GAHC040013532026 2026:GAU-AP:1150

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

Case No. : WP(C)/389/2026

Dr Mai Kuru Camder
Son of Late Mai Tar, permanent resident of Village Mai, Keyi Panyor District, Arunachal Pradesh.

VERSUS

The NERIST and 2 Ors
represented by its Board of Management, Nrijuli, Arunachal Pradesh 791109

2:The Chairman
Age: 0
Occupation :
Board of Management
NERIST
Nirjuli
Arunachal Pradesh 791109

3:The Director
Age: 0
Occupation :
NERIST
Nirjuli
Arunachal Pradesh 79110

Advocate for the Petitioner : Bedanta Kaushik, Marge Doji,Pankaj Borah

Advocate for the Respondent : Ajin Apang, Sr. Advocate, S/C NERIST

Linked Case : WP(C)/339/2026

Dr Mai Kuru Camder
Age: 52
Occupation :
Address:Son of Late Mai Tar
permanent resident of Village Mai
PO and PS Yachuli
Keyi Panyor District
Arunachal Pradesh.

VERSUS

The NERIST and 3 Ors
Age: 0
Occupation :
Address:represented by its Board of Management
Nirjuli
Arunachal Pradesh 791109
2:The Chairman
Age: 0
Occupation :
Address:Board of Management
North Eastern Regional Institute of Science and Technology
Nirjuli
Arunachal Pradesh 791109

3:The Director
Age: 0
Occupation :
Address:North Eastern Regional Institute of Science and Technology
Nirjuli

Arunachal Pradesh 791109

4:Prof Sarat Kumar Patra
Age: 0
Occupation :
Address:Director of NIT
Agartala
Barjala
Jirania Tripura 799046

Advocate for : Bedanta Kaushik
Advocate for : Ajin Apang
Sr. Advocate appearing for The NERIST and 3 Ors: Advocate ,

-BEFORE-
HON'BLE MR. JUSTICE PRANJAL DAS

Advocate for the Petitioners	: *Mr. B. Kaushik*, Adv.
Advocate for the Respondents	: *Mr. K. N. Choudhury*, Sr. Adv.
	: *Mr. A. Apang,* Sr. Adv.
	: *Mr. J. Jini,* Adv.

Date on which judgment is reserved	:	**09.09.2026**
Date of pronouncement of judgment	:	**13.11.2026**
Whether the pronouncement is of the operative part of the judgment ?	:	N/A
Whether the full judgment has been pronounced?	:	Yes

JUDGMENT & ORDER (CAV)

Heard *Mr. B. Kaushik*, learned counsel for the petitioners. Also heard *Mr. K. N. Choudhury*, learned Senior counsel assisted by *Mr. J. Jini*, learned

counsel; Mr. A. Apang, learned Senior counsel and Standing counsel, NERIST, for the respondents.

2. Both the writ petitions being WP(C)/339/2026 and WP(C)/389/2026, are being disposed of by this common judgment and order.

3. In WP(C)/339/2026, the petitioner has invoked the jurisdiction under Article 226 of the Constitution of India to assail the Order dated 29.05.2026, passed by the Director, North Eastern Regional Institute of Science & Technology (hereinafter NERIST), Nirjuli, Arunachal Pradesh, whereby the petitioner has been placed under suspension in contemplation of departmental proceedings in connection with *inter alia* alleged irregularities and manipulation in the Recruitment Rules, 2022 relating to non-teaching staff of the Institute.

3.1. In WP(C)/389/2026, the petitioner invoking the writ jurisdiction under Article 226 of the Constitution is assailing the resolution of the Minutes of the 110th meeting of the Board of Management dated 29.07.2026, whereby *inter alia*, the suspension of the petitioner vide order dated 29.05.2026 was ratified and approved. The petitioner is also seeking a writ in the nature of mandamus to conduct an inquiry by the Two Committee Member as proposed vide resolution No. 110.12(1) of the said meeting dated 29.07.2026 and seeks an inquiry by such Two Committee Member to examine the correctness of the report dated 15.04.2026 submitted by Professor Sarat Kumar Patra, Director NIT, Agartala {respondent No. 4 in WP(C)/339/2026}.

Facts contended by the petitioner

4. It is the case of the petitioner that the suspension order has been

issued by an authority who is not competent, in view of the fact that the appointing/disciplinary authority is the Board of Management, NERIST. It is contended that under Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 (hereinafter the CCS Rules), it is the appointing authority or the disciplinary authority that may place an employee under suspension, contemplating disciplinary proceedings.

5. Notice was issued upon the respondents, whereupon the respondent Nos. 1, 2 and 3 filed an affidavit-in-opposition.

6. The petitioner has also filed an additional affidavit bringing on record certain facts and also annexed some documents regarding the matter.

7. Notice of motion was issued on the matter on 24.07.2026 and in the meantime, the Board of Management ratified the order dated 29.05.2026, placing the petitioner under suspension. In this context, the contention of the petitioner was that the aforesaid approval of the Board of Management was made when the Court was already in seisin of the matter.

