

GAHC010261692024



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

Case No. : WP(C)/542/2025

AKASHEE DUWARAH
D/O HIRANYA KUMAR DUWARAH, RESIDENT OF HOUSE NO 141, WARD
NO 12, KB ROAD, KESHAB CHANDRA GOSWAMI PATH, NORTH
LAKHIMPUR, PS NORTH LAKHIMPUR, ASSAM 787001

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

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL A
DEPARTMENT
BLOCK A JANATA BHAWAN
DISPUR
GUWAHATI

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
PERSONNEL A
DEPARTMENT
BLOCK A JANATA BHAWAN
DISPUR
GUWAHATI

4:THE SECRETARY TO GOVERNMENT OF ASSAM
PERSONNEL A
DEPARTMENT
DISPUR
GUWAHAT

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

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

05.02.2025

1. Heard Mr. A. Chowdhury, learned Senior Counsel assisted by Ms. B. Chowdhury, learned counsel for the petitioner. Also heard Mr. J. K. Goswami, learned Additional Senior Government Advocate, Assam representing the State respondents, Mr. S. K. Talukdar, learned Standing Counsel for the Co-operation Department in WP(C)/572/2025 & WP(C)/539/2025 and Mr. D. Gogoi, learned Standing Counsel for the Excise Department in WP(C)/561/2025.
2. The present batch of writ petitions under Article 226 of the Constitution of India is filed assailing, firstly, the legality and validity of the Report dated 02.04.2022 submitted by the Commission of Inquiry constituted by State relating to affairs of APSC and secondly, the legality and validity of different show cause notices issued to the petitioners in purported exercise of power under Rule 9 of the Assam Services (Discipline & Appeal), Rules, 1964 read with Article 311 of the Constitution of India, primarily on the basis of findings of the Report of the Commission of Inquiry dated 02.04.2022.
3. It is the contention of Mr. Chowdhury, learned Senior Counsel for the petitioner that the aforesaid Report has not yet been tabled before the Assembly in terms of Section 3(4) of the Commission of Inquiry Act, 1952 and therefore, show cause notice and the suspension of the petitioner solely, on the basis of such

Inquiry Report dated 02.04.2022 is not at all legally sustainable. Accordingly, he prays for an interim order to stay the departmental proceeding initiated as well as the suspension orders, whereby the petitioners were suspended.

4. Mr. Chowdhury, learned Senior Counsel for the petitioner in support also relies on the interim order passed by the Coordinate Bench in WP(C)/5862/2024 and WP(C)/6191/2024 in similar circumstances.
5. At this stage, Mr. J. K. Goswami, learned Additional Senior Government Advocate, Assam representing the Home Department, seeks a little accommodation to respond to the argument advanced by Mr. Chowdhury, learned Senior Counsel for the petitioner.
6. Prayer is allowed.
7. List these matters on 07.02.2025 for further consideration.
8. On the next date fixed, Mr. Goswami, learned Additional Senior Government Advocate, Assam may complete his instruction.
9. Mr. D. Gogoi, learned Standing Counsel for the Excise Department and Mr. S. K. Talukdar, learned Standing Counsel for the Co-operative Department may also complete their instruction on the next date fixed.
10. Extra copies of this writ petition be furnished to Mr. Goswami, learned Additional Senior Government Advocate, Assam, Mr. D. Gogoi, learned Standing Counsel for the Excise Department and Mr. S. K. Talukdar, learned Standing Counsel for the Co-operative Department for complete their instructions.

JUDGE

Comparing Assistant