

GAHC010013542023



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

Case No. : WP(C)/406/2023

NUR ISLAM MONDAL
S/O- LATE IDRISH ALI,
VILL- PUB PAHARTOLI,
P.O AND P.S- GOALPARA,
DIST- GOALPARA, ASSAM, PIN-783101

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
PIN-783101

4:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
ASSAM
PIN-783101

5:THE ELECTION COMMISSION OF INDIA
GOVT. OF INDIA

NEW DELHI-110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM

GUWAHATI-32

7:FOREIGNERS TRIBUNAL
NO-1
GOALPARA
REP. BY THE STANDING COUNSEL
FOREIGNERS TRIBUNAL
PIN-78310

Advocate for the Petitioner : MR. A ROSHID

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

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

ORDER

01.02.2023

(AM Bujor Barua, J)

Heard Mr. A Roshid, learned counsel for the petitioner. Also heard Ms. B Sarma, learned CGC appearing on behalf of respondents in the Union of India, Ms. U Das learned Government Advocate for the Deputy Commissioner, Goalpara, Mr. T Pegu learned counsel for the Election Commission of India, Mr. J Payeng, learned Special Counsel Foreigners Tribunal for the authorities under the Home Department, Government of Assam as well as the Superintendent of Police (B) Goalpara and Ms. L Devi, learned counsel for the authorities under the NRC.

2. The petitioner Nur Islam Mondal is aggrieved by the order dated 04.05.2013 of the Member Foreigners' Tribunal No.1, Goalpara in F.T. Case No.4667/G/11. The order dated 04.05.2013 is an ex-parte order passed against the petitioner in a reference as to whether the petitioner is a person who had entered the State of Assam subsequent to 25.03.1971. Although the petitioner initially appeared before the Tribunal concerned, but on the subsequent dates, he remained absent resulting in the ex-parte order against him.

3. The petitioner takes a stand that he was suffering from certain ailments which resulted in his non-appearance on the subsequent dates before the Tribunal. The petitioner refers to a medical document at page No.35, Annexure-9 to the writ petition which is an Advice Slip from Urban Health Centre, Goalpara. But it is noticed that the Advice Slip is dated 12.03.2018, whereas the ex-parte order is dated 04.05.2013.

4. Mr. A Roshid, learned counsel for the petitioner tries to explain the situation by stating that at the relevant point of time when the ex-parte order was passed, the petitioner was availing the treatment of a *Kabiraj*, and therefore, no other medical documents are available. The reason put forth on the materials on record appears to be not convincing, but, however, for the interest of justice, the matter is remanded back to enable the petitioner to appear before the Tribunal for appropriate adjudication of his claim.

5. Because of the unexplained conduct of the petitioner in not remaining

present on the further dates before the Tribunal, a cost of Rs.3000/- is imposed on him. The cost of Rs.3000/- be paid by the petitioner before the District Legal Services Authority, Goalpara which may be used by the said authority for public purpose.

6. Accordingly on the matter being remanded back, the petitioner shall now appear before the Foreigners' Tribunal No.1, Goalpara on 09.03.2023 and the ex-parte order dated 04.05.2013 is set aside.

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

JUDGE

JUDGE

Comparing Assistant