8. It is the case of the petitioner that the NERIST is an autonomous institute which is a deemed university under Section 3 of the UGC Act, 1956 and managed by a Board of Management which is an authority within the meaning of Article 12 of the Constitution of India and amenable to judicial review under Article 226 of the Constitution of India. It is stated that the Board of Management has its own Memorandum of Association and Rules framed for management and functioning of the institute. However, there is no independent service rule and therefore, the service rules applicable to Central Government employees are adopted. It is

stated that the petitioner was appointed as Registrar of NERIST by the Chairman on 20.09.2023 and the petitioner has been discharging his duties sincerely. It is stated by the petitioner that the Board of Management is the principal executive body of the institute and it is also empowered to regulate and enforce discipline among the employees and take appropriate disciplinary action wherever necessary.

9. It is stated by the petitioner that in November 2025 there was a strike called for by the students' organization in the campus of NERIST raising certain demands. At that time, the petitioner is stated to have been on leave and later an agreement was entered into with the students' body under which certain actions were to be taken. It is further stated by the petitioner that pursuant to strike and unrest situation occurring at NERIST, the Ministry of Education, Department of Higher Education, Government of India passed an order for holding an enquiry by a one-man committee into the issues of NERIST. In this connection, the respondent No. 4, who was Director, NIT Agartala was appointed to head the one-man committee and submit recommendations on certain terms of reference which are enumerated in para 8 of the writ petition.

10. It is the case of the petitioner that upon the report of the one-man committee and the instructions of the Central Government, the Director, NERIST vide order dated 29.05.2026 placed the petitioner under suspension for, *inter alia*, irregularities and manipulation purportedly in Recruitment Rules, 2022 of non-teaching staff of the institute. It is stated that the suspension order was issued by invoking the powers conferred by Rule 10(1)(a) of the CCS Rules. In this context, it is stated by the

petitioner that under the aforementioned rule of the CCS Rules, the appointing authority or any authority to which it is subordinate or disciplinary authority or any other authority empowered in this behalf by the President may place a Government servant under suspension in contemplation of or pending disciplinary proceedings.

11. It is further stated by the petitioner that the petitioner as Registrar of NERIST was appointed by the Board of Management and therefore, the Board of Management was the appointing authority regarding him and the post held by him. It is stated that as the Board of Management was the disciplinary and appointing authority of the petitioner, the suspension order was issued by the Director on 29.05.2026 and shown to have been made in the name of the Board of Management. It is stated that vide email dated 29.05.2026, the Director requested clarification from the Chairman, Board of Management regarding approval or authorization of the same and in response thereof, the Chairman, Board of Management informed that action be taken upon the order of the Ministry of Education on the basis of the Enquiry Committee report.

12. The primary contention of the petitioner is that the Director, not being the appointing authority or the disciplinary authority of the petitioner, was not empowered to suspend the petitioner and therefore, the said suspension order dated 29.05.2026 is vitiated in law. It is further stated that the aforementioned Rule 10(1)(a) of the CCS Rules empowers only the appointing authority and the disciplinary authority to place the petitioner under suspension and that the Director is not one of those authorities. It is further contended by the petitioner that before issuing

the impugned suspension order dated 29.05.2026, the Director neither obtained any approval from the Board of Management nor the Board of Management authorized the Director for issuing the suspension order. Accordingly, the petitioner sought interference with the suspension order dated 29.05.2026 and also prayed for certain other reliefs enumerated in the prayer portion of the writ petition.

13. In the additional affidavit, the petitioner has stated that on 24.07.2026 this Court, while issuing notice, raised a specific query regarding the authorization/approval from the Board of Management for the suspension order of the petitioner and the respondents took time for instructions. However, in the meantime, a meeting of the Board of Management was convened on 29.07.2026 and without the leave of the Court, the suspension order dated 29.05.2026 was purportedly ratified and approved in the meeting of the Board of Management on 29.07.2026. It is therefore, contended by the petitioner that as the ratification and approval was done while the Court was in seisin of the matter, it was done to make the challenge redundant and therefore, such approval was invalid.

14. It is also stated in the additional affidavit in para 3 thereof, that apart from ratifying and approving the suspension of the petitioner, the Board of Management also constituted a two-man committee comprising of one member to be nominated by the Chairman and the other member by the Director, NERIST for the purpose of examining the one-man committee report which was the basis of the petitioner's suspension, and that such examination would be for the purpose of deciding the future

course of action. However, though the petitioner was in expectation that he would get an opportunity to make his case before the two-man committee, but the two-man committee, sitting in New Delhi, submitted a report on 16.08.2026. Aggrieved by the same, the petitioner then submitted an appeal before the Joint Secretary, Department of Higher Education, Government of India against the report dated 16.08.2026, making a prayer for an independent and fair inquiry to determine the purported culpability of the petitioner with regard to violation of Recruitment Rules, 2022 and also for review of the suspension.

