

GAHC010039412025



2026:GAU-AS:12943

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

Case No. : WP(C)/1377/2025

DULAL CH BANIA
S/O. LATE SASIDHAR BANIA VILL- DHOLPUR P.S- BLPURLA DIST-
LAKHIMPUR PIN- 784165

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY CHIEF SECRETARY GOVT OF ASSAM, DISPUR,
GUWAHATI, PIN- 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT
OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GUWAHATI

DISPUR PIN- 781006

3:THE DISTRICT COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM
PIN 787001

4:CIRCLE OFFICER
NARAYANPUR REVENUE CIRCLE
NO. 2
KINAPATHAR

DISTRICT-LAKHIMPUR
PIN- 78416

Advocate for the Petitioner : MR. R. P. SARMA, MS. T SOM, MR H DAS

Advocate for the Respondent : GA, ASSAM, SC. REVENUE

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : 07.09.2026

Whether the pronouncement is of
the operative of the judgment? : No

Whether the full judgment has been
pronounced? : Yes

JUDGMENT & ORDER (ORAL)

Heard Mr. R. P. Sarma, learned Senior Counsel assisted by Ms. T. Som, learned counsel for the petitioner. Also heard Mr. D. Borah, learned State Counsel for respondent Nos. 1, 3 & 4, and Mr. J. Handique, learned Standing Counsel, Revenue Department for respondent No. 2.

2. Challenge made in this writ petition is to the order dated 01.10.2023, issued by the District Commissioner, Lakhimpur, whereby the petitioner has been placed under suspension following his arrest by the Directorate of Vigilance and Anti-Corruption, Assam, on 30.09.2023 in connection with ACB P.S. Case No. 73/2023, registered under Section 7(a) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "the P.C. Act", for short), on the allegation of

accepting bribe at his residence.

3. The petitioner was appointed as a Lat Mandal in the year 1996 under the establishment of the Deputy Commissioner, Lakhimpur, and has been serving under the Narayanpur Revenue Circle for more than 27 years. It is the case of the petitioner that throughout his service tenure, he has discharged his duties diligently and sincerely and has maintained an unblemished service record, without any adverse remark, complaint or disciplinary proceedings against him. While the petitioner was in service, he was placed under suspension vide order dated 01.10.2023, issued by the District Commissioner, Lakhimpur, purportedly on the basis of the communication received from the Circle Officer, Narayanpur Revenue Circle, dated 30.09.2023, as well as the report of the Inspector of Police, Directorate of Vigilance and Anti-Corruption, Assam, dated 30.09.2023, that the petitioner had been apprehended by the Directorate of Vigilance and Anti-Corruption, Assam, on 30.09.2023, on the allegation of accepting bribe at his residence, in connection with ACB P.S. Case No. 73/2023, registered under Section 7(a) of the P.C. Act.

4. It is further the case of the petitioner that he was arrested in connection with the aforesaid ACB P.S. Case No. 73/2023 and was subsequently released on bail by this Court vide order dated 19.10.2023, passed in Bail Application No. 3623/2023. In the meantime, the petitioner was served with a Show Cause Notice dated 09.11.2023, issued by the District Commissioner, Lakhimpur, calling upon him to submit his written statement in respect of the allegations levelled against him.

5. It is the contention of the petitioner that despite his release on bail and the passage of considerable time, his suspension has continued without any

lawful justification. Being aggrieved by such prolonged continuation of his suspension, the petitioner submitted a detailed representation dated 24.12.2024 before the District Commissioner, Lakhimpur, seeking revocation of the suspension order and his reinstatement in service. However, no decision has been taken on the said representation till date.

6. Mr. R. P. Sarma, learned Senior Counsel for the petitioner, submits that the continued suspension of the petitioner, who has rendered more than 27 years of unblemished service, is wholly arbitrary and unsustainable in law. He submits that although the petitioner was placed under suspension on 01.10.2023 and a Show Cause Notice was subsequently issued on 09.11.2023, the respondents have failed to review the suspension in accordance with the applicable rules and the law laid down by the Hon'ble Supreme Court.

7. Learned Senior Counsel submits that the petitioner was released on bail by this Court on 19.10.2023 and despite the same, his suspension has continued for an unduly long period without any effective consideration of the necessity of such continuation. The prolonged suspension has caused serious prejudice to the petitioner both in his service career and in his livelihood, particularly when there is no adverse service record against him prior to the alleged incident.

8. Learned Senior Counsel further submits that the petitioner had approached the respondent authorities by submitting a detailed representation dated 24.12.2024 seeking revocation of the suspension and reinstatement in service, but the same has remained unattended and no decision has been communicated to the petitioner. Therefore, he submits that the impugned order dated 01.10.2023 as well as the continued suspension of the petitioner is liable to be interfered with by this Court and the respondents may be directed to reinstate the petitioner in service.

9. Mr. R. P. Sarma, learned Senior Counsel for the petitioner, has also relied upon the judgment and order dated 09.12.2025, passed by this Court in **WP(C) No. 5977/2024** in the case of **Harendra Nath Baishya Bania Vs. The State of Assam & 2 Ors.**, and submits that in a similarly situated case, this Court, upon considering the issue of prolonged suspension in the light of the applicable rules and the principles laid down by the Hon'ble Supreme Court, had set aside the continued suspension of the petitioner therein and directed his reinstatement. Learned Senior Counsel submits that the present case is also covered by the said judgment and order.

