

GAHC010130992020



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

Case No. : WP(C)/3770/2020

MUSTT. FATEMA BEGUM
D/O- AJIMUDDIN, W/O- NURUDDIN, R/O VILL.- NO. 2 TUNIJAN, P.O. AND
P.S.- LALUK, DIST.- LAKHIMPUR, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN-
110001.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE MEMBER
FOREIGNER'S TRIBUNAL- 1
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 787001.

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI
PIN- 110001.

5:THE COORDINATOR
NRC ASSAM
GUWAHATI
PIN- 781005.

6:THE DY. COMMISSIONER
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 784001.

7:THE SUPERINTENDENT OF POLICE (BORDER)
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 787001

Advocate for the Petitioner : MS. S G BARUAH

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

07.06.2023

(AM Bujor Barua, J)

Heard Ms. SG Baruah, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for 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) North Lakhimpur and Mr. PK Medhi, learned Government Advocate for the Deputy Commissioner, North Lakhimpur.

2. The petitioner Mustt. Fatema Begum was referred to the Foreigners

Tribunal Lakhimpur at North Lakhimpur for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971. Consequent thereof, LFT Case No.636(D)/2011 was registered against the petitioner. As the petitioner did not appear before the Tribunal even after service of notice, an ex-parte order dated 16.05.2013 in LFT Case No.636(D)/2011 was passed against her.

3. The second paragraph of the ex-parte order dated 16.05.2013 provides that although notice has been duly served on the petitioner, but she neither appeared before the Tribunal, nor had taken any steps to prove her citizenship.

4. In the aforesaid circumstances, we do not find any legal infirmity in the ex-parte order dated 16.05.2013 passed in LFT Case No.636(D)/2011, *inasmuch as*, the petitioner herself refrained from appearing before the Tribunal without any acceptable reason. But however, for the interest of justice, we afford another opportunity to the petitioner to prove her citizenship on merit by appearing before the Tribunal. Accordingly, we interfere with the ex-parte order dated 16.05.2013 passed in LFT Case No.636(D)/2011 and remand the matter back to the Foreigners Tribunal Lakhimpur for an adjudication on its own merit.

5. The petitioner to appear before the Tribunal on 13.07.2023

6. However, it is noticed that the ex-parte order dated 16.05.2013 is of the year 2013 and the petitioner has filed this writ petition in the year 2020. No effort had been made by the petitioner to have the writ petition listed and it was

allowed to remain pending for three years.

7. Considering the conduct of the petitioner, a cost of Rs.7,500/- is imposed on the petitioner to be paid before the District Legal Services Authority Lakhimpur and only upon showing the proof of payment of the cost, the petitioner would be allowed to appear before the Tribunal on 13.07.2023.

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

JUDGE

JUDGE

Comparing Assistant