

GAHC010026592026



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

Case No. : WP(C)/751/2026

SRI BISWAJIT GOSWAMI
S/O- LATE KRISHNA GOSWAMI.
R/O- SANGRAM NILOY, 2ND FLOOR, BARAPARA, P.S. AND DIST.-
BONGAIGAON, ASSAM, PIN - 783380

VERSUS

THE STATE OF ASSAM AND ORS
REPORESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
PERSONAL(A) DEPARTMENT
GUWAHATI-781006
KAMRUP(M)
ASSAM

3:THE SECRETARY
PERSONAL(A) DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWEAHATI-6.

4:THE COMMISSIONER AND SECRETARY
TOURISM
HOME AND POLITICAL DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR H K DAS, MS. B SAIKIA,MS D MAHANTA,MR N K SARMA

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

12.02.2026

Heard Mr. H.K. Das, learned counsel for the petitioner. Also heard Mr. D Nath, learned Addl. Senior Government Advocate for the State.

The writ petitioner is aggrieved by the order dated 05.12.2025, a fresh proceeding was initiated against the writ petitioner notwithstanding the embargo imposed by the Court vide order dated 05.02.2024 passed in W.P.(C) No. 321/2024, a writ petition which was filed earlier by the present petitioner. The petitioner was serving as a Chief Executive Officer, Dhubri Zilla Parisad. In respect of a criminal case which was file and subsequent departmental proceedings initiated, the petitioner approached this Court earlier by filing W.P(C) No. 321/2024 wherein this Court had after taking into consideration the submissions, the writ petition was disposed of with the following directions:

“Taking note of the submissions made by the learned counsel for both the sides and as agreed to by them, this writ petition is being disposed of at the stage of motion hearing by providing that filing of written statement and further proceeding in the departmental proceeding initiated against the petitioner shall remain suspended till the stage of framing charges in connection with the criminal proceeding, viz. ACB P.S. Case No. 53/2023. Thereafter, it will be open for the authorities to proceed with the departmental proceeding in accordance with law.”

The Department has now subsequently issued the impugned order dated 05.12.2025 whereby since the petitioner did not submit his written statement, department has decided to proceed to the departmental proceedings drawn up against the petitioner as per relevant provision of the Assam Services (Discipline & Appeal) Rules, 1964. Pursuant thereto, the enquiry officer had issued notices directing the petitioner to appear.

Mr. D Nath, learned Addl. Senior Government Advocate submits that the interim order if granted by the Court is that the departmental proceedings should be stayed till the stage of framing of charges in connection with the criminal proceeding in ACB PS Case No. 53/2023. Since the charge-sheets have already been filed, therefore, the embargo by the interim order will no longer be effective.

At this stage, prima facie, the Court is of the view that the interpretation given to the said order does not appear to be correct as in the opinion of the Court the term "till the stage of framing of charges" would mean the framing of charges by the competent court of criminal jurisdiction and which stage has not yet arrived. The charge-sheets have been filed but no charges have been framed as on date.

Under such circumstances, this Court is of the view that the proceedings could not have been done in view of the findings of the writ Court. In the event the department requires some clarification then the same ought to have been sought for from the Court by filing appropriate application.

Accordingly, let Notice be issued, returnable two weeks.

Since Mr. D Nath, learned Addl. Senior Government Advocate appears on behalf of all the respondents, notices are waived. However, extra copies be furnished within one week from today.

Let this matter be listed again on 11.03.2026.

Till the next date fixed, proceeding in the departmental proceedings initiated pursuant to the show cause notice dated 05.12.2025 shall remain stayed.

JUDGE

Comparing Assistant