

GAHC010060692024



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

Case No. : WP(C)/1813/2024

SOCRESWAR BORA
SON OF LATE GANESH BORA,
RESIDENT OF PILKHANA PODUMONI,
P.O.- DUBI, PIN- 784160,
P.S.- LALUK,
DISTRICT- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
SECONDARY EDUCATION DEPARTMENT,
DISPUR, ASSAM, PIN- 781005.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE INSPECTOR OF SCHOOLS
LAKHIMPUR DISTRICT CIRCLE
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM- 787001.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
BIHPURIA
LAKHIMPUR
ASSAM- 787161

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

27.05.2024

O R D E R

Heard Mr. P.J. Saikia, learned Senior counsel, assisted by Mr. P. Bordoloi, learned counsel for the petitioner. Also heard Mr. U. Sharma, learned Standing Counsel, Secondary Education Department, Government of Assam for respondent Nos.1, 2 and 3 and Ms. S. Chutia, learned Standing Counsel, Elementary Education Department, Government of Assam for respondent No.4.

2. While the petitioner was serving as in-Charge Headmaster of Juba Nagar High School, he was placed under suspension by an order, dated 11.12.2023, issued by the Inspector of Schools, Lakhimpur District Circle, North Lakhimpur with immediate effect due to unauthorized collection of money from the students for distribution of free bicycle. A show-cause notice was also issued to the petitioner on 11.12.2023 by the Inspector of Schools, Lakhimpur District Circle, North Lakhimpur. The petitioner, thereafter, submitted his reply on 22.12.2023.

3. The grievance of the petitioner before this Court is that his suspension order, dated 11.12.2023, has not been reviewed till date and no Disciplinary Proceeding has been initiated despite the show-cause notice, dated 11.12.2023.

4. Mr. U. Sharma, learned Standing Counsel, Secondary Education Department, Government of Assam, has produced a communication dated 22.04.2024 written by the Inspector of Schools, Lakhimpur District Circle, North Lakhimpur and addressed to the Director of Secondary Education, Assam wherein it is stated that on receiving the allegation against the petitioner, an enquiry was conducted against him through the Block Elementary Education Officer, Bihpuria. Thereafter, on the

basis of the enquiry report submitted by the Block Elementary Education Officer, Bihpuria, the petitioner was placed under suspension. The communication further states that no review of the suspension has been made till date. The communication also states that an enquiry committee is constituted for finalization of the Disciplinary Proceeding against the petitioner.

5. On a consideration of the communication, dated 22.04.2024, it clearly reveals that after the suspension order, dated 11.12.2023, was passed, no review has been made till date. It is already a settled position of law that the suspension order should be reviewed within a period of 90 days from the date of issuance of such suspension order. In the present case, the same has not been done and, accordingly, the suspension order, dated 11.12.2023, stands vitiated. Accordingly, the suspension order, dated 11.12.2023, is set aside and the respondents, particularly, the Inspector of Schools, Lakhimpur District Circle, North Lakhimpur/respondent No.3 is directed to forthwith reinstate the petitioner back into service. It is, however, made clear that there is no embargo on the part of the respondents to proceed with the Disciplinary Proceeding against the petitioner, if so advised.

6. With the above observations and directions, this writ petition is disposed of.

The communication dated 22.04.2024 is placed on record.

JUDGE

Comparing Assistant