

GAHC010107042024



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

Case No. : WP(C)/2888/2024

MD. MIZANUL HOQUE
S/O- ABDUR RAHMAN,
VILL- AMARAGURI,
P.O.- JALAKIABORI,
P.S.- LAHORIGHAT,
DISTRICT- MORIGAON, ASSAM,
PIN- 782127.

VERSUS

STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE COMMISSIONER-SECRETARY,
HOME DEPARTMENT, DISPUR,
GUWAHATI- 781005.

2:THE INSPECTOR GENERAL OF POLICE (CR)
NAGAON
ASSAM (CAMP AT DIPHU).

3:THE SUPERINTENDENT OF POLICE
DISTRICT MORIGAON
MORIGAON
ASSAM.

4:THE ENQUIRY OFFICER RELATING TO DP NO. 06/2023
C/O SUPERINTENDENT OF POLICE
MORIGAON

DISTRICT- MORIGAON
ASSAM

Advocate for the Petitioner : MR. B CHAKRAVARTY, A SARMA

Advocate for the Respondent : GA, ASSAM,

BEFORE
HON'BLE MR. JUSTICE RAJESH MAZUMDAR
ORDER

07.02.2026

Heard Mr B Chakraborty, learned counsel appearing for the petitioner. Also heard Ms M Bhattacharjee, learned Additional Senior Government Advocate, Assam, appearing on behalf of the respondents in the matter.

2. Rule was issued on 23.01.2025. The matter has been heard at length.

3. On a perusal of the writ petition and on a consideration of the submissions made by the learned counsel appearing for the petitioner, it appears to this Court that the memorandum of charge served upon the petitioner herein contains charges to the extent that he had exhibited moral turpitude and failed to uphold integrity and abused his power being a Police personnel in a disciplined force. The allegation is that he was involved in a criminal conspiracy with 2 (two) other persons for demanding illegal gratification from the complainant, who had lodged an FIR before the Vigilance and Anti-Corruption Police Station, which came to be recorded as ACB PS Case No. 60 of 2023, under Section 120B IPC, read with Section 7 (C) of the PC Act, 1988.

4. On going through the charges and the statement of allegations, this Court notices that the same does not reflect the manner in which the petitioner was suspected to have been involved in a criminal conspiracy, inasmuch as, the details of the date of the alleged incident and the details of his alleged participation in demanding and accepting illegal gratification were not made known to him. The second show-cause notice, which is annexed to the writ petition and has not yet been disputed by the respondent authorities in their affidavit-in-opposition, contains a recording that on a perusal of the findings of the Enquiry Officer, the charges of gross misconduct, indisciplined act and dereliction of duty were determined to have been proved and hence, the delinquent

officer was liable for punishment.

5. On going through the Enquiry Report, this Court notices that while recording the statements of the different PWs, at the end of their statements, the delinquent constable had been cross-examined on the basis of the statements made by the prosecution witnesses. There is no indication in the report of the Enquiry Officer that the petitioner had been given the opportunity to cross-examine the prosecution witness and that he had denied to avail such an opportunity and had requested for himself to be cross-examined after each of the prosecution witnesses were examined.

6. Ms Bhattacharjee, learned Additional Senior Government Advocate, Assam, has submitted that the records are not with her, although it may be available in the office of the Government Advocate and she would like an opportunity to go through the same and find out whether the documents with the writ petition, which have not been denied in the affidavit-in-opposition, are the correct versions of the records contained in the file of the disciplinary proceeding.

7. The learned counsel for the petitioner has also placed before this Court 2 (two) judgments, one being the judgment passed in WP(C) No. 799/2017 and the other being *Kuldip Singh -Vs- Commissioner of Police and Others*; reported as- (1999) 2 SCC 10.

8. The learned counsel for the petitioner has submitted that he would place some more citations before this Court.

9. Affording opportunity to both the learned counsel for the petitioner and the learned Additional Senior Government Advocate, Assam, to further address this Court, list this matter again on **12th of February, 2026**.

10. The learned counsel for the parties are required to conclude their arguments on the next date fixed.

JUDGE

Comparing Assistant