

GAHC010000172023



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

Case No. : WP(C)/48/2023

MD. MANNAS ALI
S/O- LATE MUKLESH UDDIN,
VILL.- BARKHAL,
P.S.- JAGIROAD,
DIST.- MORIGAON, ASSAM,
PIN- 782413.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI, 110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI- 06.

3:THE DEPUTY COMMISSIONER
MORIGAON
DIST.- MORIGAON
ASSAM
782127.

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSAM
782127.

5:ELECTION COMMISSION OF INDIA
NEW DELHI
110001.

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)

GHY-32

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.02.2023

(AM Bujor Barua, J)

Heard Mr. A Matin, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Morigaon and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Morigaon.

2. The petitioner Md. Mannas Ali was referred to the Foreigners Tribunal No.1 Morigaon for rendering an opinion as to whether he is a person who had entered the State of Assam subsequent to 25.03.1971. Consequent thereof, F.T.

(C) Case No.74/2007 was registered against the petitioner. Although the petitioner received notice and appeared before the Tribunal initially, but on the subsequent dates, without any acceptable reason had refrained from appearing before the Tribunal which resulted in the ex-parte order dated 05.07.2012 in F.T. (C) Case No.74/2007.

3. Being aggrieved with the ex-parte order dated 05.07.2012, this writ petition is instituted.

4. For the interest of justice, we interfere with the ex-parte order ex-parte order dated 05.07.2012 and remand the matter back to the Foreigners Tribunal No.1 Morigaon for an adjudication on its own merit.

5. But, however, as we do not find any legal infirmity in the ex-parte order dated 05.07.2012 in F.T.(C) Case No.74/2007, *inasmuch as*, the petitioner himself refrained from appearing in the Tribunal without any acceptable reason, a cost of Rs.3000/- is imposed on the petitioner to be paid before the District Legal Services Authority Morigaon.

6. Further we take note that the ex-parte order is of the year 2012 and the petitioner approached this Court only in the year 2023. It has also been pointed out by Ms. A Verma, learned Special Standing counsel Foreigners Tribunal that the petitioner received the notice to appear before the Tribunal in the year 2007 itself and he required the Tribunal to wait for another five years to pass the ex-parte order dated 05.07.2012. For the said conduct of the petitioner, a cost of

another Rs.2000/- is imposed on the petitioner, the total cost being Rs.5000/- to be paid by the petitioner before the District Legal Services Authority Morigaon.

7. The petitioner to appear before the Tribunal on 31.03.2023.

8. Upon appearance of the petitioner, the Tribunal shall pass a reasoned order on the claim of the petitioner. It is stated that presently the petitioner is in detention at Tezpur. The detaining authority shall facilitate the appearance of the petitioner before the Tribunal on 31.03.2023 and upon the appearance of the petitioner before the Tribunal, the Tribunal may pass a reasoned order as regards the release of the petitioner as may be advisable under the law.

9. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant