sheet, Sanjib Kumar Debbarma has been cited as witness having separate entity. In this regard in course of hearing, Learned Counsel although took the plea but failed to show any law that the In-charge, Director cannot be cited as witness in the charge-sheet.

It was also argued that no complaint was furnished and the name of the complainant was not mentioned in the list of witnesses but on perusal of the relevant documents annexed with the petition, it appears that based upon facebook post the matter was inquired and report was submitted by Sub-Divisional Magistrate to the appropriate authority. Now, in course of Departmental Proceeding if the authority fails to adduce the relevant documents to substantiate the charge then law will proceed in accordance with law but simply on the basis of that contention there is very ample scope to quash any Departmental Proceeding.

7. The citations referred by Learned Counsel are no doubt relevant but it appears that all the citations were based upon the final order of the authority not against any initiation of proceeding. So, those citations as relied upon in this case cannot be applied.

8. It is settled principle of law that the jurisdiction of writ court is very limited to interfere with the departmental proceeding under Article 226 of the Constitution of India. Until and unless the Departmental proceeding is concluded it is very difficult on the part of this Court to give any specific verdict regarding anomalies that have been urged in course of hearing by Learned Counsel representing the petitioner.

In this regard, Hon'ble the Supreme Court of India in a case reported in **(2006) 12 SCC 28 [titled as Union of India and another V. Kunisetty Satyanarayana]** in para No.13, 14, 15 and 16, observed as under:

"13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide Executive Engineer, Bihar State Housing

Board v. Ramesh Kumar Singh:(1996) 1 SCC 327, Special Director v. Mohd. Ghulam Ghouse:(2004) 3 SCC 440 Ulagappa v. Divisional Commr., Mysore:(2001) 10 SCC 639, State of U.P. v. Brahm Datt Sharma:(1987) 2 SCC 179, etc,

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

Again, Hon'ble the Supreme Court of India reported in **(2012) 11 SCC 565 [titled as Secretary, Ministry of Defence and others V. Prabhash Chandra Mirdha]** in para No.10 observed as under:

"10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court. (Vide State of U.P. v. Brahm Datt Sharma:(1987) 2 SCC 179, Bihar State Housing Board v. Ramesh Kumar Singh:(1996) 1 SCC 327, Ulagappa v. Commr.:(2001) 10 SCC 639, Special Director v. Mohd. Ghulam Ghouse:(2004) 3 SCC 440 and Union of India v. Kunisetty Satyanarayana:(2006) 12 SCC 28.)"

Further, Hon'ble the Supreme Court of India reported in **2025 SCC OnLine SC 676 [titled as State of Jharkhand and others V. Rukma Kesh Mishra]** in para No.11 observed as under:

"11. A coordinate bench of this Court in Union of India v. Kunisetty Satyanarayana:(2006) 12 SCC 28 has held that ordinarily no writ lies against a show cause notice or charge-sheet. The reason is that a mere show-cause notice or charge-sheet does not give rise to any cause of action, because it does not amount to an adverse order affecting the rights of any party unless the same has been issued by a person having no jurisdiction to do so (emphasis supplied). Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet. No doubt, in some very rare and exceptional cases the High Court can quash a show cause notice or charge-sheet if it is found to be wholly without jurisdiction or for some other reason it is wholly illegal (emphasis supplied). However, ordinarily the High Court should not interfere in such a matter."

From the aforesaid citations and also the observation made by Hon'ble the Apex Court in the aforementioned cases, it appears that no writ petition lies against any charge-sheet or show-cause notice as the same does not give any cause of action because it does not amount to any adverse order which effects the right of party unless the same has been issued by a person having no jurisdiction to do so. Here in the case at hand in course of hearing Learned Senior Counsel for the petitioner drawn the attention of the Court certain points that the In-charge Director had no authority to issue suspension order and he has been cited as witness in the Departmental Proceeding although in this regard the petitioner could not satisfy the Court showing any law to substantiate that contention. Furthermore, according to Learned Senior Counsel the complaint was not supplied and the name of the complainant was not disclosed in the list of witnesses of the Departmental Proceeding. The inquiry proceeding is still subjudiced for disposal before the competent authority. So,

considering the materials on record, it appears to this Court that this case is prematured one which does not warrant interference under Article 226 of the Constitution of India.

8. So, considering the law laid down by the Hon'ble Apex Court in the aforementioned cases in the considered opinion of this Court the present petitioner is not entitled to get any relief in this writ petition at this stage till conclusion of the proceeding pending against him.

9. In the result, the writ petition filed by the present petitioner stands dismissed being devoid of merit at this stage. The petitioner is not entitled to the relief as prayed for i.e. quashing of the Departmental Proceeding initiated against him by memo dated 07.03.2025. However, it is made clear that the respondent-authority shall make all endeavour to dispose of the Departmental Proceeding pending against the petitioner within a period of 6(six) months from the date of receipt of the copy of this judgment failing which the Departmental Proceeding initiated against the petitioner shall be deemed to have been cancelled/abated.

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

Pending applications(s), if any, also stands disposed of.

JUDGE