Submissions of the learned counsel for the petitioner

15. *Mr. Kaushik*, the learned counsel appearing for the petitioner, submits that the Chairman of the Institute alone is not the Board of Management and that only the Board of Management can take disciplinary action. It is submitted that the rules cannot be read in isolation and that the power, if any, has to be properly delegated by a resolution of the Board. It is submitted by the learned counsel that the order of suspension issued by the Director amounted to impersonating the Board of Management, which was not permissible in law and that, there was no approval of the Board of Management on the date of passing the impugned order. It is submitted that the meeting was rescheduled in a mala fide manner. It is also contended and submitted that it is questionable as to whether such a Board meeting, the minutes thereof, and the approval of the suspension can be done during the pendency of the instant writ petition.

16. It is contended that there was malice against the petitioner and that

the findings of the one-man Committee are perverse. The learned counsel reiterates and questions as to whether ratification of the suspension could be done in the manner in which it has been done in the instant case. Summing up his submissions, the learned counsel for the petitioner contends that the order of suspension was passed in a vindictive manner and that the suspension was without authority and that the ratification by the Board subsequently was illegal.

17. In support of his contentions, the learned counsel for the petitioner cites the following decisions:-

(i) *Security and Finance (P) Ltd and Anr Vs. Dattatraya Raghav Agge and Ors* reported in *1968 Supreme (SC) 330;*

(ii) *Mrs. S. Aruna and Anr Vs. Secretary to the Government of Tamil Nadu, Department of Racing, Madras* reported in *1994 Supreme (Mad) 207;*

(iii) *Prasanta Dutta Vs. The State of Assam and 4 Ors* reported in *2023 Supreme (Gau) 640;*

(iv) *Akaddas Ali Vs. State of Assam and 6 Ors* reported in *2014 0 Supreme (Gau) 239;*

(v) *Parle International Limited Vs. Union of India and Ors* in *Writ Petition No. 12904 of 2019;*

(vi) *Tata Steel Limited (Growth Shop) Vs. Union of India* reported in *2023 Supreme (Jhk) 144;*

(vii) *Padma Kalita Vs. State of Assam and Ors* reported in *2019 0*

Supreme (Gau) 1087

Contentions of the learned counsel for the respondents

18. As mentioned at the outset, the respondent Nos. 1, 2 and 3 filed a joint affidavit-in-opposition. In the said pleading of the respondents, it is stated that the Ministry of Education, Department of Higher Education upon coming to know about the incidents in the institute, vide order dated 19.12.2025, constituted a one-member enquiry Committee to enquire into the academic and administrative issues of NERIST, appointing the respondent No. 4 to head the said Committee. The terms of reference were also delineated. It is stated that during the enquiry, the respondent No. 4 instructed all the officials, including the petitioner, to be present and that as specifically recorded under Clause 4 of the report, the Committee had a separate meeting with the petitioner on 29.01.2026 and thereafter, the petitioner also participated in an exit meeting on 30.01.2026. In this context, it is contended that adequate opportunity was afforded to the petitioner to place his version before the Committee.

19. In the affidavit-in-opposition, the respondent Nos. 1, 2 and 3 stated that in Clause 8.2, the Committee recorded its findings regarding alleged tampering of the approved Recruitment Rules, 2022 and unauthorized modification of qualifications for certain posts. It is stated and contended that based on the findings of the Committee regarding several anomalies including the ones mentioned above, the Committee in Clause 10 of the report recommended initiation of stringent disciplinary proceedings against the petitioner and one Mr. Doge Kamduk, Assistant Registrar, for their misconduct.

20. It is stated that pursuant to submission of the report by the one-member Committee, the Ministry of Education, Government of India examined the recommendations and was of the opinion that tampering with or forging a government approved document amounts to grave misconduct under the CCS Rules and therefore, the Ministry of Education decided to place the petitioner under suspension. Accordingly, letter dated 27.05.2026 issued by the Under Secretary of the Ministry, informed the respondents that the petitioner was to be placed under suspension and also asked the respondents to submit an action taken report. It is stated that upon receiving the said letter, the respondents on the same day informed the Chairman of the Board of Management, NERIST.

21. In this context, the respondents vide letter dated 27.05.2026 requested the Chairman of the Board of Management to grant approval to place the petitioner and the aforementioned Assistant Registrar under suspension with immediate effect in compliance with the Ministry's directive, and to initiate further proceedings as per the CCS Rules. It is further stated that the letter also indicates that the matter regarding placing the petitioner under suspension would be placed before the Board of Management in due course for ratification of the above action. It is further stated that in response to the said letter, the Chairman of Board of Management vide email dated 27.05.2026 informed the respondents to take a decision as per the rules, observing the directions issued by the Ministry of Education of the Union Government.

