



GAHC010119222025



2026:GAU-AS:4087

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

Case No. : WP(C)/3034/2025

PRASANTA KUMAR BORAH
S/O LATE JONARAM BORAH
R/O BAMUNCHUBURI, LOT NO. 11,
BHAIRABPAD MOUZA,
P.O.AND P.S. TEZPUR
DIST. SONITPUR, ASSAM
PIN-784001

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT, DISPUR,
GUWAHATI-781006.

2:THE DIRECTORATE OF LAND RECORDS AND SURVEYS
RUPNAGAR GUWAHATI
ASSAM-781032.

3:THE DISTRICT COMMISSIONER
OFFICE OF THE DISTRICT COMMISSIONER
SONITPUR TEZPUR
ASSAM-784001.

4:THE ADDITIONAL DISTRICT COMMISSIONER
(REVENUE) OFFICE OF THE DISTRICT COMMISSIONER
SONITPUR
TEZPUR
ASSAM-784001.

5:THE CIRCLE OFFICER
TEZPUR SADAR REVENUE CIRCLE
TEZPUR DIST. SONITPUR
ASSAM-784001



Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MRS J M KONWAR, MR J SINGH, MR P DOLEY, MS. S BHUYAN, MR H AGARWAL

Advocate for the Respondent : MR. D. BORA, (R-3-5), GA, ASSAM, MR. K. KONWAR, (R-1), SC, P AND R.D., MR. J HANDIQUE, (R-2), SC, REVENUE

- B E F O R E -

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the petitioner : Mr. B. D. Konwar, Senior counsel
: Mr. H. Agarwal, counsel

For the respondents : Mr. A. K. Ghose, counsel
: Mr. S. Dutta, counsel
: Mr. T. C. Chutia, GA

Date on which judgment was reserved :

Date of pronouncement of judgment : 20.03.2026

Whether the pronouncement is of the operative part of the judgment? : No

Whether the judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

20-03-2026

1. Heard, Mr. B. D. Konwar, learned Senior counsel, assisted by Mr. H. Agarwal, learned counsel for the petitioner. Also heard Mr. A. K. Ghose, learned counsel for the respondent No.1, and Mr. S. Dutta, learned



counsel for the respondent No.2, as well as Mr. T. C. Chutia, learned Government Advocate, Assam, for the respondent Nos. 3 to 5.

2. The present petition under Article 226 of the Constitution of India calls in question the order dated 10.07.2024, issued by the District Commissioner, Sonitpur, Tezpur whereby an enquiry was directed against the petitioner, Gram Pradhan of Lot 11, Village-Bamunchuburi, Mouza- Bhairabpad and pending such enquiry, his function was divested and assigned to another Gram Pradhan.
3. The petitioner also assails the consequential position reflected in the reply furnished under the Right to Information Act, 2005 (RTI Act for short), indicating his removal and withholding of his honorarium.
4. The action originates from certain complaints alleged to have been lodged against the petitioner, which prompted the concerned District Commissioner to initiate the enquiry through the Circle Officer, Tezpur Revenue Circle.
5. It is the case of the petitioner that, despite awaiting the outcome of the enquiry and for an opportunity of hearing, no communication whatsoever was forthcoming. Left with no alternative, the petitioner submitted an application under the RTI Act through his Advocate seeking information regarding the status of the enquiry.
6. The reply furnished under the RTI Act reveals that the petitioner has been removed from his position as Gram Pradhan and that his honorarium has been withheld for consideration at a later stage.
7. The petitioner has also assailed the said decision of removal/termination, as reflected in the RTI response, in the present proceeding.
8. The State respondents, more particularly the District Commissioner, Sonitpur, Tezpur has filed an affidavit taking a specific stand that, during the course of the enquiry, the petitioner was duly called upon to appear



for a hearing and to record his statement, but he failed to do so on the scheduled date.

9. It is further contended that subsequent to the enquiry, the petitioner visited the office of the concerned officer and explained that on the grounds of apprehension of being assaulted by Members of the public, he did not appear and that he did admit his guilt in writing.
10. The petitioner, in his reply affidavit, reiterated his apprehension of a threat to his safety and alleged that he was compelled by the respondent No. 4 to write and sign the statement as dictated to him, upon an assurance that it would not be treated as an admission of guilt or misconduct.
11. According to the petitioner, the said statement was obtained under circumstances of coercion and risk, thereby rendering it unreliable.
12. Insofar as multiple complaints are concerned, the petitioner's stand is that, even after filing the RTI application, the respondent authorities failed to furnish copies of all three complaints to the petitioner.
13. It is thus urged that the very foundation of the enquiry, premised on an undisclosed complaint, is unsustainable in law. It is further contended that the only complaint furnished under the RTI Act does not pertain to the petitioner in his official capacity, but relates to the conduct of his wife, and hence, it cannot form the basis of any action against him.
14. In the aforesaid backdrop, Mr. Konwar, learned Senior counsel submits that it is well settled that the post of Gram Pradhan, though executive in nature and functioning under the supervision of the Mouzadar, the same constitutes a civil post, thereby entitling the incumbent to the protection emphasis under Article 311 of the Constitution of India.
15. It is argued that in the present case, the principle of natural justice has been wholly disregarded while proceeding against the petitioner. In



