

GAHC010248742024



undefined

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

Case No. : WP(C)/6191/2024

JAYANTA DOLEY
S/O LOLSING DOLEY, R/O HOUSE NO. 115, SUSHILA PATH, KAINADHARA,
UDAYNAGAR, KHANAPARA, GUWAHATI-781022

VERSUS

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

2:THE COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE SECRETARY TO GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE ADDITIONAL SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-78100

Advocate for the Petitioner : MR A CHOWDHURY, IMSENKALA,MR S DUTTA,MS. B
CHOWDHURY

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 25/11/2024

Heard Mr. A. Choudhury, learned senior counsel assisted by Ms. B Choudhury, learned counsel for the writ petitioner. Also heard Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam, appearing for the respondent no.1 and Mr. B. Chowdhury, learned Standing Counsel, Finance and Taxation Department, Assam, appearing for the respondent nos. 2, 3 & 4.

Assailing the departmental proceeding initiated against him vide notification dated 30/11/2023, the petitioner has approached this Court by filing this writ petition *inter-alia* contending that the departmental proceeding is vitiated since the same has been based on a report of the "One Man Commission of Enquiry", which was prepared in complete violation of the provisions of Rule 8(B) & 8(C) of the Commission of Enquiry Act, 1952. It is also the submission of Mr. Choudhury that since the departmental proceeding is based on the same set of facts, similar charges which are being sought to be established by examining the same witnesses, simultaneous proceeding of departmental as well as criminal proceeding would cause serious prejudice to the interest of the petitioner. Hence, for the ends of justice, the departmental proceeding be stayed till conclusion of the criminal case. In support of his above argument, Mr. Choudhury has invited the attention of this Court to the interim order(s) passed by this Court in other similar writ petitions wherein, the departmental proceeding has been stayed till a response is filed by the Government in the matter.

Mr. B. Chowdhury, learned Standing Counsel, Finance & Taxation Department, Assam, prays for some time to obtain instruction and file affidavit.

Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam, submits that since a number of writ petitions, raising the same issue, are pending before this Court wherein,

interim orders are operating, the Government is examining the matter with all seriousness and, therefore, some time be granted to obtain instruction and file affidavit. The learned Government Advocate has, however, admitted in her usual fairness that interim orders are operating in similar writ petitions wherein, further proceeding in the departmental enquiry has been stayed.

In view of the above, issue notice of motion returnable in 3 (three) weeks.

Since the respondents are already represented, no formal notice is required to be sent in this case. However, extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel within three days from today, so as to enable them to obtain instruction and file affidavit.

List this writ petition be listed along with WP(C) 5862/2024 and the batch of connected writ petitions.

Heard on the prayer of interim relief.

The said prayer will be considered on the returnable date. However, as an ad-interim measure, it is hereby provided that the departmental proceeding initiated *qua* the writ petitioner vide notification dated 30/11/2023, shall remain stayed till the returnable date.

The "One Man Commission of Enquiry" report be produced before this Court on the next date fixed.

JUDGE

Sukhamay

Comparing Assistant