22. Accordingly, the respondents in terms of the instruction of the Ministry and the Chairman of Board of Management placed the petitioner

under suspension vide the impugned order dated 29.05.2026. It is stated that the order of suspension was issued in exercise of powers under Rule 10(1)(a) of the CCS Rules. The respondents in their affidavit further contended that the meeting of the Board of Management was held on 29.07.2026 through physical and virtual mode at New Delhi, during which the action taken report was placed before the Ministry and discussed. The suspension of the petitioner vide order dated 29.05.2026 was also placed for approval before the Board of Management, and the Board ratified and approved the said suspension of the petitioner. The Board also resolved to constitute a two-member expert Committee to conduct a detailed enquiry into the issues of NERIST.

23. In this context, the respondents in their affidavit also stated that there was a letter dated 26.04.2026 from the respondents requesting the Ministry to suggest a convenient date for holding the Board meeting, and the same was replied to vide email dated 27.07.2026, and due to administrative reasons, the meeting was held on 29.07.2026 at 2:30 PM at New Delhi as referred to earlier. The respondents in their affidavit stated that the petitioner was appointed as Registrar of NERIST vide order dated 20.09.2023, which was approved by the Board of Management on 28.12.2023. The respondents further contended in the affidavit that Clause 12 of the Memorandum of Association of NERIST provides that the Central Government/UGC shall have the right to cause enquiry into any matter of the Institute and may issue directions to the Institute which will be binding and in case of failure of the Institute to comply with such directions, even the deemed university status of the institute could be withdrawn.

24. It is contended that thus, Clause 12 of the Memorandum of Association of the Institute expressly empowers the Central Government/UGC to cause an enquiry into the affairs of the Institute, further providing that any direction pursuant to such enquiries shall be binding upon the Institute. The respondents in their affidavit have also contended that the petitioner has not challenged the decision of the Ministry of the Union Government dated 27.05.2026 directing action against the petitioner and that without challenging the same, he cannot challenge the consequential order of suspension taken pursuant to that direction. In para 6 of the affidavit filed by the respondents, it is admitted that in the absence of independent service rules, the CCS Rules and other applicable Central Government service rules are adopted and followed regulating the service conditions and disciplinary proceedings of the employees of NERIST. However, it is contended that the Memorandum of Association of the institute constitutes a foundational document defining the powers, duties and responsibilities of the Director, and in terms of Clause 14(c)(iii) of the Memorandum of Association, the Director is the Principal Executive Officer of the Institute and that Clause 14(c)(iv) specifically empowers the Director to take immediate action on any matter.

25. It is contended by the respondents in their affidavit that the petitioner's contention that the respondents lack jurisdiction under Rule 10 of the CCS Rules is wholly misconceived as it is founded upon a selective reading of the service rules, while ignoring the mandatory duties and powers vested in the Director under the Memorandum of Association. The respondents in their affidavit stated that the contention of the petitioner

that the Director, while issuing the suspension order, impersonated the Board of Management is completely baseless and further states that the Director merely implemented the binding directions of the Union Ministry of Education, in discharge of the obligations cast upon him under the Memorandum of Association. It is reiterated by the respondents in their affidavit that the decision of the Union Ministry was binding upon the Institute and its authorities and therefore, no separate approval of the Board of Management was required before implementation of the said direction.

Reply of the petitioner

26. In response to the above affidavit-in-opposition filed by the respondent Nos. 1, 2 and 3, the petitioner filed an affidavit-in-reply, reiterating his contentions and stating that the Director was not empowered to issue the impugned suspension order dated 29.05.2026. Another major contention of the petitioner in the affidavit-in-reply is that the approval of the Board of Management was taken when this Court had already issued notice upon the writ petition and had sought for instructions from the respondents on the matter of approval of the suspension order and that the hurried approval of the Board of Management on 29.07.2026 was done to defeat the case of the petitioner, which was already pending before this Court.

Submissions of the learned counsel for the respondents

27. *Mr. Choudhury*, the learned Senior counsel appearing for the respondents submits that the preliminary enquiry was conducted to gather the facts and that the same revealed serious allegations which

necessitated appropriate action from the authorities in the Ministry and also in the Institute. It is submitted that the decision of this Court in *Akaddas Ali* (supra) relied upon by the petitioner would be distinguishable on facts and in this regard, the learned Senior counsel reiterates the established principle that a judgment is an authority for what it actually decides. The learned Senior counsel submits that the Director was empowered to pass the order in compliance with what was directed by the Union Ministry of Education, and that the order was duly ratified by the Board of Management on 29.07.2026.

28. In support of his contentions, the learned senior counsel appearing for the respondents cites the following decision:-

(i) *National Institute of Technology and Anr Vs. Pannalal Choudhury and Anr* reported in *(2015) 11 SCC 669.*

Discussion and conclusion

29. I have perused the pleadings of the writ petition, the annexed documents, the affidavit-in-opposition filed by the respondent Nos. 1, 2 and 3 along with the annexed documents thereof. I have perused the affidavit-in-reply and the additional affidavit filed by the petitioner along with the annexed documents thereof. I have considered the submissions of the learned counsels on both the sides and perused the decisions cited at the Bar.

