



CNR: SKHC01 000115 2026

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra-Ordinary Jurisdiction)

SINGLE BENCH: THE HON’BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

W.P. (C) No. 37 of 2026

... **Petitioner**

Versus

The High Court of Sikkim,
Through the Registrar General,
High Court of Sikkim,
Gangtok, East Sikkim,
Pin-737101.

... **Respondent**

Appearance:

Mr. Abhinav Kant Jha, Ms. Preeti Basnett, Mr. Anish Byahut, Mr. Ishan Gurung, Ms. Chodenla Tamang and Mr. Yougen Sangpo Sherpa, Advocates for the Petitioner.

Mr. N. Rai, Senior Advocate with Mr. Kazi Sangay Thupden, Ms. Prerana Rai, Ms. Srijana Bagdas and Mr. Sogyal Topden Norbu Bhutia, Advocates for the Respondent.

Date of Hearing : 10.07.2026
Date of Judgment : 10.07.2026
Date on which uploaded : 14.07.2026

J U D G M E N T (ORAL)

(A. Muhamed Mustaque, C.J.)



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This writ petition is filed by a Judicial Officer of the Sikkim Superior Judicial Service, challenging the suspension order.

2. The Chief Justice, in concurrence with the Judge-In-Charge (formed the Full-Court of the Court as there were no other judges), decided to suspend the Officer on an allegation that the Petitioner remained away from the Court while recording evidence and the evidence was permitted to be recorded by the 'Peshkar' in open Court.

3. Thereafter, a show cause notice was issued to the Petitioner. As stated in the above show cause notice dated 18.06.2026, the Petitioner abdicated the judicial responsibilities by permitting the recording of evidence by the 'Peshkar' and others including Public Prosecutor in open Court and by remaining in the chambers, away from the proceedings.

4. The Petitioner has refuted this allegation, hence, pleaded total innocence to the allegations against her.

5. Challenging the suspension order, the Petitioner approached the Apex Court. The Apex Court directed the Petitioner to approach the High Court on the judicial side. Learned Counsel for the Petitioner vehemently argued the matter on behalf of the Petitioner and submits that the suspension order is *void ab initio* and not in accordance with the guidelines issued by the Ministry of Law & Justice, Department of Justice, Government of India as per the Annexure – 'P1'. According to the learned Counsel for the Petitioner, the High Court shall not entertain any complaints against a Judicial Officer unless it is accompanied by sworn affidavits and verifiable material to substantiate the allegation. Therefore, it is submitted



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that without there being any complaint and any materials, the Petitioner could not have been proceeded for disciplinary action.

6. It is further submitted that the impugned action is *ex facie* illegal and contrary to Article 235 of the Constitution of India. It is submitted that the High Court Administration failed to provide any material to substantiate the allegation and there was no material relied for the subjective satisfaction to order suspension.
7. On hearing the submissions, this Court passed the following order yesterday, i.e. on 09.07.2026:-

"Read order dated 08.07.2026.

The affidavit has been filed by the Petitioner. However, nothing has been stated as to how she came into possession of Annexure – 'P 11'.

It is not appropriate for this Court to adjudicate upon this issue. If the Respondents are of the view that the Petitioner has illegally obtained the said document from the Registry, it is open to the Respondent to pursue such remedy against the Petitioner in accordance with law. This Court is of the view that no direction is required to be passed on the judicial side.

The arguments of learned Counsel for the Petitioner is that absolutely no material has been relied upon by the High Court of Sikkim to suspend the Petitioner from service.

Learned Senior Counsel appearing for the High Court of Sikkim submits that all the materials will be provided to the Petitioner at the time of framing of charges.

However, to ascertain the veracity of the said allegation, it is appropriate for the High Court Registry to produce the materials collected by tomorrow.

Stand over to 10th July, 2026."

8. Learned Senior Counsel for the Respondent produced the materials in a sealed cover. Learned Senior Counsel, submits that the collection of materials is still in process and has recorded statements from the learned Advocates and other staff members. It is submitted that if the Petitioner is allowed to be reinstated, no lawyer would dare enough to give further statements against a judicial officer and there is a total chance of tampering evidence. It is also pointed out that there was an instance of erasing CCTV footage from the Court premises. It is pointed out that the Petitioner



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was suspended on 13th June, 2026, and she came to the Court premises on 14th June, 2026 (Sunday) without there being any requirement.

9. Learned Counsel for the Petitioner refuted this allegation by submitting that she had absolutely no role in erasing the CCTV footage and if someone else has committed any mistake or attempted to remove the CCTV footage, the Petitioner could not be blamed for the same.

10. The question now ought to be considered is that whether on the judicial side, this Court can interfere with the suspension order.

11. Suspension is a prerogative right of the employer. If the employer apprehends that a suspended employee, if allowed to remain in office, there is a likelihood of interference with the ongoing inquiry, the employer is legally justified in keeping the Officer under the suspension. Furthermore, before the charge memo is issued, the employer might be collecting the materials. In that stage, if such an Officer is allowed to be reinstated, it may affect the ongoing investigation.

12. At what stage an employee under suspension can be reinstated is a matter of course, to be examined by the employer themselves. The Court should interfere in the suspension matter only when there is *ex facie* illegality in ordering suspension.

13. The learned Counsel for the Petitioner argues on the guidelines produced as the Annexure – 'P1' that it is not legally correct and has no legal foundation. That is a matter relating to entertaining complaints from the third party. Often it is found that a third party registers anonymous complaints or without making any



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reason. As a result of this, the employee is being harassed based even on trivial issue.

14. This is not a case where the High Court acted based on any complaint received but based on some information received with regard to the conduct of Petitioner. Though, in what manner that information was received by the High Court has not been disclosed anywhere. Nevertheless, this Court need not examine those aspects at this stage. After the suspension, it is seen that many lawyers have come forward including some of the Officers to depose against the Petitioner by stating that she remained away from the Court while recording evidence in the Court room by 'Peshkar' and others. If this allegation stands proved, it is a serious misconduct warranting major penalty. However, that is a matter to be inquired by following proper procedures.

15. Learned Senior Counsel submits that the materials collected cannot be given now but will definitely be given along with the charge memo. The submission is recorded.

16. This Court cannot insist on giving all the documents at the stage of suspension. The Petitioner will be entitled for all the documents when a charge memo is issued. The Court cannot re-write the procedure and hold that all the documents should be given and all the materials should be supplied at the stage of suspension.

17. At this stage of suspension, as noted above, the only consideration is whether the employer was justified in keeping the Petitioner under suspension taking note of the seriousness of the allegation.

18. As noted above, the allegations are serious.



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19. There are more than ten persons who have given statements including lawyers and officers.

20. In such circumstances, this Court cannot take this lightly.

21. However, nothing prevents the High Court, on the administrative side, from considering the reinstatement on being satisfied that the Officer would not be a threat to the ongoing inquiry.

22. However, it is appropriate that a timeline is to be fixed for the conclusion of the disciplinary proceedings. If the Petitioner cooperates with the inquiry, the same shall be concluded within three months. If the High Court Administration is unable to conclude the inquiry within three months, no doubt the Petitioner cannot be kept out of service for such a long period and shall be reinstated on expiry of three months provided that the Petitioner has cooperated with the inquiry.

23. With the above observations, declining the relief, the writ petition being, **WP(C) No.37 of 2026**, stands disposed of.

Chief Justice

Approved for Reporting: ~~Yes~~/No
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