

GAHC010116502026



undefined

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

Case No. : WP(C)/3144/2026

SRI KAMALESWAR ROY
S/O LATE LALIT CHANDRA ROY, R/O OXIGURI, P.O.- SRINAGAR, P.S.-
TAMARHAT, DIST- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM, FINANCE (ESTT-B) DEPARTMENT, DISPUR, GHY 6

2:THE SECRETARY TO THE GOVT OF ASSAM
FINANCE (ESTT B) DEPARTMENT
DISPUR
GHY 6

3:THE DISTRICT COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM

4:THE DIRECTOR OF ACCOUNTS AND TREASURIES
ASSAM
NEW COR-BHAWAN
DISPUR
GHY 6

5:THE SUB DIVISIONAL OFFICER (SADAR) CUM INQUIRY OFFICER
OFFICE OF THE DISTRICT COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM

6:THE CO DISTRICT COMMISSIONER
BILASHIPARA
DHUBRI
ASSAM

7:THE TREASURY OFFICER
BILASHIPARA SUB TREASURY
DHUBRI
ASSA

Advocate for the Petitioner : MR. J I BORBHUIYA, W.H. DEVI,A B T HAQUE,MR. N ALI,MR
A HOSSAIN

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

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

17.06.2026

Heard Mr. J. I. Borbhuiya learned counsel for the petitioner.

2. The petitioner is aggrieved by the order dated 27.05.2026, whereby the petitioner was dismissed from service. In addition thereto, the petitioner has been asked to deposit the amount alleged to have been misappropriated from the Government Exchequer. Being aggrieved, the petitioner has approached this Court by filing the present writ petition.

3. Although an efficacious appellate remedy is available, the petitioner submits that the impugned order has been passed in violation of the prescribed rules and the principles of natural justice and that the Disciplinary Authority has assumed a jurisdiction not vested in it. It is submitted that the writ petition has

been filed without preferring an appeal. The petitioner has also referred to the judgment of *Whirlpool Corporation vs. Registrar of Trade Marks & Ors.* reported in (1998) 8 SCC 1 as also the judgment of *Jai Prakash Saini vs. Managing Director, U.P. Cooperative Federation Ltd, and Ors.* reported in (2026) INSC 305.

4. It is further submitted that the despite the order being without jurisdiction, the Department is proceeding to recover the amount from the petitioner by way of the impugned order.

5. Issue Notice, Returnable within Four weeks.

6. Mr. D. Borah, learned Government Advocate appears for Respondents No. 3, 5 and 6; Ms. A. Borthakur, learned Standing Counsel appears for Respondents No. 1, 2 and 7.

7. Since the respondents are represented, notices are waived.

8. However, extra copies shall be furnished within a period of 1 week from today.

9. The Respondents will obtain required instructions in the matter.

10. Issue Notice on the interim prayer.

11. Accordingly, let this matter be listed again on 31.07.2026.

12. Till the next date fixed no recovery will made from the petitioner in terms

of the said impugned order.

JUDGE

Comparing Assistant