

GAHC010038142024



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

**Case No. : WP(C)/1191/2024**

PURNIMA GOGOI  
WIFE OF SRI PRASANTA BORAH, R/O- DEMOW LACHIT NAGAR, P.S.  
DEMOW, DIST.- SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, LAND REVENUE AND DISASTER  
MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DISTRICT COMMISSIONER  
SIVASAGAR  
P.O. AND DIST.- SIVASAGAR  
ASSAM  
PIN- 785640

3:THE CIRCLE OFFICER  
DEMOW REVENUE CIRCLE P.S. DEMOW  
DISTRICT- SIVASAGAR  
ASSAM  
PIN- 78566

**Advocate for the Petitioner : MR. M KHAN**

**Advocate for the Respondent : SC, REVENUE**

**BEFORE  
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 10.05.2024**

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. A. Chakraborty, learned Govt. advocate for the respondents.

2. Alleging that the petitioner is under continued suspension without any reasoned order, the present writ petition has been filed under Article 226 of the Constitution of India.

3. It is noted that the matter has been listed for the sixth occasion today in motion column. However, an affidavit-in-opposition has been filed by respondent no.2. Therefore, although a formal notice of motion has not been issued till date, but at the joint prayer made by the learned counsel for both sides, the matter has been heard for disposal at the motion stage.

4. In brief, the case of the petitioner is that on a complaint filed by an aggrieved person, a vigilance case was registered against the petitioner of demanding bribe, allegedly for supplying a copy of patta of a particular land, which was in the name of his father. A trap case was initiated and the petitioner was apprehended on 07.11.2023 while accepting bribe in connection with ACB PS Case No. 96/2023 registered under Section 7(a) of the Prevention of Corruption Act, 1988. On the same date i.e. 07.11.2023, by an order dated 07.11.2023, the pending drawl of departmental proceeding, the petitioner was placed under suspension under Rule 6(1)(a) of the Assam Service (Discipline and Appeal) Rules, 1964, which was passed by the District Commissioner, Sivasagar. The petitioner projects that he was granted bail by order dated 14.12.2023 passed by the learned Special Judge, Assam in connection with ACB

PS Case No. 96/2023. The petitioner claims that he was released on bail on 15.12.2023.

5. Thereafter, a show cause notice dated 27.12.2023 was issued by the disciplinary authority to the petitioner. It is alleged that the petitioner was not provided with the statement of allegation, list of documents and list of witnesses. Nonetheless, the petitioner has submitted a show cause reply on 10.01.2024. However, on 03.01.2024, the petitioner had submitted a representation for being reinstated in service. However, by the impugned order dated 05.02.2024, the suspension of the petitioner was extended till completion of departmental proceeding or for three months, whichever is earlier.

6. The learned counsel for the petitioner has submitted that the impugned order dated 05.02.2024 does not contain a detail reasons for the continuation of her suspension. Accordingly, by heavily relying upon the ratio laid down in the case of *Ajay Kumar Chaudhary Vs. Union of India, (2015) 7 SCC 291: (2015) 0 Supreme (SC) 140* as well as the judgment of the Division Bench of this Court rendered in the case of *Rakibuddin Ahmed Vs. State of Assam and Ors., (2020) 2 GLR 621*, it was submitted that a detailed and reasoned order is a pre-condition for continuation of suspension of the petitioner notwithstanding how the allegation might be against the petitioner. It has also been submitted that the order impugned in this writ petition if debarred of any reasons to justify to continue the suspension of the petitioner is bad in law and required to be set aside. However, the learned counsel for the petitioner has submitted that if the respondent authorities have any apprehension that the petitioner may influence the witness in the departmental proceedings, the Court may grant liberty to the respondent authorities to post the petitioner in any non est post. The relevant observations of the Supreme Court of India in the case of

*Ajay Kumar Chaudhary (supra) (para 14 to 16 of Supreme Today)* is quoted below:-

“14. 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. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

15. So far as the facts of the present case are concerned, the Appellant has now been served with a Charge-sheet, and, therefore, these directions may not be relevant to him any longer. However, if the Appellant is so advised he may challenge his continued suspension in any manner known to law, and this action of the Respondents will be subject to judicial review.

16. *The Appeal is disposed of in the above terms and we desist from imposing costs.”*

7. The learned State counsel has produced a copy of order dated 04.05.2024, passed by the District Commissioner, Sivasagar, by which the suspension of the petitioner was extended till completion of departmental proceeding or three months, whichever is earlier. A copy of the same has been furnished to the learned counsel for the petitioner and a copy thereof is retained on record.

8. In this regard, the learned counsel for the petitioner has submitted that as per his instruction, the said order dated 04.05.2024 has not been served

on the petitioner. Moreover, it has been submitted that the order dated 04.05.2024 as produced by the learned Govt. advocate suffice from the same vice of not containing any detailed or reasoned order as to why the suspension of the petitioner was necessary. Accordingly, it is submitted that if the first extension of the suspension made vide impugned order dated 05.02.2024 is set aside, the subsequent order dated 04.05.2024 by which the suspension was extended would automatically fail. It would be relevant to make a mention that as per the statement made in the writ petition, the petitioner was arrested on 07.11.2023 and she was released on bail on 15.12.2023 and the show cause notice was issued on 27.12.2023 against which a reply dated 10.01.2024 was filed by the petitioner. Therefore, there is no doubt that the departmental proceedings has been initiated against the petitioner by issuance of show cause notice dated 27.12.2023 within the period of 3(three) months from the date when the petitioner was suspended vide order dated 07.11.2023.

9. The copy of the impugned order for extension of suspension dated 05.02.2024 and 04.05.2024 clearly mentions that the suspension of the petitioner was continued till completion of departmental proceedings initiated against her or three months, whichever is earlier. We find that the same constitute sufficient reasons for not reinstating the petitioner and for her continued suspension. The intent and purport of the District Commissioner, Sivasagar in continuing the suspension of the petitioner can be culled out from the said two orders. Merely because the reason assigned was summarized in one or two lines would itself not be a ground to reject the reasons merely on the ground that the statements were not made in an elaborate manner. In the considered opinion of the Court that even if one short explanation conveys a complete explanation, this Court would not reject the explanation merely

because it is not a long one. Moreover, in the case of *Ajay Kumar Chaudhary (supra)* in para 15 (SCC para 22), the Supreme Court of India has clarified the position that as the appellant therein was served with a charge-sheet, the directions contained in the said order may not be relevant to him any longer. Therefore, in the case of *Ajay Kumar Choudhury (supra)*, the appellant therein was given opportunity, if so advised, to challenge his continued suspension. Hence, we are unable to accept the submission made by the learned counsel for the petitioner that the order of extension of suspension has to be an elaborate one. The learned counsel for the petitioner could not show that in the case of *Ajay Kumar Chaudhary (supra)*, it was held that the order extending suspension has to be elaborate as urged by the learned counsel for the petitioner. Accordingly, for the reasons cited above, the case of *Rakibuddin Ahmed (supra)* also does not help the petitioner in any manner.

10. As the order or extension of suspension dated 05.02.2024 is found to be followed by another order dated 04.05.2024, we find no reason to interfere with the continued suspension of the petitioner. Accordingly, this writ petition fails and the same is dismissed at the motion stage without issuance of notice on the respondents.

**JUDGE**

**Comparing Assistant**