

GAHC010014002026



2026:GAU-AS:1839

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

Case No. : WP(C)/399/2026

MD ABDUL HANNAN
SON OF LATE NURUDDIN AHMED
VILL- GOSAI SALMARI
P.O. RANGIA, PIN CODE- 781354,
KAMRUP DISTRICT, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HIGHER EDUCATION DEPARTMENT, DISPUR, GUWAHATI-
781006, ASSAM

2:THE DIRECTOR OF HIGHER EDUCATION

ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE PRESIDENT

GOVERNING BODY
RANGIA
PIN CODE-781354
KAMRUP DISTRICT
ASSAM

4:THE PRINCIPAL RANGIA COLLEGE

PIN CODE- 781354
KAMRUP DISTRICT
ASSA

Advocate for the Petitioner : MR S KHOUND, MS. S. SAIKIA,MS. N BORAH

Advocate for the Respondent : SC, HIGHER EDU,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 09.02.2026

- 1.** Heard Mr. S Khound, learned counsel for the petitioner. Also heard Mr. D Upamanyu, learned Standing counsel, Department of Higher Education, Assam appearing for respondent No. 1 & 2.
- 2.** In view of the nature of the order being passed today, service of notice upon respondent No. 3 & 4 is deemed not to be necessary.
- 3.** As agreed to by the learned counsel for the parties, the present writ petition is taken up for final consideration at the motion stage itself and is being disposed of by this order.
- 4.** The petitioner, in the present writ petition, has raised a grievance with regard to the prolonged suspension as occasioning in his case after being placed under suspension w.e.f 22.10.2025 vide order dated 10.11.2025, issued by the Director, Department of Higher Education, Assam.
- 5.** The petitioner, in the present proceeding, was initially engaged as a Security Guard of Rangia College, Rangia on contractual basis. Thereafter, vide order dated 25.05.2023, the petitioner was appointed as a Grade IV Staff (M.T.S) in the said college. While the petitioner was discharging his duties as a Grade IV Staff (M.T.S) in the said college, he came to be arrested on 22.10.2025 in connection with Baihata Chariali P.S Case No. 261 of 2025 u/s 21(b)/29 of the

N.D.P.S Act, 1985.

6. The petitioner, not having reported for duties after 23.10.2025, the Principal of Rangia College, Rangia, vide the communication dated 25.10.2025, required the petitioner to inform as regards the reason for his absence from duties. It is projected in the writ petition that the wife of the petitioner had responded to the said communication dated 25.10.2025 issued by the Principal of Rangia College, Rangia and therein, she had brought on record the fact of the arrest of the petitioner in connection with Baihata Chariali P.S Case No. 261 of 2025, on 22.10.2025. The said information having been received, the matter was forwarded to the Director, Higher Education, Assam. The Director, Higher Education, Assam, vide the order dated 10.11.2025, proceeded to place the petitioner under suspension in view of his arrest in connection with the said P.S Case and having remained under detention for more than 48 hours. The petitioner was deemed to be suspended w.e.f 22.10.2025.

Thereafter, the petitioner, vide order dated 06.12.2025 passed by the Court of Ld. Special Judge, Rangia, Kamrup, Assam in Bail Application No. 231 of 2025, was enlarged on bail. The petitioner was released from detention on the same day. After his release from detention, the petitioner, vide his communication dated 23.12.2025, informed the Director, Higher Education, Assam about his release from detention on being granted bail by the Court of Ld. Special Judge, Rangia, Kamrup, Assam on 06.12.2025 and prayed for a review of his order of suspension and for issuance of necessary permission for him to resume his duties. The respondent authorities, thereafter, issued a show-cause notice to the petitioner on 19.01.2026. The order of suspension of the petitioner having been continued, the petitioner has approached this Court by way of instituting the present writ petition praying for the reliefs noticed, hereinabove.

7. Mr. S Khound, learned counsel for the petitioner after reiterating the facts noticed hereinabove, has submitted that the petitioner having been placed under suspension vide order dated 10.11.2025, the departmental proceeding in the matter having not been instituted within a period of 90(ninety) days from the date he was placed under suspension, following the decision of the Hon'ble Supreme Court in the case of ***Ajay Kr. Choudhary Vs. UoI & Anr.*** reported in ***(2015) 7 SCC 291***, the petitioner ought to have been reinstated in his services immediately upon completion of 90(ninety) days from the date he was placed under suspension in absence of a review of the order of suspension and/or institution of any departmental proceedings against him.

8. Mr. S Khound, learned counsel for the petitioner has further submitted that departmental proceeding, as instituted against the petitioner vide issuance of show-cause dated 19.01.2026, was so done beyond the period of 90(ninety) days mandated for an order of suspension to be in currency, and the belated institution of departmental proceedings against the petitioner would not have any effect in considering the challenge presented by the petitioner to the order of suspension dated 10.11.2025. In the above premises, Mr. S Khound, learned counsel for the petitioner submits that the order of suspension would require to be interfered with by this Court with further direction to the respondent authorities to allow the petitioner to resume his services.

