

GAHC010196652023



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

Case No. : WP(C)/5094/2023

JAMAL UDDIN
S/O- SAMSUL HOQUE,
VILL- PAKRIGURI,
P.S- SALBARI, DIST- BAKSA, ASSAM

VERSUS

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

2:THE ELECTION COMMISSIONER OF INDIA
GOVT. OF INDIA
NEW DELHI-110001

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

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

5:THE DISTRICT COMMISSIONER
BAKSA
ASSAM

6:THE SUPERINTENDENT OF POLICE (B)
BAKSA
ASSA

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE

**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

01.09.2023

ORDER

(Lanusungkum Jamir, J)

Heard Mr. H. Ali, learned counsel for the petitioner. Also heard Ms. L. Devi, learned CGC as well as the learned Standing Counsel, NRC for respondent Nos.1 and 4; Mr. G. Sharma, learned Standing Counsel, FT for respondent Nos.3 and 6; Mr. A.I. Ali, learned Standing Counsel, ECI for respondent No.2 and Ms. R.B. Bora, learned Government Advocate, for respondent No.5.

2. By this application, the petitioner is impugning the *ex parte* order dated 26.07.2023 passed by the Foreigners Tribunal, Baksa and Tamulpur in FT Case No.30/BAKSA/2022.

3. It is the case of the petitioner that he is residing in Pakriguri under Baksa district. However, the notice which was deemed to be served by the Tribunal, was never received by him.

4. A perusal of the impugned *ex parte* order dated 26.07.2023 would indicate that on several occasions notice was tried to be served on the petitioner, however, the same had returned unserved and, accordingly, the Process Server hanged the notice on a tree in front of the petitioner's house in the presence of the *Gaonburah* of the village.

5. However, as the petitioner has approached this Court challenging the said order dated 26.07.2023, therefore, without entering into the merits, we dispose of this writ petition by remanding the matter back to the Foreigners Tribunal, Baksa and Tamulpur to try FT Case No.30/BAKSA/2022 afresh.

6. Accordingly, the order dated 26.07.2023 passed by the Foreigners Tribunal, Baksa and Tamulpur in FT Case No.30/BAKSA/2022 is set aside and quashed.

7. It is submitted that the petitioner is presently in Detention Camp at Goalpara. Accordingly, it is directed that the petitioner, namely, Jamal Uddin, resident of Vill. Pakriguri, PS. Salbari, Dist. Baksa, who is in Goalpara Detention Camp in terms of the *ex parte* order dated 26.07.2023 passed by the Foreigners Tribunal, Baksa and Tamulpur in FT Case No.30/BAKSA/2022 shall be released immediately from the Detention Camp at Goalpara after furnishing a bail bond of Rs.5000/- with one surety of the like amount to the satisfaction of Superintendent of Police (B), Baksa.

8. The petitioner shall appear before the Superintendent of Police (B), Baksa on or before 15.09.2023. The concerned Superintendent of Police (Border) shall also take steps for capturing the fingerprints and biometrics of the iris of the petitioner.

The petitioner shall not leave the jurisdiction of Baksa district without giving details of the place of destination and his place of stay to the Superintendent of Police (Border), Baksa.

9. On such release, the petitioner shall appear before the Foreigners Tribunal, Baksa and Tamulpur on 06.10.2023 and the Tribunal will proceed afresh to decide the claim of the petitioner that the petitioner is not a foreigner but a citizen of India in accordance with law.

10. The writ petition is, accordingly, disposed of.

JUDGE

JUDGE

Comparing Assistant