10. On the other hand, Mr. D. Borah, learned State Counsel, submits that the petitioner was placed under suspension by the District Commissioner, Lakhimpur, in exercise of powers under Rule 6(1), Part-III of the Assam Services (Discipline and Appeals) Rules, 1964, following his arrest in connection with ACB P.S. Case No. 73/2023 under Section 7(a) of the P.C. Act. During the period of suspension, the petitioner has been paid subsistence allowance in accordance with the rules. He submits that memorandum of charges has been filed within a stipulated period of 90 (ninety) days and show cause was issued on 09.11.2023. The suspension of the petitioner has been reviewed from time to time. Therefore, he submits that the suspension and its continuance are in accordance with the applicable rules and as such, no interference is called for with the impugned order of suspension.

11. Mr. Bora, learned State Counsel, has further relied upon the decision of the Hon'ble Supreme Court in **Akella Lalitha Vs. Konda Hanumantha Rao & Ors.**, reported in **(2022) 3 SCC 141**, to project that a relief which is neither pleaded nor prayed for ought not to be granted. In the present case, the petitioner has not specifically challenged the validity of any review of the

suspension order, nor has any specific relief been sought on that ground and therefore, such a ground cannot be permitted to be raised at the time of argument.

12. I have considered the submissions of learned counsel for the parties and also perused the materials available on record.

13. From the materials placed on record, it is not in dispute that the petitioner was placed under suspension on 01.10.2023 and the memorandum of charges was issued on 09.11.2023, i.e. within 90 (ninety) days from the date of suspension. It is also not in dispute that the suspension was thereafter extended by an order dated 14.05.2024 and by a subsequent order dated 23.08.2024, extending the suspension with effect from 15.08.2024.

14. The order dated 14.05.2024 records that the suspension of the petitioner was extended for a further period of three months under Rule 6(1), Part-III of the Assam Services (Discipline and Appeals) Rules, 1964. Similarly, the order dated 23.08.2024 extends the suspension for a further period of three months with effect from 15.08.2024 under the aforesaid provision. However, neither of the said orders discloses any consideration as to why continuation of the suspension was considered necessary or desirable, apart from referring to the petitioner's apprehension in connection with ACB P.S. Case No. 73/2023.

15. It may be noticed that, vide order dated 23.05.2025, this Court had called upon the respondents to place on record the relevant materials concerning the review and continuation of the suspension. Thereafter, when the matter was taken up on 11.08.2026, this Court, upon noticing that the departmental proceeding against the petitioner had already been completed and the records had been forwarded to the competent authority for finalization, specifically

directed the respondent authorities to place the relevant instructions and records regarding the extension of the suspension and to clarify whether reasons had been recorded and assigned for such continuation.

16. Pursuant thereto, the respondents have placed on record the aforesaid orders dated 14.05.2024 and 23.08.2024. A perusal thereof, however, does not disclose any meaningful consideration of the necessity or desirability of continuing the petitioner under suspension. The orders merely refer to the pendency of the criminal case and extend the suspension for a further period of three months under Rule 6(1), Part-III of the Rules.

17. At this stage, it would also be apposite to take note of the Office Memorandum dated 04.02.2020, issued by the Government of Assam, Department of Personnel (Personnel-B), which was considered by this Court in **Harendra Nath Baishya Bania** (supra). The said Office Memorandum, *inter alia*, provides that where a charge-sheet is served within three months of suspension, a reasoned order is required to be passed for extension of suspension wherever necessary and, after issuance of the charge-sheet, the desirability of further continuation of the suspension is required to be reviewed within six months.

18. In the present case, although the memorandum of charges was issued on 09.11.2023 within the prescribed period, the first order extending the suspension was passed on 14.05.2024. More importantly, the said order does not indicate that any consideration was undertaken as to whether, having regard to the stage of the departmental proceedings, the nature of the allegations and the circumstances attending the case, continuation of the suspension was still necessary or desirable. The subsequent order dated 23.08.2024, extending the suspension with effect from 15.08.2024, is also silent in this regard.

19. Thus, the issue is not merely whether orders extending the suspension were formally issued, but whether the review constituted a meaningful consideration of the necessity or desirability of further continuation of the suspension and resulted in a reasoned decision by the competent authority. A mere recital of the pendency of a criminal case, followed by a mechanical extension of suspension, cannot be regarded as sufficient compliance with such requirement.

20. The aforesaid aspect assumes further significance in the present case, inasmuch as the departmental proceeding against the petitioner has admittedly been completed and the records thereof were forwarded to the office of the Director of Land Records and Surveys, Assam, on 24.04.2025 for necessary action. Thus, the departmental proceedings have already reached its concluding stage and the respondents have not placed before this Court any material demonstrating why the continued suspension of the petitioner remains necessary or desirable.

21. The objection raised by the learned State Counsel, relying upon the decision in **Akella Lalitha** (supra), also does not persuade this Court. The petitioner has challenged the prolonged continuation of his suspension and the question as to whether such continuation was preceded by a valid and meaningful review necessarily arises for consideration in determining the sustainability of the continued suspension. Moreover, this Court had, during the pendency of the writ petition, specifically called upon the respondents to produce the relevant records concerning such review. Therefore, no new or unrelated relief is being granted on a ground wholly outside the scope of the challenge made in the writ petition.

22. In view of the foregoing discussion, this Court is of the considered view that the continued suspension of the petitioner cannot be sustained. The orders dated 14.05.2024 and 23.08.2024, which purport to extend the suspension, do not disclose any reasoned consideration of the necessity or desirability of such continuation. Therefore, the continued suspension of the petitioner cannot be justified merely on the ground that orders for extension were formally issued. Accordingly, the impugned order dated 01.10.2023, insofar as it has resulted in the continued suspension of the petitioner, as well as the subsequent orders extending such suspension, are hereby set aside and quashed.

23. The respondent authorities are accordingly directed to reinstate the petitioner in service forthwith, preferably within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order. Needless to observe that the respondent authorities are at liberty to complete the departmental proceedings.

24. The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant