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2026:GAU-AS:12996

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

Case No. : WP(C)/1579/2026

SUNAYANA AIDEW
W/O- DR. PRANJAL BORA,R/O-B.N. MAHANTA ROAD,H/NO. 54,AMOLAPATTY,NAGAON,WARD NO. 10, P.S-NAGAON,P.S-NAGAON,DIST-NAGAON-782001

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006.

4:THE ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI-781006

Advocates for the Petitioner : Mr. D. Das, Sr. Adv.; Mr. A. Chowdhury, Ms. M. Borah, Mr. S. Das, Ms. B. Chowdhury, Mr. S. A. Hussain, Mr. D. J. Haloi, Ms. N. G. Boro.

Advocates for the Respondents : SC, Finance and Taxation, GA, Assam; GA, Assam; Mr. N. Kohli, Sr. Adv., Ms. A. Roy; Mr. N. Menon.

Case No. : WP(C)/1568/2026

KAVITA DAS
W/O-SAMIR MOHAN,R/O-HOUSE NO. 4, BYE LANE NO. 4, NEAR MAHALAXMI GAS SERVICE, SRIMANTAPUR, BHANGAGARH, GHY-32.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT OF ASSAM, HOME AND POLITICAL DEPT., DISPUR GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM HOME A AND POLITICAL DEPT. DISPUR GUWAHATI-781006

3:THE SECRETARY TO THE GOVERNMENT OF ASSAMM
TO THE GOVT. OF ASSAM HOME A AND POLITICAL DEPARTMENT
DISPUR GUWAHATI-78100

Advocates for the Petitioner : Mr. D. Das, Sr. Adv.; Mr. A. Chowdhury, Ms. M. Borah, Mr. S. Das, Ms. B. Chowdhury, Mr. S. A. Hussain, Mr. D. J. Haloi, Ms. N. G. Boro.

Advocates for the Respondents : GA, Assam; Mr. N. Kohli, Sr. Adv., Ms. A. Roy; Mr. N. Menon.

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : 08.09.2026

Whether the pronouncement is of the Operative part of the judgment : N/A

Whether the full judgment has been Pronounced : Yes

Judgment & Order (Oral)

Heard Mr. D. Das, learned Senior Counsel, assisted by Mr. S. Das, learned counsel for the petitioners, and Mr. N. Kohli, learned Senior counsel, assisted by Ms. A. Roy and Mr. N. Menon, learned counsel for the respondents.

2. Both these writ petitions raise common questions of fact and law arising out of the proceedings of the One Man Commission of Inquiry headed by Justice (Retd.) B.K. Sarma and the Report dated 02.04.2022, particularly the observations recorded against the petitioners at pages 505 and 509 thereof, and are, therefore, taken up together for disposal by this common judgment and order.

3. At the outset, it may be noted that although various prayers have been made in the respective writ petitions, the petitioners, at the time of hearing, have confined to prayer No. (b), i.e. seeking quashing, expunging and/or deletion of the observations, findings and recommendations recorded against them in the Report dated 02.04.2022 submitted by the One Man Commission of Inquiry headed by Justice (Retd.) B.K. Sarma, particularly those contained at pages 505 and 509 thereof, and all actions emanating therefrom. The other prayers are not pressed and, accordingly, do not call for consideration in the present proceedings.

4. The petitioner in W.P.(C) No. 1579/2026 had participated in the Combined Competitive Examination, 2013 conducted by the APSC pursuant to Advertisement dated 11.08.2013. She appeared in the Preliminary Examination, the Main Examination and thereafter in the interview, and was declared successful in the final result published on 12.05.2015. She thereafter served in

various capacities, her last posting being as Superintendent of Taxes.

5. The petitioner in W.P.(C) No. 1568/2026 had also participated in the same Combined Competitive Examination, 2013 and was selected for the Assam Police Service (Junior Grade), securing 37th rank, as per the final result published on 12.05.2015. She joined the Assam Police Service on 31.08.2015 and subsequently served as Deputy Superintendent of Police, 19th AP(IR) Battalion, Tengakhat, Dibrugarh.

6. The aforesaid Combined Competitive Examination, 2013, subsequently came under scrutiny following allegations of anomalies and malpractices in the conduct of the Preliminary and Main Examinations and the selection process. In view of such allegations, a Commission of Inquiry was constituted to inquire into the matter, including the circumstances surrounding the conduct of the examinations and the result published on 12.05.2015.

7. Accordingly, on 08.07.2019, the One Man Commission of Inquiry headed by Justice (Retd.) B.K. Sarma, former Judge of this Court, was constituted under Section 3 of the Commissions of Inquiry Act, 1952, to inquire into the allegations of anomalies and malpractices in the conduct of the Civil Services Preliminary and Main Examinations conducted by the APSC, the result of which had been published on 12.05.2015.

8. In the course of the proceedings before the Commission, notices were issued to the petitioners. By order dated 19.02.2021, the Commission directed issuance of notice to the petitioner in W.P.(C) No. 1579/2026, which was forwarded to her on 02.03.2021. She accordingly submitted her written response on 18.03.2021. Similarly, the petitioner in W.P.(C) No. 1568/2026 was

issued notice and she submitted her response on 22.03.2021.

9. The petitioners contend that, upon issuance of such notices, the provisions contained in Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 became applicable to their cases. Section 8-B, *inter alia*, contemplates that where the Commission considers it necessary to inquire into the conduct of any person, or where the Commission is of the opinion that the reputation of such person is likely to be prejudicially affected by the inquiry, it shall give such person a reasonable opportunity of being heard and of producing evidence in his or her defence. Section 8-C further provides, *inter alia*, for the right to cross-examine witnesses, to address the Commission and to be represented by a legal practitioner.

10. It is the grievance of the petitioners that, notwithstanding the notices issued to them and the written responses submitted by them, they were not thereafter afforded the opportunity of hearing and other protections contemplated under Sections 8-B and 8-C of the Act in respect of the material subsequently brought on record before the Commission.

11. In particular, the petitioners refer to the statement of *Dr. Mrigen Saikia* recorded during the proceedings of the Commission. In the case of the petitioner in W.P.(C) No. 1579/2026, *Dr. Mrigen Saikia* was examined on 08.10.2021. During the course of his statement, he made certain allegations concerning the then Chairman of the APSC and lady candidates and also referred to matters concerning the family life of the then Chairman. The petitioner contends that the said statement contained material which had a prejudicial bearing upon her and which was subsequently noticed in the Report of the Commission.

12. The petitioner in W.P.(C) No. 1568/2026 similarly contends that *Dr. Mrigen Saikia* appeared before the Commission on 18.10.2021 pursuant to the notice and order dated 08.10.2021 and filed an affidavit containing allegations which were subsequently noticed by the Commission. The material contained in the statement and affidavit was capable of adversely affecting her reputation, yet no notice under Section 8-B of the Act was issued to her in relation to such material and she was not afforded any opportunity to respond to the allegations or to cross-examine the witness.

13. The Report of the Commission was submitted on 02.04.2022. The petitioners contend that the Report was not furnished to them and that they came to know of the adverse observations and findings recorded against them only after the Report was laid before the Assam Legislative Assembly on 17.02.2025 and its contents entered the public domain. The petitioners have specifically challenged the observations and findings appearing at pages 505 and 509 of the Report.

14. Mr. D. Das, learned Senior Counsel appearing for the petitioners, submits that the impugned observations and findings could not have been recorded against the petitioners without compliance with Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952. It is contended that once material was brought before the Commission which was capable of adversely affecting the reputation of the petitioners, the Commission was under a statutory obligation to afford them a reasonable opportunity of hearing and to permit them to produce evidence in their defence.

15. Learned Senior Counsel submits that the petitioners were not given any opportunity to respond to the allegations contained in the statement of *Dr.*

Mrigen Saikia, nor were they afforded an opportunity to cross-examine him. It is contended that the written responses submitted by the petitioners pursuant to the earlier notices could not amount to an opportunity of hearing in respect of material which was subsequently brought on record and relied upon by the Commission in recording adverse observations against them.

16. Learned Senior Counsel further submits that the requirement of notice and opportunity under Sections 8-B and 8-C is not an empty formality, particularly where the proceedings of a Commission of Inquiry may result in serious prejudice to the reputation of an individual. It is contended that the petitioners were thus condemned unheard in respect of the material relied upon by the Commission.

17. In support of his submissions, learned Senior Counsel places reliance upon the judgment of the Hon'ble Supreme Court in **Kiran Bedi v. Committee of Inquiry,** reported in **(1989) 1 SCC 494**, and submits that the procedural safeguards contemplated under Sections 8-B and 8-C are intended to ensure that a person whose conduct is inquired into, or whose reputation is likely to be prejudicially affected, is afforded a reasonable opportunity to defend himself or herself before adverse observations are made. Learned Senior Counsel also places reliance upon the judgment in **State of Bihar v. Lal Krishna Advani,** reported in **(2003) 8 SCC 361**, and submits that the right to reputation forms part of the right to life guaranteed under Article 21 of the Constitution of India.

18. It is, accordingly, submitted that the observations, findings and recommendations made against the petitioners in the Report dated 02.04.2022, more particularly those contained at pages 505 and 509 thereof, having been recorded without affording them an opportunity to respond to the material

relied upon by the Commission or to cross-examine the witness concerned, are in violation of Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 and the principles of natural justice and are, therefore, liable to be quashed, expunged and deleted, along with all actions emanating therefrom.

19. Mr. N. Kohli, learned Senior Counsel appearing for the respondents, fairly submits that, to the extent of the relief sought in prayer No. (b), the present writ petitions may be disposed of in terms of the judgment and order dated 01.04.2026 passed by a coordinate Bench of this Court in W.P.(C) No. 1380/2025 and the connected writ petitions, arising out of the proceedings of the One-Man Commission headed by Justice (Retd.) B.K. Sarma in relation to the Combined Competitive Examination, 2013 and 2014.

