GAHC010092962026

2026:GAU-AS:17443

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

Case No. : WP(C)/2614/2026

PARESH KUMAR SAHU
S/O LATE SHYAM CHANDRA SAHU, R/O VILL- KHATOWAL GAON, P.O.- SOOTEA, P.S.- SOOTEA, DIST- BISWANATH, ASSAM, PIN- 784175

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVERNMENT OF ASSAM, COOPERATION DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE REGISTRAR OF CO-OPERATIVE SOCIETY
ASSAM
KHANAPARA
GUWAHATI-781022

3:THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM
COOPERATION DEPARTMENT
DISPUR
ASSAM- 781006

4:THE SECRETARY TO THE GOVERNMENT OF ASSAM
COOPERATION DEPARTMENT
DISPUR
ASSAM- 78100

Advocate for the Petitioner : MR. A K BARUAH, MR. H NATH,MR. R A PRAMANIK,MR. N MAHAJAN

Advocate for the Respondent : SC, CO OP,

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved	:	N/A
Date of pronouncement of judgment	:	25.11.2026
Whether the pronouncement is of the operative of the judgment?	:	No
Whether the full judgment has been pronounced?	:	Yes

JUDGMENT & ORDER (Oral)

Heard Mr. A. K. Baruah, learned counsel for the petitioner. Also heard Mr. S. K. Talukdar, learned Standing Counsel, Cooperation Department, representing the respondent Nos. 1 to 4.

2. By filing the present writ petition, the petitioner, who is serving as an Assistant Registrar of Cooperative Societies under the Cooperation Department, Government of Assam, has challenged the suspension order vide notification dated 22.12.2024, whereby he was placed under deemed suspension with effect from 03.12.2024, and the subsequent notifications dated 10.04.2025, 28.07.2025, 26.09.2025, 06.01.2026 and 10.04.2026, whereby his suspension was extended from time to time. The petitioner has also sought a direction for his reinstatement in service and release of the arrear subsistence allowance claimed by him.

3. The brief facts of the case are that the petitioner was initially appointed as a Junior Inspector/Auditor of Cooperative Societies by order dated 20.03.1991

and joined service on 12.04.1991. He was subsequently promoted to the post of Senior Inspector of Cooperative Societies by notification dated 26.05.2004, Sub-Registrar of Cooperative Societies by notification dated 01.11.2018 and Assistant Registrar of Cooperative Societies by notification dated 01.08.2023. At the relevant time, the petitioner was serving as Assistant Registrar of Cooperative Societies and was posted at Mangaldai.

4. On 03.12.2024, the petitioner was arrested in connection with ACB P.S. Case No. 93/2024. Pursuant thereto, the respondent authorities, vide notification dated 22.12.2024, placed him under deemed suspension with effect from 03.12.2024 under Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964 (hereinafter referred to as the Rules, 1964, in short). The petitioner was, however, released on bail by the learned Special Judge, Assam, on 23.12.2024.

5. Thereafter, the petitioner submitted several representations before the respondent authorities seeking reinstatement in service and release of his admissible dues. The Deputy Secretary to the Government of Assam, Cooperation Department, vide notification dated 03.03.2025, sanctioned subsistence allowance to the petitioner for a period of three months with effect from 03.12.2024. Subsequently, vide notification dated 10.04.2025, the Secretary to the Government of Assam, Cooperation Department, extended the suspension of the petitioner for another period of three months with effect from 03.03.2025. The petitioner was thereafter sanctioned subsistence allowance at an enhanced rate of 75% by communication dated 02.05.2025.

6. On 27.05.2025, the Secretary to the Government of Assam, Cooperation Department, issued a show-cause notice along with the memorandum of

charges and statement of allegations to the petitioner. The petitioner submitted his written statement on 20.08.2025, which was received by the Department on 27.08.2025. In his reply, the petitioner, *inter alia*, contended that the allegations forming the basis of the departmental proceeding were identical to those involved in the criminal proceeding and sought appropriate consideration of his case. Meanwhile, vide notification dated 28.07.2025, the suspension of the petitioner was further extended for a period of three months with effect from 03.06.2025.

