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

Case No. : WP(C)/5143/2024

MD. LUTFUR RAHMAN
S/O- LATE J. AHMED, R/O- RAIDONGIA NA-KACHARI GAON, P.O.
TIOKGHAT, P.S. SONARI, DIST. CHARAIDEO, ASSAM, PIN- 785690.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI.

2:THE DISTRICT COMMISSIONER
CHARAIDEO
SONARI.

3:THE ADDITIONAL DISTRICT COMMISSIONER
CHARAIDEO
SONARI.

4:THE SUB-DIVISIONAL OFFICER (SADAR)

CHARAIDEO
SONARI.

5:SMTI. SULEMA KHATUN
W/O- LATE SOFIQUDDING AHMED
R/O- WARD NO. 9
SONARI TOWN
P.O. AND P.S SONARI
DIST. CHARAIDEO
ASSAM
PIN- 785690

Advocate for the Petitioner : MR. B J GHOSH, RUBI GOGOI

Advocate for the Respondent : GA, ASSAM, MR B ISLAM (R-5),MR. N GOGOI(R-5),MR. J C GOGOI(R-5),SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

22-07-2025

Heard Mr. D Das, learned Senior Counsel assisted by Mr. H Rahman, learned counsel for the petitioner. Also heard Ms. M. Bhattacharya, learned Additional Senior Government Advocate, Assam for the respondent nos. 2, 3 & 4, Mr. S. Dutta, learned Standing Counsel, Revenue Department for the respondent no.1. None represents for the respondent no.5 although affidavit-in-opposition has been filed on behalf of the respondent no.5.

2. The petitioner before this Court is aggrieved by the proceeding initiated against the petitioner pursuant to the show-cause notice dated 16.09.2024 as well as by the order of suspension dated 12.09.2024. The petitioner was a Gaon Pradhan of Raidongia Na-Kachari village under Sonari Revenue Circle, Charaideo. While the petitioner was rendering his service because of certain allegations and complaint lodged by the respondent no.5, the petitioner was placed under suspension and proceedings were initiated. Learned Senior

Counsel for the petitioner submits that on the basis of the complaints and allegations made against the petitioner, certain enquires were conducted by the Authorities. However, the authorities refused to furnish the complaint petition and other documents to the petitioner. As such, the petitioner approached this Court by filing WP(C) No.497/2024 and by order dated 16.02.2024 the said writ petition was closed as the learned Government Advocate furnished a copy of the complaint petition to the petitioner on that date. This Court had directed the learned Govt. Advocate to apprise the respondent nos. 2 & 3 to fix another date of hearing. Since his grievance was not redressed, the petitioner again approached this Court by filing WP(C) No.756 of 2024 and this Court by order dated 01.03.2024 disposed of the writ petition with a direction to the District Commissioner, Charaideo to get both the complaints enquired by one authority, i.e., either by himself or by any other authority under his superintendence, as the case may be and the decision taken by such authority should be intimated to the petitioner regarding permitting him to participate in the proceedings. However, no such notices or orders were served on the petitioner. Subsequently, by impugned order dated 12.09.2024 the petitioner was suspended and thereafter, by show-cause notice dated 16.09.2024 proceedings were drawn up.

3. It is submitted by the learned Senior Counsel for the petitioner that the direction of the Court by order dated 16.02.2024 is very categorical. The Co-

ordinate Bench had directed that the two proceedings which were initiated against the writ petitioner were on the basis of complaints lodged and it was held that the two proceedings are not departmental proceeding and are instead enquiries into the complaints of same nature. In order to maintain consistency, the Co-ordinate Bench of this Court directed the District Commissioner, Charaideo to cause enquiry into both the complaints and consolidate the proceedings by the District Commissioner himself or any authority under his superintendence and any such order passed to consolidate the two proceedings to be proceeded with by one authority was directed to be served on the writ petitioner enabling him to participate in the proceedings.

4. That not having been done, by the impugned order dated 12.09.2024 the writ petitioner was placed under suspension and by show-cause notice dated 16.09.2024 proceedings were initiated. Therefore, being aggrieved, the petitioner is before this Court.

5. The parties have exchanged their pleadings.

6. During the course of hearing and upon careful perusal of the pleadings before the Court, it is seen that this Coordinate Bench by order dated 01.03.2204 passed in WP(C) no.756/2024 disposed of the said writ petition with the following directions:

” In the Letter dated 28.02.2024 of the District Commissioner, Charaldeo, it has been conveyed that since the petitioner being a Gaon Pradhan, is a public servant, there is necessity to enquire into the allegations against him internally before initiation of any departmental proceedings. It appears from the said Letter that the two proceedings initiated against the petitioner and few others are in respect of the allegations made in complaints submitted by Smti. Sulema Khatun regarding illegal mutation in respect of the afore-mentioned two plots of land. The two proceedings are not departmental proceedings and are enquiries into the complaints of same nature. In such view of the matter, this Court is of the considered view that it would be expedient for the purposes of consistency and to avoid the possibility of passing of conflicting orders in the two different proceedings in respect of the same subject-matter, the District Commissioner shall get both the complaints enquired by one authority, that is, either by himself or by any authority under his superintendence, as the case may be. For expeditious consideration of such proceedings, the petitioner has to ensure his participation in the said proceedings and for the purpose, the jurisdictional District Commissioner or the authority who will be entrusted to conduct the enquiry, shall serve due notice to the petitioner for his appearance. It is, therefore, directed that after taking a decision for consolidation of the proceedings, the petitioner should be duly intimated about the date of hearing for his participation in the proceedings.”

7. Pursuant thereof by impugned order dated 12.09.2024 the petitioner was suspended and by impugned show-cause Notice dated 16.09.2024, the

departmental proceedings were initiated respectively.

8. The learned Additional Senior Government Advocate, Assam, referring to the affidavit filed by the Department urged before the Court that though notices were served on the petitioner giving him opportunity to participate in the enquiry but the petitioner neither responded to the notices served nor did he appear before the authority in person.

9. A perusal of Paragraph-14 of the affidavit-in-opposition filed by the respondent authorities reveals that the service of notice and enquiry referred to therein cannot be related with the departmental proceedings for which show-cause notice dated 16.09.2024 was issued to the petitioner. The enquiries and notices stated to have been served on the petitioner, as mentioned in Paragraph- 14 of the affidavit-in-opposition, appear to pertain to the enquiry conducted in connection with the departmental proceedings, which were already adjudicated upon by the coordinate Bench vide order dated 01.03.2024 passed in WP(C) No.756/2024, and in respect of which the direction contained in Paragraph-7 of the said order was issued.

10. On a pointed query to the learned Additional Senior Government Advocate, Assam as to whether pursuant to the order dated 01.03.2024 passed in WP(C) No.756/2024, any order was passed by the District Commissioner,

Charaideo, consolidating the proceedings or enquiry to the complaints filed against the petitioner and whether such order was duly served on the petitioner and/or whether pursuant thereto the petitioner was permitted to participate in the proceedings, learned Additional Senior Government Advocate, Assam fairly submits that this information is not revealed from the affidavit filed by the Department. She, therefore, prays for further time to complete her specific instructions in this regard. Considering the fact that this information will have a vital bearing in deciding the proceedings before this Court, learned Additional Senior Government Advocate, Assam, is permitted 2 (two) weeks time to complete her instructions in the matter.

11. Let the matter be listed again after 2 (two) weeks on a date to be fixed by the Registry.

JUDGE

Comparing Assistant