

GAHC010247842018



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

Case No. : WP(C) 7714/2018

1:AZIZUR RAHMAN
S/O- LT NASHIM UDDIN, VILL- ATGHARITARI, P.O. DIGHALTARI, P.S.
GOLAKGANJ,, DIST- DHUBRI, ASSAM

VERSUS

1:THE STATE OF ASSAM AND ANR.
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPTT., DISPUR, GHY-6

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA GHY-1

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

Date : 31-07-2019

Heard Mr. A.R. Barbhuiya, learned counsel for the petitioner. Also heard Mr. N. Sarma, learned Standing Counsel, Secondary Education Department for the State respondents.

2. In this petition, the petitioner has challenged the suspension order dated 30.07.2018 on the ground of continued suspension without holding any review of the said suspension order, even after 90 days, as provided under Rule 6 (1) Assam Services (Discipline and

Appeal) Rules, 1964.

3. It has been submitted by the learned counsel for the petitioner that the petitioner is still under suspension without holding of any review even after lapse of 90 days and the same is not permissible. It has been submitted that continuation of the suspension without holding review would not be permissible as held by this Court in number of decisions, based on the decision of the Hon'ble Supreme Court in ***Ajay Kumar Choudhury Vs. Union of India & Anrs., (2015) 7 SCC 291.***

4. Learned counsel for the petitioner submits that the fact the review had not been held within 90 days is self-evident from the order dated 27.12.2018 by which the authorities have extended the suspension period of the petitioner.

5. Learned counsel for the State also fairly submits that if that is so, continued suspension may not be permissible. It has been, however, submitted that in the event, the petitioner is reinstated in service, the authorities may be given liberty to post him at appropriate/other place of posting and the authorities may be allowed to proceed with the departmental enquiry.

6. Since, the petitioner has submitted that no step for review of his suspension order had been held within 90 days which if found to be true, the suspension of the petitioner cannot be continued and the petitioner would be entitled to be reinstated in service. However, the authorities may pass appropriate order as regards his posting and this order will be without prejudice the departmental enquiry pending against the petitioner.

7. The authorities will make the necessary verification and if it is found that no review has been held within 90 days, the petitioner shall be reinstated in service.

8. The aforesaid exercise shall be undertaken within a period of one month from the date of receipt of a certified copy of this order.

9. The order dated 27.12.2018 passed by the Director, Secondary Education, Assam has been placed on record.

10. Petition is accordingly, disposed of.

JUDGE

Comparing Assistant