7. The petitioner thereafter submitted further representations seeking reinstatement and release of his pending dues. Vide notification dated 26.09.2025, the respondent authorities again extended his suspension with effect from 03.09.2025. The suspension was further extended by notification dated 06.01.2026 for a period of three months with effect from 03.12.2025 or until further orders. The petitioner, who is due to retire on attaining the age of superannuation on 30.11.2026, continued to remain under suspension.

8. Aggrieved by the continuation of his suspension and the failure of the respondent authorities to consider his representations, the petitioner approached this Court by filing WP(C) No. 879/2026. The said writ petition was disposed of by order dated 09.03.2026, whereby this Court, taking note of the fact that the petitioner's representation dated 06.09.2025 had remained pending, directed the Secretary to the Government of Assam, Cooperation Department, to treat the said representation as an appeal under Rule 14 of the Rules, 1964, and pass appropriate orders within a period of 30 days from the date of receipt of a certified copy of the order. It was further observed that, if the Secretary was not the competent appellate authority, the representation

should be transmitted to the Principal Secretary for appropriate orders.

9. Pursuant to the aforesaid order, the petitioner submitted a representation dated 23.03.2026 before the Secretary to the Government of Assam, Cooperation Department. However, vide notification dated 10.04.2026, the respondent authorities again extended the petitioner's suspension for another period of three months with effect from 03.03.2026 or until further orders. Aggrieved by the continued suspension and the aforesaid extension notifications, the petitioner has approached this Court by filing the present writ petition.

10. Mr. A. K. Baruah, learned counsel for the petitioner, submits that the petitioner has remained under suspension since 03.12.2024. Referring to the Office Memorandum dated 04.02.2020, learned counsel submits that the currency of suspension should not extend beyond three months where the memorandum of charges or charge-sheet has not been served within that period. It is submitted that the first extension notification was issued on 10.04.2025, whereas the memorandum of charges was issued only on 27.05.2025. Learned counsel, therefore, contends that the continuation of the petitioner's suspension is contrary to the instructions contained in the said Office Memorandum.

11. Learned counsel further submits that the subsequent extension notifications have been issued mechanically, without due consideration of the circumstances warranting the continued suspension of the petitioner. It is contended that the mere pendency of the criminal case or departmental proceeding cannot, by itself, justify continuation of suspension. There is no material to indicate that the petitioner's reinstatement would prejudice either

proceeding or that he would influence witnesses or tamper with evidence. Learned counsel submits that the petitioner could instead be posted to a non-sensitive post, thereby allowing the proceedings to continue without prejudice.

12. In support of the aforesaid submissions, learned counsel relies upon the decisions of this Court in **Dipankar Kalita v. State of Assam & 3 Others**, in **WP(C) No. 1467/2024**, and the Hon'ble Supreme Court in **Ajay Kumar Choudhary v. Union of India & Others**, reported in **(2015) 7 SCC 291**. In **Dipankar Kalita** (Supra), this Court held that a deemed suspension under Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964, is required to be reviewed and extended, if necessary, within the prescribed period of three months and that an extension order passed after expiry of the said period cannot be given retrospective effect. Reliance is also placed upon **Ajay Kumar Choudhary** (Supra), wherein the Hon'ble Supreme Court held that the currency of a suspension order should not extend beyond three months if the memorandum of charges or charge-sheet is not served within that period and that, where the charges are served within the prescribed period, a reasoned order is required for extension of suspension.

13. Learned counsel also refers to Clauses 2.1.3 and 2.1.4 of the Manual of Departmental Proceedings. It is contended that the procedural requirements governing departmental proceedings have not been duly followed. Learned counsel points out that the memorandum of charges does not contain a list of witnesses and relies upon only one document, namely, the communication dated 04.12.2024 issued by the Superintendent of Police/Officer-in-Charge, ACB Police Station. It is further submitted that the allegations forming the subject matter of the departmental proceeding are identical to those involved in the

criminal case. Learned counsel contends that the continuation of suspension, in the absence of any demonstrated necessity, has caused serious prejudice to the petitioner. The action of the respondent authorities is, therefore, stated to be arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India.

