GAHC010189242026

2026:GAU-AS:15075

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

Case No. : WP(C)/4837/2026

ABHINASH BASUMATARY
S/O LATE THARENDRA CH. BASUMATARY, RESIDENT OF VILLAGE KUKURMARI, WARD NO. 3, P.O. DHALIGAON, P.S. DHALIGAON, DISTRICT CHIRANG, BTC, PIN-783385, ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, ENVIRONMENT, FORESTS AND CLIMATE CHANGE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-6.

3:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM

ENVIRONMENT
FORESTS AND CLIMATE CHANGE DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF FOREST FORCES
ASSAM

ARANYA BHAWAN
PANJABARI
GUWAHATI

DISTRICT KAMRUP M
PIN-781037
ASSAM

5:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE AND CWLW)
PANJABARI
GUWAHATI
DISTRICT KAMRUP M
PIN-781037
ASSAM.

6:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND CHD (FOREST)
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR.

7:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS CUM HEAD OF COUNCIL FORESTS
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR.

8:THE CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN ASSAM SOCIAL FORESTRY CIRCLE
BASISTHA
GUWAHATI-78102

Advocate for the Petitioner : MR. S BANIK, SR. ADV., MS FIZA BEGUM,T SARKAR

Advocate for the Respondent : SC, FOREST, SC, BTC

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioner : Shri S. Banik, Sr. Advocate,
Ms. F. Begum, Advocate.

Advocate for the respondents : Shri R.R. Gogoi, SC, Forest Department,
Shri A. Atreya, SC, BTC.

Date on which judgment is : NA

Reserved.

Date of pronouncement of Judgment. : **06.10.2026.**

Whether the pronouncement is of the operative part of the judgment? : **NA.**

Whether the full judgment has been pronounced? : **Yes.**

JUDGMENT & ORDER (Oral)

I have heard Shri S. Banik, learned Senior Counsel assisted by Ms. F. Begum, learned counsel for the petitioner. I have also heard Shri R.R. Gogoi, learned Standing Counsel, Forest Department and Shri A. Atreya, learned Standing Counsel, BTC.

2. The instant writ petition has been filed with the following prayers:

> "*In the premises aforesaid, it is humbly prayed that Your Lordships may be please to admit the petition, issue a Rule, issue notice calling upon the respondents to show cause as to why a writ in the nature of Mandamus be not issued directing the respondents to forthwith cancel, recall or otherwise forbear from giving effect to the Notification bearing No. 791954/I/1566665/2026 dated 21.05.2026 with effect from19.05.2026 (ANNEXURE-A) issued by the Commissioner and Secretary to the Government of Assam Environment, Forests and Climate Change Department, Dispur, Guwahati-781006 and/or why a writ in the nature of Certiorari be not issued setting aside and quashing the Notification bearing No. 791954/I/1566665/2026 dated 21.05.2026 with effect from 19.05.2026 (ANNEXURE-A issued by the Commissioner and Secretary to the Government of Assam, Environment Forests and Climate Change Department Dispur, Guwahati-*

781006 and/or why a writ in the nature of Mandamus be not issued directing the authorities t forthwith reinstate the petitioner back in service with all service benefits and upon cause or causes shown and after hearing the parties, be pleased to make the Rule absolute and/or pass such Order or Orders as Your Lordships may deem fit and proper.

-AND-

During the pendency of the writ petition, Your Lordships may be pleased to stay the operation of the Notification bearing No. 791954/I/1566665/2026 dated 21.05.2026 with effect from 19.05.2026 (ANNEXURE-A) issued by the Commissioner and Secretary to the Government of Assam, Environment Forests and Climate Change Department Dispur, Guwahati-781006 and/or pass such Order or Orders as Your Lordships may deem fit and proper."

