

GAHC010032942026



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

Case No. : WP(C)/911/2026

SRI SONMANI NATH
S/O SRI. DILIP KUMAR NATH R/O HOWLY JALJALI ROAD, BASIC
TRAINING CENTRE, WARD NO.2, P.O/P.S HOWLY, DISTRICT - BARPETA,
PIN-781316 ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, ASSAM SACHIVALAYA, DISPUR, GUWAHATI -781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM

DEPARTMENT OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI 781019.

3:THE DIRECTOR OF STATE COUNCIL OF EDUCATIONAL RESEARCH AND
TRAINING(SCERT)

GOVERNMENT OF ASSAM
KAHILIPARA
GUWAHATI
ASSAM-781019.

4:THE SECRETARY TO THE GOVERNMENT OF ASSAM

DEPARTMENT OF SCHOOL EDUCATION
ASSAM SACHIVALAYA
DISPUR
GUWAHATI 781006

Advocate for the Petitioner : MR. V RAJKHOWA, MS. E C VAIPHEI,MR A.J.SARMA

Advocate for the Respondent : GA, ASSAM, SC, SCERT, ASSAM,SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

23.02.2026

Heard Mr. V Rajkhowa, learned counsel for the petitioner.

2. The petitioner is aggrieved that the departmental proceedings sought to be initiated against the petitioner by issuance of a show-cause notice dated 06.06.2024 whereby the petitioner was asked to show-cause as to why proceeding should not be initiated against the petitioner. The said show-cause encloses the list of documents, list of witnesses and statement of allegations.

3. The learned counsel for the petitioner submits that there is also a criminal case pending initiated on the allegations which is registered as Chief Minister's Special Vigilance Cell Vigilance Cell, Assam in connection with the Vigilance Police Station Case No. 03/2023 under Sections 120B/406/409/420/201/468/471 IPC read with Section 7A/12/13(1)/13(2) of the Prevention of Corruption Act, 1988 read with Section 8 of the Assam Fiscal Responsibility and Budget Management Act, 2005 and Section 41 of the Assam Public Procurement Act, 2017. The charge-sheets have been submitted pursuant to the investigation carried on and the same is now numbered as Special Case No. 19/2024 before the Special Judge, Guwahati, Assam wherein charges under Section 120B/406/409/420/201/468/471 IPC, read with Sections 13(1)(a)/13(2) of the Prevention of Corruption Act, 1988 read with Section 8 of the Assam Fiscal Responsibility and Budget Management Act, 2005 read with Section 41 of the

Assam Public Procurement Act, 2017.

4. The learned counsel for the petitioner submits that if at the stage he is required to appear before the Departmental Proceedings, he will be compelled to reveal his defence in which he would normally take before the Trial Court. This is because the charges in the department proceedings and in the charge-sheet are one and the same and therefore the evidence which the petitioner would rely upon before the Trial Court is also the same as the one he would be compelled to rely upon before the departmental proceedings. Under such circumstances, the learned counsel for the petitioner submits that the departmental proceedings should be stayed till the criminal trial is concluded.

5. Mr. P. Nayak, learned Additional Advocate General strongly opposes the submissions made by the learned counsel for the petitioner. He submits that there is no hard and fast rule that departmental proceedings and criminal proceedings cannot proceed simultaneously. He further submits that the criminal trial is still at the stage of recording evidence, whereas the department has already initiated the proceedings and appointed the Enquiry Officer and Presenting Officer. Therefore, at this stage, the claim made by the writ petitioner ought not to be entertained.

6. Having heard the learned counsel for the parties and upon due consideration of the law enunciated by the Supreme Court in Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., reported in 1999 SCC (L&S) 810, and other subsequent judgments rendered by the Apex Court, it is seen that while there is no specific law prohibiting departmental enquiry and criminal trial from proceeding simultaneously, where the charges arise from the same allegations and the defence projected on behalf of the delinquent officer is likely to be the same or similar, there are instances where the Courts have directed that the

departmental proceedings be kept in abeyance till the conclusion of the criminal proceedings.

7. Under such circumstances, at this stage, the Court considers it necessary to examine the matter. Therefore, it is considered necessary to issue notice.

8. Issue Notice, returnable on 30.03.2026.

9. Since Mr. P Nayak, learned Addl. Advocate General represents the respondents No. 1 & 3 and Ms. K Das, learned counsel appears for the respondents No. 2 & 4, notices are waived. However, extra copies be furnished within a period of one week from today.

10. Issue notice on the interim prayer making it returnable on 30.03.2026.

11. The petitioner will place before the Court the orders that may be passed by the trial Court which is pending against the petitioner.

12. Till the next date fixed, the departmental proceedings initiated against the petitioner shall be kept in abeyance.

13. Continuance of the interim order will depend on such orders as may be passed on the next returnable date.

14. List on 30.03.2026.

JUDGE

Comparing Assistant