14. Learned counsel further submits that despite the representations submitted by the petitioner, the respondent authorities have failed to release the arrears of subsistence allowance due to him. It is submitted that the petitioner has claimed an amount of Rs.27,856/- towards the arrears for the months of January, February and March, 2025. The petitioner seeks a direction for release of the said amount along with his reinstatement in service.

15. Mr. S. K. Talukdar, learned Standing Counsel, Cooperation Department, appearing for the respondent Nos. 1 to 4, submits that the petitioner was placed under deemed suspension with effect from 03.12.2024 following his arrest in connection with ACB P.S. Case No. 93/2024. It is submitted that a departmental proceeding was also initiated against him by issuance of a show-cause notice along with the memorandum of charges and statement of allegations dated 27.05.2025, to which the petitioner submitted his written statement on 27.08.2025. The respondents maintain that, having regard to the allegations levelled against the petitioner, his continued suspension is justified.

16. Learned Standing Counsel submits that the petitioner was arrested while allegedly accepting a bribe of Rs.8,000/- in his office in connection with the registration of Subhalaxmi Handloom Co-operative Society. Reference is also made to the hand-wash test conducted during the investigation, which allegedly yielded pink and light-pink results. It is contended that the allegations involve corruption, moral turpitude and gross negligence and have caused

embarrassment to the Government. The respondents, therefore, maintain that reinstatement of the petitioner at this stage would not be in public interest.

17. Learned Standing Counsel further submits that the petitioner cannot claim reinstatement merely on the basis of his release on bail. Referring to the case of **Prasanta Dutta v. State of Assam & 4 Others** reported in **2023 (4) GLT 113**, it is contended that an employee released on bail is required to intimate the competent authority of such release. However, neither the petitioner's representation dated 14.02.2025 nor his subsequent representations disclosed the fact of his release on bail. The respondents accordingly contend that, in the absence of such intimation, the period for review of suspension cannot be reckoned from the date of release on bail.

18. Mr. Talukdar, learned Standing Counsel relies upon the decision of the Hon'ble Supreme Court in **Bharat Singh & Others v. State of Haryana & Others** reported in **1988 Supp. 2 SCR 1050** and submits that a party seeking relief under Article 226 of the Constitution on the basis of factual assertions must specifically plead the relevant facts and place supporting material on record. It is contended that the petitioner has neither specifically pleaded that the suspension was not reviewed and extended within the prescribed period of 90 days, as sought to be contended during the course of hearing, nor placed any material on record to establish that he had intimated the competent authority about his release on bail. The respondents, therefore, submit that the petitioner's claim for reinstatement, based on a submission not supported by the pleadings in the writ petition, cannot be accepted.

19. I have considered the submissions advanced by learned counsel for the parties and have perused the materials available on record.

20. The petitioner has challenged the continuation of his deemed suspension, primarily on the ground that the suspension was not reviewed and extended within the prescribed period of three months and that the memorandum of charges was served only thereafter. The respondents, on the other hand, seek to justify the continuation of suspension by contending that the petitioner had not intimated the competent authority about his release on bail and that the nature of the allegations against him does not warrant his reinstatement at this stage. The question of continuation of suspension, therefore, has to be examined with reference to the provisions governing deemed suspension, the Office Memorandum dated 04.02.2020 and the decisions of this Court relied upon by the parties.

21. The Office Memorandum dated 04.02.2020 issued by the Personnel (B) Department, Government of Assam, stipulates that the memorandum of charges or charge-sheet should be served upon the delinquent employee within three months from the date of issuance of the suspension order. It further provides that, where the memorandum of charges or charge-sheet is not served within the said period, the currency of the suspension order should not extend beyond three months. Where the charges are served within the prescribed period, the continuation of suspension is required to be supported by a reasoned order. The memorandum also requires the officer proposing suspension to ensure that the charges are framed and submitted to the Disciplinary Authority within two weeks from the date of suspension.

22. The aforesaid instructions have to be read along with Rule 6(2) of the Rules, 1964, under which the petitioner was placed under deemed suspension. The suspension came into operation with effect from 03.12.2024, whereas the

notification placing the petitioner under deemed suspension was issued on 22.12.2024. The first extension notification was issued on 10.04.2025, with effect from 03.03.2025, and the memorandum of charges was served only on 27.05.2025. Thus, the memorandum of charges was not served within three months of the date on which the deemed suspension came into operation. The first extension notification was also issued after expiry of the initial period of 90 days.