support, he places reliance on the determination of the Honble Apex Court made in *Kandarpa Sarma Vs Rajeswar Das and Others* reported in (2011) 14 SCC 752.

16. Elaborating on his submission, Mr. Konwar, learned Senior counsel refers to the executive instruction as well as the provision of the Assam Land and Revenue Regulation, 1886, as amended, contends that any removal of a Gram Pradhan must be preceded by affording a reasonable opportunity of hearing and must culminate in a reasoned order recording the finding in writing. According to the learned Senior counsel, this mandatory procedural safeguard has not been adhered to in the present case.
17. Thus, Mr. Konwar, learned Senior counsel asserts that, notwithstanding the serious civil consequences ensuing from such action, no copy of the complaint was ever furnished to the petitioner, no formal notice containing the allegation was served, and he was effectively rendered remediless, having come to know of the adverse development only through the RTI response.
18. Per contra, Mr. Chutia, learned State counsel submits that the petitioner was admittedly afforded an opportunity of hearing which he failed to avail and therefore, the respondents cannot be faulted for any alleged violation of the principle of natural justice. It is contended that the participation in the enquiry was incumbent upon the petitioner, and having failed to do so, he cannot now be permitted to contend that his right to be heard has been infringed.
19. It is further submitted by Mr. Chutia, learned State counsel that the impugned action cannot be construed as an order of dismissal or termination but it is in the nature of a temporary arrangement pending enquiry.



20. Summarising his argument, Mr. Chutia, learned State counsel contends that the petitioner was afforded an opportunity to participate in the enquiry but failed to avail same; however, it is not in dispute that the complaints, including the subsequent complaint relied upon by the authority barring one, were supplied to the petitioner at any stage.
21. I have given anxious consideration to the submission of the learned counsel for the parties and perused the material available on record.
22. The controversy, thus, narrows to whether an enquiry culminating in adverse civil consequences can be sustained when the foundational material on which it rests was not disclosed to the person against whom it is conducted.
23. The answer must be negative.
24. It bears emphasis that, in administrative law, the legitimacy of a decision is rooted not merely in the conclusion it reaches, but also in the fairness, transparency, and integrity of the process by which that conclusion is arrived at. Any deviation from this foundation requirement renders the decision vulnerable, irrespective of the merits sought to be projected.
25. The post of Gram Pradhan, though, is an executive engagement, has consistently been recognised in law as a civil post under the State, thereby attracting the protection of Article 311 of the Constitution of India (Ref: Kandarpa Sarma (supra), State of Assam & Anr. Vs. Nahar Chutia & Anr. reported in 1974 ALR 163 and State of Assam Vs. Kanak Chandra Dutta reported in AIR 1967 SC 884).
26. The executive instruction contained in the Assam Land and Revenue Regulation, 1886, more particularly, instruction No. 162-A (2), (3) and (4) deals with the grounds of removal, suspension and procedure of removal of Gram Pradhan from his job, respectively.
27. A Gram Pradhan can be removed from the post under 162-A(2) by the



Deputy Commissioner on the grounds enumerated therein.

28. Under 162-A(3), such an authority is empowered to place a Gram Pradhan under suspension pending a formal enquiry against him on the ground mentioned in sub-clause 2 of 162-A(1).
29. Sub-clause 4 further mandates that any dismissal of the Gram Pradhan from office be made after giving an opportunity of hearing and recording the reason in writing.
30. A careful reading of instruction 162-A reveals a structured scheme governing disciplinary control over a Gram Pradhan, balancing administrative authority with procedural safeguards.
31. Sub clause 2 delineates the substantive grounds on which a Gram Pradhan may be removed by the competent authority. These grounds are not open-ended; rather, they are enumerated, thereby limiting the authority's discretion and ensuring that the removal is based on definite misconduct or disqualification, rather than on subjective or extraneous considerations.
32. Sub-clause 3 is an enabling provision, empowering the competent authority to suspend a Gram Pradhan pending a formal enquiry. However, such power is not uncontrolled. The expression "pending formal enquiry" is significant. In the opinion of this Court, it postulates not merely a preliminary or informal exercise.
33. Sub-clause 4 is the core of the procedural safeguard, as it mandates that any order of dismissal must be preceded by affording the Gram Pradhan, an opportunity of hearing and must be supported by a reason recorded in writing. This requirement is not ornamental but goes to the root of the decision-making process.
34. The obligation to record reasons, in turn, ensures transparency and accountability and enables judicial scrutiny of the decision.