30. From the materials, contentions and submissions, the following issues arise for consideration:

(i) Whether the Director of NERIST was empowered in law to issue the

impugned suspension order dated 29.05.2026 placing the petitioner under suspension?

(ii) Whether the action of Director NERIST in suspending the petitioner is saved by the provisions of Clause 14(c)(iv) of the Memorandum of Association of NERIST, which empowers the Director to take emergency administrative action?

(iii) Whether the subsequent ratification of the suspension order by the Board of Management on 29.07.2026 during the pendency of the instant writ petition would have the effect of correcting the illegality or irregularity, if any, in the suspension order, if it was passed by the Director, NERIST without authority?

31. Before proceeding further, certain rules and provisions governing the matter may be looked at.

32. Under Rule 5(a)(viii) of the Memorandum of Association, the Board of Management has been designated as the disciplinary authority. It may be mentioned herein that vide order dated 20.09.2023 by which the petitioner was appointed as the Registrar, his appointing authority was the Chairman of the Board of Management. It is an admitted position that the CCS Rules, 1965 have been adopted by the NERIST in the absence of its own service rules. Needless to say that CCS Rules are rules framed under Article 309 of the Constitution of India and therefore, having statutory force. Rule 10(1)(a) of the CCS Rules stipulates that an employee could be put under suspension pending or in contemplation of disciplinary proceedings, and that such power of suspension can be exercised by the appointing authority or any authority to which the appointing authority is

subordinate or by the disciplinary authority or by any authority specifically empowered in this regard by the President, by general or special order.

33. Now, in the case of NERIST, from the Memorandum of Association noticed above and the pertinent clauses, it is clear that the disciplinary authority is the Board of Management, and the petitioner in question was appointed by the Chairman of the Board of Management. Though the suspension order has been mentioned as for or on behalf of the Board of Management, the respondents could not show any document of the Board specifically or explicitly authorizing the Director to issue the suspension order in question, though he was directed to do the needful in terms of the directions of the Union Education Ministry and as per the Rules.

34. Though Rule 7 of the Memorandum of Association empowers the Board to delegate powers by a Board Resolution to the Chairman, Director or any other officer of the Standing Committee or Adhoc Committee, subject to subsequent reporting at Board meeting - no document pertaining to any such delegation has been placed before the Court, as part of the affidavit filed by the answering respondents.

35. Another question which emerges is that whether the Director, who is neither the appointing authority nor the disciplinary authority within the meaning of Rule 10(1)(a) of the CCS Rules, can issue the suspension order invoking his powers under Rule 14(c)(iv) of the Memorandum of Association, which empowers the Director to take emergency administrative actions.

36. In the considered opinion of this Court, the Director cannot resort to the emergency powers under Rule 14(c)(iv) of the Memorandum of

Association to nullify the statutory Rule 10(1)(a) of the CCS Rules, 1965, which have been adopted by the Institute, in the absence of the Institute's own service rules.

36.1. In this context, some case laws can also be looked at. In the case of *Marathwada University v. Seshrao Balwant Rao Chavan,* reported in *(1989) 3 SCC 132*, it was argued on behalf of the University that the express power of the Vice-Chancellor to regulate the work and conduct of officers of the University implies as well, the power to take disciplinary action against the officers. However, the Hon'ble Apex Court disagreed with the said contention and held that the power to regulate the work and conduct of officers cannot include the power to take disciplinary action for their removal and that, the University Act conferred that power to appoint officers on the Executive Council and it also generally includes the power to remove and hence, it was futile to contend that the Vice-Chancellor can exercise that power which is conferred on the Executive Council. The pertinent para 20 may be reproduced herein below:-

> *"**20.** Counsel for the appellant argued that the express power of the Vice-Chancellor to regulate the work and conduct of officers of the University implies as well, the power to take disciplinary action against officers. We are unable to agree with this contention. Firstly, the power to regulate the work and conduct of officers cannot include the power to take disciplinary action for their removal. Secondly, the Act confers power to appoint officers on the Executive Council and it generally includes the power to remove. This power is located under sec. 24(1)(xxix) of the Act. It is, therefore, futile to contend that the Vice-Chancellor can exercise that power which is conferred on the Executive Council. It is a settled principle that when the Act pre- scribes a particular body to exercise a power, it must be exercised only by that body. It cannot be exercised by others unless it is delegated. The law must also provide for such delegation. Halsbury's Laws of England (Vol.1, 4th Ed. para 32) summarises these principles as follows:*

> *32. Sub-delegation of powers. In accordance with the maxim delegatius non potest delegare, a statutory power must be exercised only by the body or officer in whom it has been confided, unless sub-delegation of the power is authorised by express words or necessary implication. There is a strong presumption against construing a grant of legislative, judicial or disciplinary power as impliedly authorising sub-delegation; and the same may be said of any power to the exercise of which the designated body should address its own mind."*

