

GAHC010054202026



undefined

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

Case No. : WP(C)/1579/2026

SUNAYANA AIDEW
W/O- DR. PRANJAL BORA,R/O-B.N. MAHANTA ROAD,H/NO.
54,AMOLAPATTY,NAGAON,WARD NO. 10, P.S-NAGAON,P.S-NAGAON,DIST-
NAGAON-782001

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:THE COMMISSIONER AND SECRETARY

GOVT. OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE SECRETARY TO THE GOVT. OF ASSAM

FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006.

4:THE ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM

FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR A CHOWDHURY, IMSENKALA,MS M BORAH,MS. B

CHOWDHURY

Advocate for the Respondent : GA, ASSAM, SC, FINANCE AND TAXATION

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

22.06.2026

Heard Mr. Arunav Chowdhury, learned Senior Counsel assisted by Ms. B Chowdhury, learned Senior Counsel assisted by Ms. M Borah, learned counsel for the petitioner. Also heard Mr. Nalin Kohli, learned Senior Counsel through virtual mode assisted by Mr. D Nath, learned Senior Government Advocate, Assam for the State respondents.

2. It is submitted that the issues involved in the present writ petition are similar to those arising in W.P.(C) No. 1568/2026.

3. Pursuant to the order dated 18.03.2026 as also the order dated 11.05.2026 passed in WP(C) No.1568/2026 an Additional Affidavit has been filed by the petitioner in WP(C) No.1568/2026 to bring on record the Judgment and Order dated 01.04.2026 rendered by the Coordinate Bench in WP(C) No.1380/2025 and other batch of writ petitions. Mr. Arunav Chowdhury, learned Senior Counsel for the petitioner submits that the direction in the Judgment and Order dated 01.04.2026 passed by the Coordinate Bench squarely covered the

prayer made in the present writ petition. It is submitted that the Coordinate Bench has come to a finding that the report of One Man Inquiry Commission headed by Justice (Retd.) BK Sharma, retired Judge of Gauhati High Court in response to the mandates constituted by the State vide the notification No. PLA.440/2015/102/ECF-72687 dated 08.07.2019, the report was found to be in violation of the statutory mandate of Section 8B and Section 8C of the Commissions of Inquiry Act, 1952 and therefore, it was ordered that the findings will not be relied upon for any departmental disciplinary proceedings or any other proceedings against the writ petitioner. Therefore, learned Senior Counsel for the petitioner submits that the present petitioner is also similarly placed and the findings of the Coordinate Bench squarely covered to the writ petitioner and therefore, prays for the similar order and also prays for an interim order during the pendency of the writ petition as mentioned in Paragraphs-a & b of the interim prayer.

3.i Mr. Arunav Chowdhury, learned Senior Counsel for the petitioner, therefore, submits that the writ petition be allowed and the directions be issued to the respondents, as the petitioner is similarly placed as the petitioner in WP(C) No.1380/2025 wherein the Coordinate Bench by Judgment and Order dated 01.04.2026 had passed the judgment with the following directions:

“CONCLUSION 139. The instant batch of writ petitions stand disposed of with the following

observations and directions:

- (i) The Commission had violated the rights of the Petitioners under Section 8B and Section 8C of the Act of 1952 while making the inquiries in respect to the Combined Competitive Examination, 2013 and Combined Competitive Examination, 2014 and thus the Report, 2013 and Report, 2014 are in violation to the mandatory provisions of Section 8B and Section 8C of the Act of 1952.
- (ii) The Report, 2013 and Report, 2014 cannot be used against the Petitioners to initiate any disciplinary proceedings against the Petitioners or any prosecution against the Petitioners. All findings observations and/or recommendations so made by the Commission in the Report, 2013 and Report, 2014 touching upon the conduct and reputation of the Petitioners prejudicially cannot be used against the Petitioners in any Forum and are rendered nonest as it violates Section 8B and Section 8C of the Act of 1952.
- (iii) The Report, 2013 and Report, 2014, subject to the observations made in Clause (ii) hereinabove, are not set aside and quashed. The Report, 2013 and Report, 2014 contains various fact-finding details touching on matters of public importance and such findings, observations and recommendations may aid the Government of Assam to retrospect as well as introspect and to take any policy decision for the future.
- (iv) The Respondent State/Disciplinary Authority would be at liberty to proceed with the Disciplinary Proceedings initiated against the Petitioners on the basis of the Show Cause Notices and Statements of the Allegations served upon the Petitioners. However, the Respondent State/Disciplinary Authority shall proceed with the Disciplinary proceedings without relying and/or referring to any observation, finding and/or recommendations made by the Commission which touches upon the conduct and reputation of the Petitioners in the Report, 2013 and Report, 2014, as the case may be.
- (v) Accordingly, the second paragraph of the Show Cause Notices as well as the second paragraph of the Statements of the Allegations issued against each

Petitioner stand stricken off. The Extracts of the Report, 2013 or the Report, 2014 which were furnished as list of Documents to the Petitioners cannot be relied and/or referred to by the Respondent State/Disciplinary Authority.

(vi) In the circumstance, the Disciplinary Authority/Respondent State wishes to include additional documents and/or provide the list of witnesses, the Petitioners having already submitted their Statement of Defence have to be provided with an opportunity to file additional Statement of Defence alongwith documents, if so advised. The Petitioners would be at liberty to raise such further or other defences as permissible under law in their additional Statement of Defence.

(vii) The liberty so granted in Clause (vi) hereinabove to the Disciplinary Authority/Respondent State is limited to be exercised within 45 (forty-five) days from the date of the present judgment. It is observed that if the Disciplinary Authorities fail to provide the additional documents and/or list of witnesses to the Petitioners within the time stipulated hereinabove, the Disciplinary proceedings shall proceed in accordance with law on the basis of the observations made in Clauses (iv) and (v) hereinabove. For the period of 45 (forty-five) days from the present judgment, the Disciplinary Proceedings shall therefore remain stalled thereby enabling the Respondent State/Disciplinary Authority to provide the additional documents and/or provide the list of witnesses.