20. I have considered the submissions advanced by learned counsel for the parties and have perused the materials available before this Court.

21. In order to appreciate the grievance of the petitioners, it would be apposite to take note of the judgment and order dated 01.04.2026 passed by a coordinate Bench of this Court in W.P.(C) No. 1380/2025 and the connected writ petitions, arising out of the very same proceedings of the One Man Commission headed by Justice (Retd.) B.K. Sarma and the Reports submitted by the Commission in respect of the Combined Competitive Examination, 2013 and 2014.

22. The coordinate Bench, upon consideration of Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 and the judgments of the Hon'ble Supreme Court in **Kiran Bedi** (Supra), **State of Bihar Vs. Lal Krishna Advani & Others** reported in **(2003) 8 SCC 361** and **Sanjay Gupta & Others Vs. State of Uttar**

Pradesh & Others reported in **(2015) 5 SCC 283**, held that where the conduct of a person is inquired into and the observations, findings or recommendations made by the Commission prejudicially touch upon the reputation of such person, the statutory rights under Sections 8-B and 8-C are attracted. The coordinate Bench accordingly held that the Reports in question were in violation of the said provisions.

23. The coordinate Bench, however, did not set aside the Reports in their entirety. Having regard to the fact that the Reports also dealt with anomalies and malpractices in the Combined Competitive Examinations and contained remedial suggestions concerning matters of public importance, the Court, relying upon the principle laid down by the Hon'ble Supreme Court in **Goa Foundation v. Union of India** reported in **(2014) 6 SCC 590**, held that the Reports need not be quashed in its entirety. Instead, it directed that the findings, observations and recommendations touching upon the conduct and reputation of the petitioners prejudicially could not be used against them and were rendered *non est*.

24. The aforesaid findings of the coordinate Bench are directly relevant to the present cases. The present petitioners do not challenge the Report dated 02.04.2022 in its entirety. Their challenge is confined to the observations and findings recorded against them, particularly at pages 505 and 509 thereof, which prejudicially touch upon their conduct and reputation. Although the petitioners had submitted their written responses to the notices issued to them, they were not thereafter afforded an opportunity to address the subsequent material brought on record before the Commission, including the statement of *Dr. Mrigen Saikia*, or to cross-examine the said witness.

25. The observations of the coordinate Bench, therefore, have direct application to the present cases. Once the conduct of the petitioners was inquired into and the observations and findings recorded by the Commission prejudicially touched upon their reputation, the statutory requirements contained in Sections 8-B and 8-C of the Act stood attracted. The petitioners could not have been deprived of the rights flowing from the said provisions.

26. The coordinate Bench, while considering the effect of the violation of Sections 8-B and 8-C, did not quash the Reports in its entirety. The Reports dealt with a larger field falling within the Terms of Reference and contained fact-finding material and remedial suggestions concerning matters of public importance. The present petitions, however, are confined to the adverse observations and findings recorded against the petitioners themselves. The relief sought, therefore, does not require this Court to sit in appeal over the fact-finding exercise undertaken by the Commission as a whole.

27. The coordinate Bench distinguished between the Report as a whole and the adverse findings touching upon the conduct and reputation of individual persons. While the Reports contained material concerning anomalies and malpractices in the Combined Competitive Examinations and remedial measures for the future, the adverse observations and findings touching upon the conduct and reputation of individual petitioners stand on a different footing, since the making of such observations was subject to the mandatory procedural requirements contained in Sections 8-B and 8-C of the Act.

28. The subsequent material relied upon by the Commission could not, therefore, have been used for recording adverse observations against the petitioners without affording them an effective opportunity to respond to such

material and to exercise the rights available to them under Section 8-C of the Act. The written responses submitted by the petitioners to the earlier notices cannot be treated as sufficient compliance in respect of material which was subsequently brought on record and relied upon against them.

29. In view of the aforesaid, and having regard to the law laid down by the Hon'ble Supreme Court in **Kiran Bedi** (supra) and **Lal Krishna Advani** (supra), and also the judgment and order dated 01.04.2026 passed by the coordinate Bench in W.P.(C) No. 1380/2025 and the connected writ petitions, this Court is of the view that the observations and findings recorded against the petitioners at pages 505 and 509 of the Report dated 02.04.2022, insofar as they prejudicially touch upon their conduct and reputation, cannot be sustained.

30. The said observations and findings having been recorded in violation of the statutory requirements contained in Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 and the principles of natural justice, are liable to be expunged. The present case is, therefore, one where the power of judicial review is required to be exercised to set right the wrong occasioned by the violation of the statutory and constitutional protections available to the petitioners.

31. Consequently, the observations, findings and recommendations recorded against the petitioners in the Report dated 02.04.2022, particularly those contained at pages 505 and 509 thereof, insofar as they prejudicially touch upon the conduct and reputation of the petitioners, are hereby expunged. Such observations, findings and recommendations shall not be used or relied upon against the petitioners in any proceedings or before any forum.

32. The writ petitions are, accordingly, disposed of in terms of the above. There shall be no order as to costs.

JUDGE

Comparing Assistant