3. As per the facts projected, the petitioner was working as the Divisional Forest Officer at Parbatjhora (T) Forest Division, Suparighat in the Bodoland Territorial Council. The petitioner was, however, arrested in connection with ACB P.S. Case No. 16 of 2026 under Section 7(b) of the Prevention of Corruption Act, 1988 on 19.05.2026. Shri Banik, learned Senior Counsel for the petitioner, at this stage, has also added that such arrest was at about 10.30 p.m. on the said date. Accordingly, the petitioner was placed under suspension vide an order dated 21.05.2026 pending drawal of departmental proceeding. The petitioner was subsequently granted bail on 22.05.2026 whereafter he had represented to the respondent authorities informing about grant of bail and for reinstatement in service. However, the petitioner has not been reinstated and, on the other hand, the respondent authorities, in the minutes of meeting dated 18.08.2026, have purportedly reviewed the order of suspension and recommended for the extension of such suspension.

4. Shri Banik, learned Senior Counsel has submitted that the requirement of timely

review is mandatory in nature, which has been laid down by the Hon'ble Supreme Court in a catena of decisions, including the decision of ***Ajay Kumar Choudhary Vs. Union of India***, reported in **(2015) 7 SCC 291**. He has also clarified that though the suspension has been made subsequent to the arrest of the petitioner, the said order of suspension, in clear terms states that the suspension was made pending drawal of a departmental proceeding and the same was given effect from 19.05.2026. He has submitted that the review meeting was held on 18.08.2026, which was beyond the period of 90 days prescribed for such review of suspension. He submits in categorical terms that the 90th day would expire on 17.08.2026 and only thereafter on 18.08.2026, i.e., on the 91st day, the review was made. He submits that such exercise of review made after the prescribed period of 90 days would not meet the requirement of law. He accordingly submits that the order of suspension dated 21.05.2026 is liable to be interfered with.

5. Shri Gogoi, learned Standing Counsel, Forest Department, on the other hand, has submitted that the requirement of having a review of the suspension was fulfilled by the minutes of meeting dated 18.08.2026, and the Committee of Review had come to a finding that the suspension is required to be extended as the investigation was in a nascent stage. The learned Standing Counsel has, however, fairly submitted that it appears from the record that the 90th day would have expired on 17.08.2026.

6. Shri Atreya, learned Standing Counsel, BTC, has submitted that the matter is within the domain of the Forest Department and he would take a stand which is prescribed by law.

7. Shri Banik, learned Senior Counsel, in his reply, has also added that though the minutes of the meeting held on 18.08.2026 was referred during the course of the

present proceeding in the Court and a copy thereof was also handed over to the Counsel, till date, such communication has not been made to the petitioner and therefore, the decision of the Review Committee cannot be said to have come into force. In any case, he reiterates that the review being done beyond the prescribed period of 90 days, the same would be otiose and will not have any binding effect.

8. The requirement of a periodic review which has been stipulated to be 90 days, is held to be mandatory by the Hon'ble Supreme Court. A Division Bench of this Court in the case of ***Rakibuddin Ahmed vs. The State of Assam & Ors.***, reported in **(2020) 2 GLR 621** has also laid down that such requirement of review would also be mandatory in case of deemed suspension under Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964. However, that aspect may not arise in the present case inasmuch as the order of suspension dated 21.05.2026, in categorical terms, mentions that the suspension has been made pending drawal of departmental proceeding. The said order, though passed on 21.05.2026, has, in bold letters, stated that the suspension would come into effect from 19.05.2026.

9. A simple arithmetic would show that the period of 90 days would expire on 17.08.2026 and therefore, the review exercise was necessary to be done before the said date which, however, was not done. The review exercise was done on 18.08.2026, that is, on the 91st day. Such exercise done after the prescribed period would not have any legal effect to extend the suspension. This Court is of the opinion that any review exercise done beyond the stipulated date would not be an exercise in accordance with law to take a decision to extend an order of suspension.

10. In view of the aforesaid discussion, this Court is of the opinion that the review exercise done on 18.08.2026 is not legally tenable and accordingly, the suspension order dated 21.05.2026 in respect of the petitioner is interfered with and accordingly

set aside.

11. Considering the nature of the allegations which are revealed from the materials on record, while the petitioner is directed to be reinstated, the respondent authorities are given liberty to post the petitioner in any non-sensitive post.

12. The writ petition stands allowed in the manner indicated above.

JUDGE

Comparing Assistant