

GAHC010105252024



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

Case No. : I.A.(Civil)/1576/2024

AJEDA KHATUN
W/O. NAZRUL HAQUE, D/O. AYUB ALI, VILL. LOWDONG, P.O. MOHANPUR,
P.S. UDALGURI, DIST. UDALGURI BTAD ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI-01.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE STATE ELECTION COMMISSION

ASSAM
DISPUR
GUWAHATI-06.

4:THE STATE CO-ORDINATOR

NATIONAL REGISTRATION OF CITIZEN (NRC)
ASSAM
BHANGAGARH
GUWAHATI-05.

5:THE DY. COMMISSIONER

UDALGURI
DIST. UDALGURI

ASSAM.

6:THE SUPDT. OF POLICE (B)

UDALGURI
P.S. UDALGURI
DIST. UDALGURI
ASSAM

Advocate for the Petitioner : MR. R ALI

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

Linked Case : WP(C)/2356/2020

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Advocate for : MR. R ALI
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

31-05-2024

(M.R.Pathak, J)

Heard Mr. R Ali, learned counsel for the applicant/writ petitioner and Mr. G Sharma, learned Standing counsel, Home Department, Assam for the opposite party/respondent Nos. 2 & 6; Mr. A I Ali, learned Standing counsel, Election Commission of India for the opposite party/respondent No. 3 as well as Mr. P Sharma, learned Additional Senior Government Advocate, Assam for the opposite party/respondent No. 5.

2. In a reference being made by the Superintendent of Police (Border), Darrang (erstwhile district, presently Udalguri) the learned Foreigners Tribunal (2nd), Darrang, Mangaldai by an ex-parte judgment and order dated 31.10.2018 passed in F.T. Case No. 419/2010, arising out of Reference Case No. 5376/1998 opined that the applicant/petitioner is not an Indian citizen and declared her to be a foreigner under the Foreigners Act, 1946 of post 25.03.1971. The applicant thereafter on 26.07.2019 filed a petition under Order 3-A (2) of the Foreigners

(Tribunals) Order, 1964 read with Section 151 of the C.P.C. for review of the said ex-parte judgment and order dated 31.10.2018 being Misc Case No. 14/2019 along with a petition under Section 5 of the Limitation Act to condone the delay of 265 days in filing the said petition. The learned Foreigners Tribunal (2nd), Darrang, Mangaldai by order dated 29.10.2019 dismissed the said Misc Case No. 14/2019 preferred by the applicant.

3. Being dissatisfied with said ex-parte judgment and order dated 31.10.2018 passed in said F.T. Case No. 419/2010 as well as the order dated 29.10.2019 dismissing the said Misc Case No. 14/2019 passed by the said Tribunal, the applicant as petitioner filed a writ petition being WP(C) No. 2356/2020.

4. After hearing the parties and on perusal of the records of said F.T. Case No. 419/2010 of the Foreigners Tribunal No. 2nd, Darrang, Mangaldai, a Co-Ordinate Bench of this Court by order dated 24.04.2024 allowed the said WP(C) No. 2356/2020 preferred by the applicant, directing her to appear before the Foreigners Tribunal (2nd), Darrang, Mangaldai in said F.T. Case No. 419/2010 on 27.05.2024 along with a certified copy of the said order, directing further to submit her written statement/reply as well as written evidence-in-affidavit in the said FT Case along with the documents on the basis of which she proposes to prove her case and discharge her burden as per Section 9 of the Foreigners Act, 1946 showing her linkage with her parents and grandparents.

5. It is contended by the applicant that as there was some delay in communicating the said order dated 24.04.2024 passed in WP(C) No. 2356/2020 to her, she on 09.05.2024 could obtain the certified copy of the said order dated 24.04.2024. It is also contended by the applicant that since the Office of the Deputy Commissioner, Darrang, Mangaldai is presently busy with regard to the ongoing Parliamentary Election, as such, she could not obtain certain documents so as to file her written statement/reply as well as written evidence-in-affidavit in said F.T. Case No. 419/2010.

6. Hence, the applicant/writ petitioner has filed this Interlocutory Application for extension of time by six weeks to file her written statement/reply as well as written evidence-in-affidavit in said F.T. Case No. 419/2010.

7. Mr. G Sharma, learned Standing counsel, Home Department, Assam vehemently

objected for extension of further time to the applicant/writ petitioner for filing written statement/reply as well as written evidence-in-affidavit by her in said F.T. Case No. 419/2010.

8. On perusal of the records of WP(C) No. 2356/2020 preferred by the applicant/petitioner, we have seen that the petitioner at Para 12 of said writ petition specifically submitted that she has sufficient documents to prove her citizenship and Mr. R Ali, learned counsel for the applicant/writ petitioner submitted that she needs certain Voters' Lists after 2013.

9. Mr. G Sharma, Standing counsel, Home Department, on instruction, submitted that after bifurcation of district-Udalguri from erstwhile district-Darrang, the said F.T. Case No. 419/2010 that was earlier decided by the Foreigners Tribunal (2nd), Darrang, Mangaldai on 31.10.2018, due to change of territorial jurisdiction, has now been transferred to the Foreigners Tribunal, Udalguri and the said F.T. Case No. 419/2010 is allotted with the Foreigners Tribunal No. 1 at Udalguri.

10. After hearing the learned counsels for the parties and considering the entire aspect of the matter, we allow the applicant/petitioner namely, **Ajeda Khatun** to file her written statement/reply as well as written evidence-in-affidavit with all the relevant documents in F.T. Case No. 419/2010 before the Foreigners Tribunal No. 1 at Udalguri by 28.06.2024, extending the time of such filing as a last chance.

11. The applicant, namely, **Ajeda Khatun**, shall appear **before the Foreigners Tribunal No. 1 at Udalguri on or before 28.06.2024 in said F.T. Case No. 419/2010**, along with a certified copy of this order as well as the order dated 24.04.2024 passed in WP(C) No. 2356/2020.

12. This order shall be read together with the order dated 24.04.2024 passed in WP(C) No. 2356/2020.

13. Rest of the observations and directions made in the said order dated 24.04.2024 passed in WP(C) No. 2356/2020 shall remain intact.

14. To the extent above, this Interlocutory Application stands allowed.

JUDGE

JUDGE

Comparing Assistant