35. Such executive instruction must be read in consonance with Article 311 of the Constitution of India, as the post of Gram Pradhan has been judicially recognised as a civil post, thereby attracting protection against arbitrary removal.
36. The opportunity of hearing contemplated in such instruction must be real and effective in the absence of any specific procedure being prescribed, and therefore, shall necessarily include disclosure of the allegation and the material relied upon and the grounds.
37. In the present case, while the initiation of an enquiry based on a complaint cannot be faulted, the procedure adopted thereafter is fundamentally flawed.
38. The admitted position that the complaints forming the foundation of the enquiry were never furnished to the petitioner is by itself sufficient to vitiate the process. Above that, the ground cited under 162-A (2) must be intimated to the incumbent, which is absent in the case.
39. The failure extends further, inasmuch as even the subsequent complaint, which admittedly weighed with the authorities in continuing the proceeding, was also withheld.
40. Thus, the petitioner was required to answer an undisclosed case in a situation where instruction 162-A(2) mandates removal only on the grounds enumerated therein. Such a course is not only violative of the said executive instruction but also antithetical to fair procedure.
41. An opportunity for meaningful hearing must be preceded by disclosure. In the absence of such disclosure, the opportunity of hearing degenerates into an empty formality.
42. The respondent's contention that the petitioner failed to appear at the enquiry does not cure this defect, for the obligation to ensure a fair hearing rests upon the authority, not upon the individual, to speculate on



the allegation.

43. At the cost of repetition, it is reiterated that a complaint may contain the foundation of removal as enumerated under instruction 162-A(2); however, in the opinion of this Court, under the scheme of instruction 162-A, the incumbent must be informed that such allegation leads to situation attracting the grounds of removal.
44. The submission that the impugned action of 'removal' is a temporary arrangement akin to suspension does not dilute the requirement of adherence to procedural safeguards.
45. The effect of the action, i.e., divesting the petitioner's function and withholding his honorarium, clearly entails adverse civil consequences.
46. The power of suspension under instruction 162-A(3) is only facilitative and cannot be employed as a substitute for removal or as a means to bypass the safeguard prescribed under Sub-clause 4. Any such exercise would amount to do indirectly what cannot be done directly.
47. In view of the aforesaid determination, this Court is, therefore, constrained to hold that the enquiry, in the manner it has proceeded, stands vitiated for non-compliance with the mandate of executive instruction 162-A and the principles of natural justice.
48. At the same time, this conclusion does not deprive the respondent of their authority to enquire into the allegation, provided that the enquiry is conducted within the law and in accordance with the prescription made in the Executive Instruction. The balance that the Court must strike is between preserving administrative discipline and ensuring procedural fairness.
49. Accordingly, while leaving it open to the District Commissioner, Sonitpur, Tezpur to proceed with the enquiry afresh in strict adherence to the procedure prescribed under executive instruction 162-A, it is directed



that all complaints and materials forming the basis of the enquiry shall be furnished to the petitioner. The petitioner shall be afforded a reasonable opportunity to submit his response and to participate in the enquiry. The enquiry shall thereafter, be concluded by a reasoned order, strictly in accordance with law, within a period of 2 (two) months from the date of receipt of a certified copy of this order.

50. So far as the interim arrangement, whereby the petitioner has been kept out of office, is concerned, this Court is not inclined to interfere at this stage, having regard to the pendency of the enquiry. However, the withholding of the honorarium in its entirety cannot be sustained.
51. The respondents are accordingly directed to release the admissible honorarium to the petitioner to which he is entitled during the pendency of the enquiry, within a period of 3 (three) weeks.
52. While parting with the record, it is made clear that the observations made herein are confined to the procedural infirmities in the decision-making process and shall not be construed as an expression on the merit of the allegation and/or defence of the petitioner. The respondents shall be at liberty to take an appropriate decision upon conclusion of the enquiry.
53. With the determination made hereinabove and the direction issued, the writ petition stands disposed of.
54. Parties to bear their own costs.

JUDGE

Comparing Assistant