9. *Per contra*, Mr. D Upamanyu, learned counsel appearing for respondent No. 1 & 2 submits that the present case being one of deemed suspension, wherein the petitioner was placed under suspension by the Director, Higher Education, Assam by invoking the provisions of Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964, the period of 90(ninety) days would be reckonable after the petitioner was released on bail and this fact was brought to the notice

of the departmental authorities. He submits that the petitioner, after being released from detention had given the information, thereof, to the Director, Higher Education, Assam, only vide a communication dated 23.12.2025. He submits that within the period of 90(ninety) days, the respondent authorities had instituted a disciplinary proceeding against the petitioner vide issuance of a show-cause notice dated 19.01.2026. He submits that proximate to the time of issuance of the said show-cause notice dated 19.01.2026, the suspension of the petitioner was also reviewed and it was found that there exists necessity for further extension of the suspension of the petitioner and accordingly, it was decided that the suspension of the petitioner would mandate to be further extended for a period of 3(three) months w.e.f 22.01.2026. He, accordingly, submits that the law as laid down by the Hon'ble Supreme Court in the case of ***Ajay Kr. Choudhary (Supra)***, having been complied with by the respondent authorities, the continuation of the suspension of the petitioner would not mandate interference by this Court.

10.I have heard the learned counsel for both parties and perused the materials brought on record.

11.The petitioner, admittedly, was placed on detention w.e.f 22.10.2025. The said detention of the petitioner led to the issuance of the order dated 10.11.2025 by the Director, Department of Higher Education, Assam placing him under suspension w.e.f 22.10.2025. The petitioner was, thereafter, enlarged on bail vide an order dated 06.12.2025 passed by the Court of Ld. Special Judge, Rangia, Kamrup, Assam in Bail Application No. 231 of 2025.

12.The petitioner, on being enlarged on bail, had proceeded to submit a representation dated 23.12.2025 before the Director, Department of Higher Education, Assam intimating the latter about his release from detention along

with a prayer for review of his order of suspension. It is a settled position of law that the period for which order of deemed suspension would remain in currency would be so reckonable from the date the concerned delinquent had submitted intimation about his release on bail. Accordingly, in the case of the petitioner, the representation dated 23.12.2025, having been received by the respondent authorities on 31.12.2025, the period of 90(ninety) days, during which the order of suspension, as issued in respect of the petitioner, remains in currency would be reckonable w.e.f 31.12.2025.

13.It is seen that the respondents had promptly, within a period of 90(ninety) days, instituted a departmental proceeding against the petitioner vide issuance of a show-cause notice dated 19.01.2026. The Hon'ble Supreme Court in its decision in the case of ***Ajay Kr. Choudhary (Supra)*** in paragraph 21 of the said decision had held as follows :

“21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension.”

14.On a perusal of the said principle laid down by the Hon'ble Supreme Court in the case of ***Ajay Kr. Choudhary (Supra)***, it is to be noted that an order of suspension shall remain in currency for a period of 3(three) months during which period the employer has to institute a departmental proceeding against the delinquent. In the event within the said period of 90(ninety) days, a departmental proceeding stands instituted against the delinquent, the employer is to pass a speaking order on review of the suspension of the petitioner, for extension of the same.

15.In the present case, the respondent authorities admittedly had instituted the departmental proceedings against the petitioner well within the period of

90(ninety) days as mandated for an order of suspension to remain in currency, by the Hon'ble Supreme court in its decision in the case of **Ajay Kr. Choudhary (Supra)**. However, the said show-cause notice was not accompanied by an order extending the period of suspension of the petitioner, on review of his suspension. The said exercise is found to have been carried out by the respondent authorities subsequently and on a review carried out, wherein, the petitioner's suspension being found necessitated to be so continued, an order dated 22.01.2026 was issued by the Director, Department of Higher Education, Assam, extending his period of suspension.

16.The order dated 22.01.2026, having been so issued proximate to the time of issuance of the show-cause dated 19.01.2026, this Court is of the considered view that the prescription as laid down by the Hon'ble Supreme Court in its decision in the case of **Ajay Kr. Choudhary (Supra)**, pertaining to the period for which an order of suspension would remain in currency, stands satisfied in the present case. The order dated 22.01.2026 having been issued proximate to the institution of the departmental proceedings against the petitioner, the extension of the period of suspension of the petitioner by further 3(three) months w.e.f 22.01.2026, as ordered vide the order dated 22.01.2026, in the considered view of this Court, would not mandate any interference.

17.In view of the above position, the order of suspension of the petitioner having been duly extended by complying with the decision of the Hon'ble Supreme Court in its decision in the case of **Ajay Kr. Choudhary (Supra)**, this Court is of the considered view that the order of suspension of the petitioner, at this stage, would not mandate any interference.

18.In view of the above discussion, the present writ petition is held to be devoid of any merit and accordingly, the same stands dismissed. However, there

would be no order as to cost.

JUDGE

Comparing Assistant