

GAHC010250832025



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

Case No. : WP(C)/6562/2025

TAPAN SAHA @ TAPAN KR SAHA
S/O.- LT. NARESH CH. SAHA, R/O.- SURJYAPUR BALI PUKHURI, P.O.-
KUNWARI, DIST.- BISWANATH CHARIALI, ASSAM, PIN-784176.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, DISPUR, GUWAHATI- 6

2:THE INSPECTOR GENERAL OF REGISTRATION
ASSAM
RAJAH BHAWAN
RUPNAGAR
GUWAHATI- 32.

3:THE DISTRICT COMMISSIONER
BISWANATH
BISWANATH CHARIALI
ASSAM
PIN-78417

Advocate for the Petitioner : MR. I H SAIKIA, A. ADO,MR. B BORAH,MR K KASHYAB,MS L
HMAR,MR. K KALITA

Advocate for the Respondent : SC, REVENUE AND DISASTER MANAGEMENT DEPT, GA,
ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

16.03.2026

Heard Mr. I.H. Saikia, learned counsel for the petitioner, Mr. J. Handique, learned counsel for the respondent Nos. 1 & 2 and Mr. R. Dhar, learned Additional Senior Government Advocate for the respondent No.3.

2. The petitioner before this Court was appointed as an Extra Writer in the office of the Sub-Registrar, Biswanath Chariali. The appointment order was issued by the Inspector General of Registration. While the petitioner was in service, in the year 2022, the petitioner was detained in custody in connection with some criminal matter and therefore, he was placed under suspension under Rule 6(2) of the Assam Service (Discipline and Appeal) Rules, 1964. Pursuant thereto, by an order dated 06.05.2023, the petitioner was reinstated in service. Thereafter, by order dated 31.05.2025, issued by the District Commissioner, Biswanath, the petitioner, amongst others, was transferred to the Excise Branch, Biswanath. It is this order that the petitioner is aggrieved with and has assailed in the present proceeding.

3. The case projected before this Court is that although the petitioner was appointed by the Inspector General of Registration as an Extra Writer in the office of the Sub-Registrar, Biswanath Chariali, by the impugned order, the District Commissioner, Biswanath has transferred the petitioner to a completely different department namely the Excise Department, Biswanath. It is submitted that the District Commissioner is empowered to transfer the Government employees for exigencies of service within his district. However, such power will not permit the District Commissioner to issue order of transfer from one department to another. It is the claim of

the petitioner that by virtue of this impugned order, the petitioner stands to lose his seniority in his parent department and his services would also be governed by separate set of Rules.

4. The respondents have filed their affidavit and contested the case of the petitioner. The respondents claim that the transfer issued by the impugned transfer order dated 31.05.2025 is not a transfer to a separate department. Rather, it is a transfer within the same establishment of District Commissioner, Biswanath. The petitioner is transferred to the 'Excise Branch' and not Excise Department. Therefore, the projection sought to be made by the petitioner is completely misplaced and not based on correct information. It is submitted that since the District Commissioner is empowered to issue transfer orders within his establishment and no malice is alleged against the District Commissioner, there is no merit in the writ petition and therefore, the same should be dismissed.

5. Having heard the learned counsel for the parties and the pleadings having been carefully perused, it is seen that by the impugned order dated 31.05.2025, the petitioner is transferred to the 'Excise Branch' in Biswanath. The petitioner has not been able to substantiate his contention by placing any material before the Court to show that his services have been sought to be transferred from one department to another.

6. It is not disputed by the petitioner that there are several sections or branches within the office of the District Commissioner. However, it is the contention of the petitioner that each of these branches are maintained by different departments and therefore, any transfer to any of the branch will entail transfer to a different department.

7. Having heard the learned counsel for the parties, this Court is not persuaded to accept the contention raised by the petitioner that his transfer has been made inter-department by the District Commissioner. A plain reading of the impugned order reflects that he is transferred to the 'Excise Branch'. Therefore, this Court is not inclined to pass any order at the stage interfering with the transfer. However, liberty is granted to the petitioner to file representation before the District Commissioner, Biswanath ventilating his grievance and justifying his claims that the impugned order dated 31.05.2025 whereby the petitioner is transferred to Excise Branch, Biswanath is in fact a transfer of the petitioner to a completely different department other than his parent department.

8. If such materials are placed by the petitioner in support of his grievance raised in the representation permitted to be filed, an effective order will be passed by the District Commissioner, Biswanath.

9. Let the representation, if so advised be filed within one week from the date of receipt of a certified copy of this order, where-upon the District Commissioner will pass an effective speaking order on the said representation within three weeks there-from and a copy thereof be served on the writ petitioner.

10. The writ petition is closed in terms of the above directions.

JUDGE

Comparing Assistant