23. The requirement of periodic review in cases of deemed suspension under Rule 6(2) of the Rules, 1964, was considered by this Court in **Dipankar Kalita** (Supra). This Court held that the suspension is required to be reviewed within the prescribed period of three months and that an order extending the suspension must be passed within the said period. It was further held that an extension order passed after expiry of the prescribed period cannot be given retrospective effect so as to validate the continuation of suspension.

24. The principles governing the continuation of suspension have also been laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (Supra). The Hon'ble Supreme Court held that the currency of a suspension order should not extend beyond three months if the memorandum of charges or charge-sheet is not served within that period. It was further held that, where the memorandum of charges or charge-sheet is served within the prescribed period, a reasoned order must be passed for extension of suspension. The Hon'ble Supreme Court also observed that, where circumstances so warrant, the Government may transfer the concerned employee to another department or office, subject to appropriate restrictions, instead of continuing the suspension.

25. The respondents have relied upon **Prasanta Dutta** (Supra) to contend

that the petitioner had not intimated the competent authority about his release on bail. However, the failure of the petitioner to furnish such intimation cannot dispense with the requirement of review of a deemed suspension under Rule 6(2) of the Rules, 1964, within the prescribed period of 90 days. The obligation to review the suspension arises from the operation of the deemed suspension itself and cannot be made dependent upon a subsequent intimation by the petitioner regarding his release on bail.

26. In the present case, the deemed suspension came into operation on 03.12.2024. The respondents have not placed any material to show that the suspension was reviewed and an order for its continuation was passed within three months from the said date. The first extension notification dated 10.04.2025 was issued only after expiry of the initial period and was made effective retrospectively from 03.03.2025. In view of the principle laid down in **Dipankar Kalita** (Supra), such retrospective extension cannot cure the failure to review the suspension within the prescribed period.

27. The subsequent extension notifications issued from time to time cannot also be treated as curing the aforesaid defect. The issuance of the memorandum of charges on 27.05.2025 and the pendency of the departmental proceeding do not, by themselves, validate the continuation of a suspension which was not reviewed and extended within the prescribed period. The requirement of periodic review is intended to ensure that suspension is not continued as a matter of course and that its necessity is considered by the competent authority at the prescribed intervals.

28. The respondents have also sought to justify the continued suspension on the ground that the allegations against the petitioner involve acceptance of a

bribe and are of a serious nature. While the nature of the allegations may be taken into consideration by the competent authority in deciding whether the petitioner should remain under suspension, the same cannot dispense with the requirement of periodic review in accordance with the applicable instructions and the principles laid down in the aforesaid decisions. As observed by the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (Supra), where the circumstances so warrant, the employee may be transferred to a different department or office, subject to appropriate restrictions, instead of being continued under suspension.

29. In view of the above, this Court is of the opinion that the continuation of the petitioner's suspension, through the subsequent extension notifications, is not sustainable in law. The suspension order dated 22.12.2024 and the subsequent extension notifications dated 10.04.2025, 28.07.2025, 26.09.2025, 06.01.2026 and 10.04.2026 are, accordingly, set aside.

30. The respondent authorities are directed to reinstate the petitioner in service forthwith. However, having regard to the nature of the allegations levelled against the petitioner, the authorities shall be at liberty to reinstate him by posting him to a non-sensitive post, in accordance with law.

31. Insofar as the petitioner's claim for arrears of subsistence allowance amounting to Rs.27,856/- for the months of January, February and March, 2025 is concerned, the respondent authorities shall verify the claim and release the admissible amount, if found due, in accordance with the applicable rules, within a period of six weeks from the date of receipt of a certified copy of this order.

32. It is clarified that the setting aside of the suspension notifications shall not affect the departmental proceeding initiated against the petitioner, which may

proceed in accordance with law.

32. The writ petition stands allowed in the above terms. No order as to costs.

JUDGE

Comparing Assistant