(viii) This Court for the sake of clarity observes that as the Disciplinary Proceedings against the Petitioners are yet to be decided on merits, the above directions issued shall not preclude the Disciplinary Authorities/Respondent State to drop the present impugned Disciplinary Proceedings initiated against the Petitioners and initiate fresh Disciplinary Proceedings, if so advised. It is observed that in the circumstances fresh Disciplinary Proceedings are initiated, the Disciplinary Authority/Respondent State cannot refer and/or rely upon the observations, findings and recommendations made by the Commission against the Petitioners in the Report, 2013 and Report, 2014. [see Devender Pratap Narain Rai Sharma Vs State of Uttar Pradesh reported in 1961 SCC Online SC 90].

- (ix) The liberty granted to the Respondent State/Disciplinary Authority to drop the impugned Disciplinary Proceedings and initiate fresh Disciplinary Proceedings shall have to be exercised within 45 (forty-five) days from the date of the instant judgment. Failure to do so, the Respondent State/Disciplinary Authority shall have to proceed with the impugned Disciplinary Proceedings in the manner directed hereinabove.
- (x) The Notifications whereby the Petitioners have been suspended are not interfered with. However, this Court directs that the Respondent Authorities shall carry out periodical reviews as to whether the continuation of the suspension of the Petitioners are necessary in public interest.
- (xi) It has been brought to the attention of this Court that during the pendency of the writ petitions there were no reviews conducted by the Competent Authority. This Court directs the Respondent Authorities to carry out review of all the Notifications notifying the suspension of the Petitioners within 45 (forty-five) days from the date of the present judgment as to whether the continuation of the Petitioners suspension are necessary in public interest. Failure to do so, would result in the Notifications suspending the Petitioners invalid and the Petitioners be accordingly reinstated in non-sensitive posts keeping in mind the observations of the Supreme Court at Paragraph No. 21 of the Judgment in Ajay Kumar Choudhary (*supra*).
- (xii) The Petitioners, having given up the plea as regards the legality and validity of the parallel continuation of the departmental proceedings pending the criminal proceedings, it is observed that the Petitioners are debarred from raising such contention in future.
- (xiii) This Court hopes and expects that the Disciplinary proceedings so initiated against the Petitioners are brought to a close at the earliest taking into account that delay in disposal of the Disciplinary proceedings not only prejudicially affects the rights of both the Petitioners and the Respondents, but also leads to a state of uncertainty in the lives of the Petitioners.

- (xiv) Interim orders passed earlier stands vacated.
- (xv) All Interlocutory Applications filed in the present proceedings stands closed in terms with the present judgment and order.
- (xvi) There shall be no order as to costs."

4. Learned Senior Counsel for the petitioner submits that the findings of the One Man Inquiry Commission in its report dated 02.04.2022 are arrived at without issuance of notice under Section 8B and 8C of the Commissions of Inquiry Act, 1952 which mandatorily provides opportunity to be granted to the affected person including the right of cross examination. None of these were followed and as a consequence thereof, these findings arrived at by the Commission has affected the writ petitioner's reputation and therefore, as have been rightly concluded by the Coordinate Bench by the Judgment and Order dated 01.04.2026 in WP(C) No.1380/2025 and other batch of writ petitions, similar directions are called for.

5. Mr. Nalin Kohli, learned Senior Counsel for the respondents, on the other hand, submits that they are still in the process of evaluating the Judgment and Order dated 01.04.2026 rendered by the Coordinate Bench in WP(C) No.1380/2025 and other batch of writ petitions and he would like to complete his instructions and file necessary affidavit. He further submits that a perusal of the Judgment and Order dated 01.04.2026 rendered by the Coordinate Bench in WP(C) No.1380/2025 and other batch of writ petitions reveals that

notwithstanding the directions being issued, the report was not interfered with by the Coordinate Bench and so far as the petitioners before the Coordinate Bench were concerned, they were officers against whom departmental proceedings were initiated, however, the Coordinate Bench had permitted the State to make necessary amends in the proceedings and giving them liberty to go for *de novo* proceedings alternatively. Mr. Nalin Kohli, learned Senior Counsel for the respondents submits that in so far as the present writ petitioner is concerned, she is a discharged officer and no proceeding is initiated against the writ petitioner.

6. Under such circumstances, at this stage Mr. Nalin Kohli, learned Senior Counsel for the respondents submits that he be permitted to submit his response in the matter and matter be posted for hearing after 3 (three) weeks.

7. This Court has considered the elaborate submissions made by the learned Senior Counsel for the parties drawing the Court's attention to the findings of the Coordinate Bench passed by Judgment and Order dated 01.04.2026 in WP(C) No.1380/2025 and other batch of writ petitions vis-a-vis the findings of the One Man Inquiry Commission Report dated 02.04.2022 in respect of the writ petitioner. Considering the submissions made, let notice be issued at this stage, making it Returnable by 3 (three) weeks.

8. Since Mr. D Nath, learned Senior Government Advocate, Assam accepts notice on behalf of all the respondents, notices are waived. However, extra copies be furnished to him, if not furnished.
9. The respondents are permitted to complete their instructions and file necessary objections/affidavit within a period of 3 (three) weeks from today.
10. Issue notice on the interim prayer, returnable by 21.07.2026.
11. In the event the pleadings are exchanged, the Court will proceed to hear the matter and pass appropriate order on the next date fixed.
12. List the matter on 21.07.2026.

JUDGE

Comparing Assistant