36.2. Similarly, in the case of *V.C., Banaras Hindu University and Others v. Shrikant,* reported in *(2006) 11 SCC 42*, the Vice-Chancellor had invoked executive authority to terminate the service of a Reader, but under the University Statute only the Executive Council was competent to initiate disciplinary action and impose major penalties. In para 38 of the judgment, the Hon'ble Apex Court noticed this stipulation and held that the Vice-Chancellor had no say in the matter and he was merely a member of the Executive Council and therefore, he could not have initiated any proceeding and imposed any punishment on the respondent. The pertinent para 38 of the judgment may be reproduced herein below:-

> *"**38.** The Statute and the Ordinance postulate that an order of termination of services could be passed only by the Executive Council and that too in the event two-third of the Members were present and voted in support thereof. Therefore, the Vice Chancellor had no say in the matter. He was merely a member of the Executive Council. He, thus, could not have initiated any proceeding and imposed any punishment on the Respondent."*

36.3. In the case of *(Dr.) Sanjib Bhattacharjee v. Assam University and Others,* reported in *(2020) 6 Gauhati Law Reports 694*, it was noticed by a Coordinate Bench of this Court that under Section 28(1) of the University Act, with regard to employees who are neither teachers nor members of the academic staff, it is the appointing authority and not the Vice-Chancellor which is the competent authority to place such an employee under suspension. It was held in the facts of that case that as the post of

Registrar was not a teacher or member of the academic staff, therefore, the Executive Council and not the Vice-Chancellor was the competent authority to place the Registrar under suspension. The pertinent para 21 may be reproduced herein below:-

> *"**21.** Thus, on conjoint reading of Rule 10(1) of the CCS (CCA) Rules, 1965 and Section 15(1) of the Assam University Act along with Statute 13(2)(v), Statute 28(1), it is abundantly clear that the Executive Council, being the appointing authority of the Register, is the competent authority to place the Registrar under suspension and not the Vice-Chancellor.*
>
> *As mentioned above, it is not the case of the University that the petitioner was suspended by an authority which is above the Executive Council.*
>
> *The Vice-Chancellor is admittedly not above the Executive Council, in which event, unless there are specific provisions under the Assam University Act or the Statutes to enable the Vice-Chancellor to order suspension, the impugned suspension order could not have been issued at the instance of the Vice-Chancellor.*
>
> *The only provision which is relied upon by the University authorities is the power of the Vice-Chancellor as provided under Section 12(3) of the Assam University Act to place the petitioner under suspension.*
>
> *As quoted above, it is a wide power given to the ViceChancellor to act when immediate action is necessary on any matter even though authority to exercise such power is conferred on other authority. As a corollary, unless immediate action is necessary, this power provided under Section 12 (3) could not be exercised by the Vice-Chancellor. Under Section 12(3) of the Act, the Vice-Chancellor can exercise such power which is otherwise conferred on other authority of the University, if "immediate action is necessary"."*

36.4. In the same judgment, i.e., *(Dr.) Sanjib Bhattacharjee* (supra), the Court also noticed that Section 12(3) of the University Act conferred certain emergency powers on the Vice-Chancellor, to be exercised if immediate action is necessary. The Court held that immediate action would mean certain action which would be necessary to be taken without

any delay or any action which brooks no delay. It was held that it would not cover within its ambit any action which could be taken in a routine manner. In terms of the University Statute of the Assam University, it was noticed by the Court that such emergency power could be exercised by the Vice-Chancellor to even exercise the power to suspend an employee. However, the Court held that such power is by way of exception to the general power of the appointing authority to place an employee under suspension and therefore, the said emergency provision is required to be strictly construed and the circumstances attending the exercise of such exceptional power have to be fully satisfied. The Court held that otherwise, there would not be any difference between the general power of the appointing authority to place an employee of the University under suspension under Section 28(1) and the exceptional power given to the Vice-Chancellor to place an employee under suspension under Section 12(3) of the Act and that there would be a duplication of authorities for the same purpose.

37. Coming back to the facts of the instant case, though the Memorandum of Association of NERIST confers an emergency power on the Director, but it does not explicitly state in any manner that it also covers the power to take disciplinary action, including suspension of an employee, which power is otherwise conferred on the Board of Management. In any case, this Court is of the considered opinion, as stated above, that as the applicable rule is a statutory rule of the CCS Rules by way of Rule 10(1)(a), it would not be permissible for the Director to invoke the emergency powers conferred upon him under Rule 14(c)(iv) of the Memorandum of Association to override the statutory Rule 10(1)(a)

of the CCS Rules, which are the governing service rules for the employees of NERIST.

38. In the instant case, clearly the suspension order dated 29.05.2026 was passed by the Director, NERIST though he was not empowered to do so in terms of Rule 10(1)(a) of the CCS Rules, as he was neither the appointing authority nor the disciplinary authority. As already mentioned above, respondents could not show any document of the Board explicitly authorizing the Director to pass any such order of suspension, despite the Rule 10(1)(a) of CCS Rules. As already mentioned, he was only authorized to comply with Union Ministry's direction, as per the Rules. In any case, even if it were so, it is doubtful as to whether the Director can assume the role of disciplinary authority and pass the order of suspension.

