

**HIGH COURT OF TRIPURA  
AGARTALA**

**W.P.(C) No.271 of 2019**

**Sri Partha Sarkar,**  
son of Shri Bibekananda Sarkar,  
resident of Brajendranagar, P.O. Rayermura,  
P.S. Amtali, District: West Tripura

----Petitioner(s)

Versus

1. **The State of Tripura,**  
represented by the Principal Secretary,  
Government of Tripura,  
Rural Development Department,  
New Capital Complex, Agartala,  
Tripura, 799 010
2. **The Principal Secretary,**  
Department of Rural Development,  
Government of Tripura,  
New Capital Complex,  
Agartala, Tripura, 799 010
3. **The District Magistrate & Collector,**  
Sepahijala District, Bishramganj,  
Government of Tripura, Bishramganj,  
District: Sepahijala

---- Respondents

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For Petitioner(s)	:	Mr. R. Datta, Adv.
For Respondent(s)	:	Mr. D. Sharma, Addl. G.A.
Whether fit for Reporting	:	NO

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**HON'BLE MR. JUSTICE S. TALAPATRA**

**Judgment & Order (Oral)**

**29.06.2019**

Heard Mr. R. Datta, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G.A. appearing for the respondents.

**02.** By means of this writ petition the petitioner has fundamentally challenged the order of suspension dated 22.10.2014 [Annexure-1 to the writ petition] which was issued in contemplation of disciplinary proceeding under Rule 10(1) of the CCS (CCA) Rules, 1965.

**03.** The petitioner is a Junior Mechanic and he has been imputed on the charge of defalcation of government money by the memorandum dated 12.06.2017. It has been brought to the notice of this court by the respondents that a criminal investigation was also pending against him. In this regard, the disciplinary authority has received a status report in connection with that criminal investigation being Bishalgarh P.S. Case No. BLG 135 of 2014 under Section 409/468/471/34 of the IPC and added with Section 120(b) of the IPC and under Section 13 of PC Act. On 13.05.2019, it appears that as many as 40 chargesheets had been filed in the said case. But the petitioner's name has surfaced only in the chargesheet No.43/2015 and the chargesheet No.17 of 2015.

**04.** It is not in dispute that subsequently the review in respect of continuance of suspension was carried out and the review committee found justification for continuation of suspension. But according to Mr. R. Datta, learned counsel the orders of review are mechanical in nature. Mr. Datta, learned counsel has further submitted that it would be apparent that the respondents have adopted a lackadaisical approach and as a result of which, the memorandum of charge was filed on

12.06.2017. Even thereafter, the departmental proceeding did not progress in the expected pace. In terms of the government policy, such proceeding ought to have brought to its logical end within 6(six) months.

**05.** Mr. D. Sharma, learned Addl. G.A. has stated that in terms of sub-rule 7 of Rule 10 of the CCS (CCA) Rules, 1965 no review of the suspension is at all required when an Officer is deemed suspended under sub-rule 2 of the Rule 10 of the CCS(CCA) Rules, 1965. Since the petitioner was arrested in connection with that Criminal Case and was in the detention beyond 48 hours, he may be deemed as suspended under Rule 10(2) of the CCS(CCA) Rules, 1965.

**06.** This court is taken aback. No such order of suspension under Rule 10(2) of the CCS (CCA) Rules, 1965 has been issued by the respondents. Even in the entire reply filed by the respondents, there is no averment when the departmental proceeding might come to its logical end. The departmental proceeding cannot be allowed to be continued for an indefinite period. That apart, the petitioner is getting the subsistence allowance @ 75% of his basic pay and other allowances without any contribution to the public administration. As the said aspect acquires vital importance Rule 10(6) and Rule 10(7) of the CCS (CCA) Rules, 1965 provide for mandatory periodic review. On every review, there should be cogent reasons for continuance of suspension. After verifying the orders passed after review, this court is

constrained to observe that no such cogent reasons relating to completion of the disciplinary proceeding has been shown.

**07.** In that perspective, this court asked Mr. Sharma, learned Addl. G.A. to take substantive instruction from the disciplinary authority whether continuance of suspension is at all required. Today Mr. Sharma, learned Addl. G.A. has placed the written instruction dated 27.06.2019 given by the District Magistrate & Collector, Sepahijala, District Bishramganj. For purpose of reference the text of the said written instruction addressed to the Under Secretary, Government of Tripura, RD Department is reproduced hereunder:

**"In reference to your letter no.F18(3)-RD/2019/3770, dated 25/06/2019, it is to inform you that the Departmental Proceeding against Sri Partha Sarkar, Jr. Mechanic, presently under suspension, is being carried on in the Court of the Inquiring Authority (Commissioner of Departmental Enquiries) vide Case No.193/INQ/CDI/DM(SPJ)/2019, with one hearing in the case having been conducted on 08/05/2019.**

**2. In the concurrent Bishalgarh P S Criminal Case no.135 of 2014, charge sheets have already been filed by police against aforesaid Sri Partha Sarkar, as informed by the Superintendent of Police, Sepahijala District, vide his letter no.2410/F.5/SP (CS)/ SPJ/BRG/19, dated 30.05.2019. It does not appear that continuation of or prolonging the period of suspension of the official will now serve any useful purpose, with there being hardly any likelihood of the ongoing enquiry being affected, evidence tampered, or witnesses influenced insofar as the departmental proceeding against Sri Partha Sarkar is concerned."**

**[Emphasis added]**

**08.** On the face of clear observation by the competent authority, this court is of the view that continuation of suspension is wholly unjustified. Hence, the District Magistrate & Collector, Sepahijala District, the respondent No.3 is directed to pass the appropriate order revoking the order of suspension within a period of 30(thirty) days from the day when a copy of

this order is furnished by the petitioner, if not revoked by this time.

In terms of the above, this writ petition stands allowed.

There shall be no order as to costs.

A copy of this order be furnished to Mr. D. Sharma, learned Addl. G.A.

The records as produced by Mr. Sharma, learned Addl. G.A. is returned. However, the written instruction as referred be kept as part of the record.



**JUDGE**

*Moumita*