

GAHC010055612024



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

Case No. : I.A.(Civil)/856/2024

FATEMA KHATOON
W/O. ABDUL HUSSAIN, R/O. VILL. SALBARI, P.S. SAMUGURI, P.O.
KATHPARA, DIST. NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECY., GOVT. OF ASSAM, HOME
DEPTT., DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER

NAGAON
DIST. NAGAON
ASSAM
PIN-782001.

3:THE SUPDT. OF POLICE

NAGAON
DIST. NAGAON
ASSAM
PIN-782001.

4:THE ELECTORATE REGISTRATION OFFICER

NAGAON
DIST. NAGAON
ASSAM
PIN-782001.

5:THE UNION OF INDIA

REP. BY THE SECRETARY
MINISTRY OF HOME AFFAIRS
NEW DELHI-01.

6:THE STATE CO-ORDINATOR OF NRC

P.O. AND P.S. BHANGAGARH
DIST. KAMRUP (M)
GUWAHATI-781005
ASSAM

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

O R D E R

22.03.2024

(M.R. Pathak, J)

Heard Ms. M. Deka, learned counsel appearing on behalf of Ms. G. Borah, learned counsel for the applicant/writ petitioner and Ms. A. Verma, learned Standing Counsel, Home Department, Assam for the opposite party/respondent Nos.1, 3 and 4. Also heard Mr. P. Sarma, learned Additional Senior Government Advocate, Assam for the opposite party/respondent No. 2.

2. In a reference being made by the Superintendent of Police (Border), Nagaon, the learned Member, Foreigners' Tribunal (2nd), Nagaon by its opinion & order dated 17.02.2022, passed in F.T. Case No. 76/2016, opined the petitioner to be a foreigner under the Foreigners Act, 1946, who had illegally entered into the territory of India (Assam) on or after

25.03.1971 from the specified territory.

3. Dissatisfied with the said impugned order dated 17.02.2022, passed by the Foreigners' Tribunal (2nd), Nagaon, noted above, the applicant as petitioner filed the connected WP(C) No. 7637/2022, wherein, the Court by order dated 19.12.2022, while issuing notice to the respondents, in the interim, directed the petitioner therein, i.e., the present applicant to appear before the Superintendent of Police (Border), Nagaon within 15(fifteen) days from 19.12.2022.

4. It is submitted by Ms. M. Deka, learned counsel for the applicant/petitioner that the applicant/petitioner was of the impression that she was not required to appear before the Superintendent of Police (Border), Nagaon and she would get the privilege of the interim order without appearing before the Superintendent of Police (Border), Nagaon. It was only when the applicant/petitioner visited the Chamber of her learned engaged Counsel, then only she came to know about the requirement of the order dated 19.12.2022 passed in WP(C) No. 7637/2022 and accordingly applied for the certified copy of the order dated 19.12.2022 passed in WP(C) No.7637/2022 and obtained the certified copy of the said order dated 19.12.2022 passed in WP(C) No. 7637/2022 only on 01.02.2023 and thereafter, the applicant along with her bailor appeared before the SP (B), Nagaon. But on their appearance and after placing the certified copy of the said order dated 19.12.2022 passed in WP(C) No. 7637/2022, the concerned Superintendent of Police (Border) did not consider to regularise her bail as the period of her appearance i.e. 15(fifteen) days from 19.12.2022 has already been expired and accordingly asked her to obtain an extension for the period of her

appearance before the said authority.

5. Hence, this application by the applicant, i.e., the petitioner of connected WP(C) No. 7637/2022 praying for a direction to allow her to appear before the Superintendent of Police (Border), Nagaon, pursuant to the order dated 19.12.2022 passed earlier in the connected WP(C) No. 7637/2022 by extending the time period for execution of her bail.

6. It is seen that the applicant has filed this application on 14.03.2024 for extension of time for her appearance before the Superintendent of Police (Border), Nagaon as directed by the order dated 19.12.2022 passed in the connected WP(C) No. 7637/2022 without explaining the reasons for the delay from 19.12.2022 till 14.03.2024.

7. We have seen that the said writ petition of the applicant/petitioner i.e., WP(C) No. 7637/2022 is pending for adjudication and the relevant records from the concerned Foreigners Tribunal are yet to be received.

8. After hearing the learned counsels for the parties and considering the delay in filing this Interlocutory Application as well as the conduct of the applicant/petitioner in approaching this Court for extension of the period of her appearance before the Superintendent of Police (Border), Nagaon as directed earlier on 19.12.2022 in her writ petition being WP(C) No.7637/2022, we direct the applicant/petitioner to deposit a cost of Rs. 5000/- with the District Legal Services Authority, Nagaon.

9. The applicant/petitioner shall now appear before the Superintendent of Police (Border), Nagaon on or before 05.04.2024 placing before it the certified copy of this order along with the copy of the receipt regarding deposit of said cost of Rs. 5000/- in the District Legal Services Authority,

Nagaon in original and she shall comply with the direction as specified in the order dated 19.12.2022 passed in the connected WP(C) No. 7637/2022.

10. This order shall be read together with the order dated 19.12.2022 passed in the connected WP(C) No. 7637/2022 that is preferred by the present applicant as petitioner.

11. Accordingly, this Interlocutory Application stands allowed to the extent above.

JUDGE

JUDGE

Comparing Assistant