39. Now the next question is as to whether the subsequent ratification by the Board of Management of NERIST of the suspension order on 29.07.2026 would validate the order of suspension passed by the Director, NERIST in the first place.

40. By the time the ratification of the suspension order by the Board of Management on 29.07.2026 was obtained, the writ petition by the petitioner challenging the order of suspension dated 29.05.2026 was already in place, as it was filed on 23.07.2026. The writ petition came up for the first time before a coordinate bench on 24.07.2026, on which date the Court held that interim prayer shall be considered on subsequent date. The writ petition came up next on 31.07.2026, on which date some instructions were placed before the Court and it became clear that vide resolution dated 29.07.2026, the Board of Management had ratified and

approved the suspension order of the petitioner dated 29.05.2026.

41. On this, the coordinate bench in para 6 of the order dated 31.07.2026, was pleased to hold that the conduct of the respondent *prima facie*, indicates that the same appears to have been taken to stultify the matter, which is in seisin of this Court, as notice was issued on 24.07.2026. The coordinate bench further stated that the Court would have passed an interim order, but as the instructions were in loose sheets, therefore, the respondents were directed to bring those on record.

42. However, from the order sheets I find that, on subsequent dates no interim order has come to be passed so far and the matter was taken up for final adjudication on 09.09.2026.

43. As set out in a preceding paragraph, now the question is as to whether the subsequent ratification of the suspension order by the Board of Management would cure the initial defect so as to restore its validity, assuming that the initial order was passed by the Director, though he was neither the appointing authority nor the disciplinary authority in terms of Rule 10(1)(a) of the CCS Rules.

44. To address this question, some of the decisions cited by the petitioner side have to be looked at.

45. In the case of *Akadas Ali* (supra), relied upon by the petitioner side, a Division Bench of this Court held as follows in paragraph 15 of the judgment:-

> *"**15.** When the Court is in seisin of a matter, an administrative authority cannot start a parallel proceeding on the very same subject matter at its own ipse dixit*

and record a finding on the issues. If such an action is taken, the same will amount to directly interfering with the dispensation of justice by the Courts of law. We have no hesitation to hold that the Assistant Registrar of Co-operative Societies, Hojai clearly transgressed his authority in venturing into dabble in a matter which is sub-judice before this Court. Clearly, this is an instance of an authority trying to over-reach the orders of this Court. The order dated 28.11.2013 being patently illegal and without jurisdiction, findings recorded in the said order are of no consequence."

46. Thus, it is clear from the said Division Bench judgment of this Court that when a court is seized of a particular litigation, the administrative authority is not encouraged or rather discouraged to start any parallel proceeding into the sub-judice matter.

47. In the case of *Padma Kalita* (supra), a coordinate bench of this Court held that time and again, Supreme Court as well as this Court has held that when a court is in seisin of a matter, an administrative authority cannot start a parallel proceeding on the very same subject matter and that it would amount to interfering with the dispensation of justice by courts. While rendering the said opinion, the coordinate bench referred to the aforementioned decision of *Akadas Ali* (supra). The relevant paragraphs 11 and 11.1 of the decision of this Court in *Padma Kalita* (supra) may be reproduced herein below:-

"11. Before delving into the matter a little deeper, it would be apposite to briefly refer to the impugned speaking order dated 03.03.2018. Departmental Commissioner and Secretary took the view that cases of persons killed by unknown armed miscreants are not covered by the office memorandum dated 29.07.2013 and, therefore, the claim of the petitioner for enhanced ex-gratia grant was rejected. This order was passed during the pendency of WP(C) No.

565 of 2018 filed by the petitioner seeking enhanced ex-gratia grant. Time and again, Supreme Court as well as this Court has held that when a Court is in seisin of a matter an administrative authority cannot start a parallel proceeding on the very same subject matter. It would be amounting to interfering with the dispensation of justice by Courts. (Please see Akkadas Ali –Vs- State of Assam) (2014) 4 GLR 3 [Writ Appeal No. 51 of 2014, decided on 12.03.2014]. It was held thus:

> *"15. When the Court is in seisin of a matter, an administrative authority cannot start a parallel proceeding on the very same subject matter at its own ipse dixit and record a finding on the issues. If such an action is taken, the same will amount to directly interfering with the dispensation of justice by the Courts of law. We have no hesitation to hold that the Assistant Registrar of Co-operative Societies, Hojai clearly transgressed his authority in venturing into dabble in a matter which is sub-judice before this Court. Clearly, this is an instance of an authority trying to over-reach the orders of this Court. The order dated 28.11.2013 being patently illegal and without jurisdiction, findings recorded in the said order are of no consequence."*

11.1. By passing the impugned speaking order dated 03.03.2018, the departmental Commissioner and Secretary had rendered the earlier writ petition filed by the petitioner infructuous. Such a course of action should be avoided by the administrative authority when a Court is examining and adjudicating the same subject matter."

