

GAHC010146192024



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

**Case No. : WP(C)/3698/2024**

SAJAHAN SARKAR  
S/O- LATE GOLAM SARWAR SARKAR, R/O- HOUSE NO.3, BYE LANE NO.-2,  
KAILASH NAGAR, BHETAPARA ROAD, HATIGAON, GUWAHATI- 781038

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, GOVERNMENT OF  
ASSAM, HOME AND POLITICAL DEPARTMENT, JANATA BHAWAN, DISPUR,  
GUWAHATI-6

2:THE SECRETARY TO GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT  
JANATA BHAWAN  
DISPUR  
GUWAHATI-6

3:THE JOINT SECRETARY TO GOVERNMENT OF ASSAM  
HOME AND POLITICAL DEPARTMENT  
JANATA BHAWAN  
DISPUR  
GUWAHATI-

**Advocate for the Petitioner** : MR. K N CHOUDHURY, N GAUTAM,MS N MAHANTA,MR. J  
PATOWARY

**Advocate for the Respondent** : GA, ASSAM,

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**31.07.2024.**

Heard Shri J Patowary, learned counsel for the petitioner.

On the last occasion i.e. 26.07.2024, the following order was passed:

*“ Heard Shri K.N. Choudhury, learned Senior Counsel assisted by Shri J. Patowary, learned counsel for the petitioner.*

*The issue which has been raised is whether a departmental proceeding can be conducted at the same time when a criminal case is going on the same set of charges.*

*The issue has been substantially settled by the Hon'ble Supreme Court in a catena of decisions which have been taken into consideration in the case of **M/S Stanzen Toyotetsu India Pvt. Ltd. Vs. Girish V & Ors.**, reported in (2014) 3 SCC 636.*

*Shri T.C. Chutia, the learned Addl. Senior Government Advocate, Assam has however submitted that he may be allowed some time to obtain the instructions of the stage of the enquiry.*

*Let such instructions be taken and the matter be listed for motion on Wednesday, i.e., 31.07.2024.*

*Shri Patowary, the learned counsel assisting the learned Senior Counsel for the petitioner shall furnish extra copies of the writ petition to Shri Chutia, the learned Addl. Senior Government Advocate within today, i.e., 26.07.2024 to enable obtaining of instructions.”*

Shri TC Chutia, learned Addl. Sr. Government Advocate, Assam has submitted that the status of the disciplinary proceeding is at the stage of appointment of Inquiry Officer and Presenting Officer. He has also submitted that unless the charge in the criminal case and the allegation in the disciplinary proceeding are the same, there is

no requirement to stay any such disciplinary proceeding. The learned Addl. Sr. Government Advocate has submitted that adequate pleadings would be required to substantiate that the charges are the same.

Let notice be issued, returnable on 28.08.2024.

Shri Chutia, learned State Counsel accepts notice on behalf of all the respondents.

Let extra copy of the writ petition along with its annexures be served upon Shri Chutia by tomorrow.

Heard the learned counsel on the interim prayer.

Following the law laid down by the Hon'ble Supreme Court, including in the case of ***M/S Stanzen Toyotetsu India Pvt. Ltd. (supra)***, further proceeding of the disciplinary proceeding is stayed.

The aforesaid interim order, however, would be reconsidered on the returnable date.

The learned State Counsel may also apprise the Court regarding the development in the connected criminal case.

**JUDGE**

**Comparing Assistant**