48. Some of the other decisions cited by the learned counsel for the petitioner are rendered by other High Courts of the country and these rulings also support the aforesaid position of law discussed by a Division Bench of this Court and also reiterated by a Single Bench.

49. Thus, it follows from the position of law that when the writ petition in the instant case was preferred challenging the correctness of the

impugned order of suspension dated 29.05.2026 and the Court was already in seisin of the matter, the subsequent ratification by the Board of Management of NERIST on 29.07.2026 would be contrary to the principles laid down in the aforesaid decisions and would amount to interfering with a sub-judice matter. Hence, such ratification would not be a valid exercise of power and would not have the effect of curing the initial defect of the suspension order dated 29.05.2026, which was challenged before this Court on the very same infirmity.

50. The learned Senior counsel appearing for the respondents has relied upon the decision of *Pannalal Choudhury* (supra) to contend that in the said case it was held that a subsequent ratification of the dismissal order was held to have corrected the initial defect of the dismissal order having been passed by an authority, which was not legally qualified to do so.

51. However, upon perusing the said decision, I find that the ruling is distinguishable on facts, inasmuch as, in that case, ratification was prior to the filing of the writ petition before the Court. And in that factual matrix, a two-Judge Bench of the Hon'ble Supreme Court held that the ratification was successful in curing the initial defect. Further, in that case, the Hon'ble Apex Court also held that the materials indicated clear delegation of powers to the Principal and Secretary to pass the impugned order. In the said ruling, the factual matrix revealed that the dismissal order was passed on 16.08.1996 and subsequently, there were several meetings of the Board of Governors and the last resolution was dated 22.08.1996, whereupon the dismissal order dated 16.08.1996 was approved and ratified. From the para 12 and 13 of the said decision, it appears that only

thereafter, the writ petition came to be filed before the High Court. Interestingly, the decision in *Pannalal Choudhury* (supra) was a judgment emanating from this Court.

52. Thus, I come to the considered opinion that the ruling in *Pannalal Choudhury* (supra) would not come to the assistance of the respondent authorities of NERIST to save the impugned order of suspension dated 29.05.2026, which was subsequently ratified by the Board of Management on 29.07.2026.

53. Consequently, upon considering the matter in its entirety, this Court comes to the following conclusions:-

(i) The impugned suspension order dated 29.05.2026 passed by the Director, NERIST was bad in law as he was neither the appointing authority nor the disciplinary authority in terms of Rule 10(1)(a) of the CCS Rules, 1965.

(ii) The power of the Director to resort to emergency administrative action under Rule 14(c)(iv) of the Memorandum of Association of NERIST cannot be used to usurp the power of appointing authority or disciplinary authority to exercise the power of suspension, in terms of the statutory Rule 10(1)(a) of CCS Rules.

(iii) In terms of the decisions discussed earlier, the subsequent ratification of the suspension order by the Board of Management on 29.07.2026 would not have the effect of curing the initial defect, as by that time the writ petition had been filed and the Court was already in seisin of the matter.

54. Resultantly, the impugned suspension order dated 29.05.2026 passed by the Director, NERIST placing the petitioner under suspension is hereby set aside and quashed.

55. Further, the resolution of the Board of Management dated 29.07.2026, to the extent it ratifies the suspension order dated 29.05.2026 of the petitioner, is also set aside to that extent.

56. As stated at the outset, another prayer of the petitioner in WP(C)/389/2026 was a direction to conduct an inquiry by Two Committee Member to examine the correctness of the report dated 15.04.2026 submitted by Professor Sarat Kumar Patra.

57. I find that with regard to Item No. 110.12(1), the resolution of the Board of Management already ratified and approved by holding that a Two Member Committee may be constituted by the Chairman, Board of Management and Director, NERIST to conduct a detail inquiry for further action and that the report to be submitted within 30 days. Therefore, in my opinion, no direction with regard to the said matter needs to be given.

58. In WP(C)/339/2026, one of the prayers of the petitioner is to set aside and quash the advertisement dated 24.06.2026 inviting applications for appointment to the post of Executive Engineer (Civil) and Assistant Engineer (Civil) on deputation basis in NERIST.

59. Considering the nature of the adjudication conducted by this Court in the preceding paragraphs on the subject of suspension of the petitioner, with the conclusion and decision recorded above – this Court does not find any justification to pass any orders interfering with the aforementioned

advertisement dated 24.06.2026.

60. The authorities of NERIST are at liberty to place the petitioner in any suitable post after he is reinstated, pursuant to the order passed by this Court today.

61. Accordingly, both the writ petitions – WP(C)/339/2026 and WP(C)/ 389/2026 - are allowed to the extent as indicated above.

62. Both the writ petitions stand disposed of.

JUDGE

Comparing Assistant