

GAHC010140342024



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

Case No. : I.A.(Civil)/2136/2024

JABEDA KHATUN @ ZABEDA
WIFE OF- JAHAR ALI,
DAUGHTER OF LATE AMIR SHEIKH @ AMIR ALI AND SAMSUN NESSA,
PERMANENT RESIDENT OF VILLAGE- NO. 4 SIALMARI KHUTI,
PS- DALGAON, DIST- DARRANG, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI. PIN- 110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER

NEW DELHI- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI- 781006.

4:THE DEPUTY COMMISSIONER
DARRANG
MANGALDAI
PIN CODE- 784125.

5:THE SUPERINTENDENT OF POLICE (B)

DARRANG
PIN CODE- 784125
ASSAM.

6:THE COORDINATOR
NATIONAL REGISTER OF CITIZENS

1ST FLOOR
ACHYUT PLAZA
G.S. ROAD

BHANGAGARH
GUWAHATI- 4

Advocate for the Petitioner : MR A W AMAN, MR SARFRAZ NAWAZ,MR S A
BARBHUYAN,MR. D K AGARWALA,SAMIM RAHMAN

Advocate for the Respondent : DY.S.G.I., GA, ASSAM,SC, F.T,SC, ECI

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

05.09.2024

[K.R. Surana, J]

Heard Mr. A.W. Rahman, learned for the applicant. Also heard Ms. B. Sarma, learned CGC; Mr. J. Payeng, learned Standing Counsel, Foreigners' Tribunal; Ms. P. Baruah, learned Standing Counsel, ECI and Mr. R. Talukdar, learned Govt. Advocate.

2. By filing this Interlocutory Application, the applicant, who is the petitioner in the connected writ petition i.e. WP(C) No.2058/2024, has prayed for releasing the applicant who is detained in the Transit Camp at Matia, Goalpara, on being declared as a foreigner of post 25.03.1971 stream by the Foreigner's Tribunal No.-5th, Darrang, Mangaldai in FT (V) Case No. 1992/2016 arising out SP

Enquiry No.10514/98 by its opinion dated 25.2023.

3. The learned counsel for the applicant has submitted in defence of the applicant that along with the evidence of affidavit the applicant and D.W. 2 had exhibited as many as 19 documents which were marked as Exhibit-1 to 19. However, while rendering the opinion impugned in the connected writ petition, the learned Tribunal had only discussed about Exhibit - 1, 2, 3 & 7 and other relevant exhibits were not discussed which was prejudiced the applicant.

4. Per contra, Mr. J. Payeng, learned Standing Counsel, F.T. has supported the opinion impugned in the connected writ petition and submits that in so far as the name of the father of the petitioner is concerned, his name was Amir Sk. and in the documents which are of 1971 and earlier, there name has been recorded as Amir Ali. Accordingly, the applicant is seeking a linkage to Amir Ali projecting him to be the father and thereafter, a defence is taken that Amir Ali and Amir Sk. are same person which could not be established and therefore, Mr. J. Payeng has justified that that learned Tribunal has correctly held that the applicant Jabeda Khatun @ Zabeda has failed to establish her linkage with Amir Sk. as a daughter.

5. Be that as it may, as we find the learned Foreigner's Tribunal has not discussed all the exhibited documents, the Court is inclined to allow this application. Accordingly, a certified copy of this order be produced before the In-charge/respective Authority of the Tansit Camp, Matia, Goalpara within a period of 2 (two) days from the date of receipt of a certified copy of this order and thereafter, the designated Authority shall produce the applicant Jabeda Khatun @ Zabeda before the Superintendent of Police (B), Darrang. Thereafter, the Superintendent of Police (B), Darrang shall not deport the applicant/petitioner, namely, Jabeda Khatun @ Zabeda from the territory of

India on condition that she shall furnish a bail bond of Rs. 5,000/- with one local surety of the like amount to the satisfaction of the said authority. Further, the Superintendent of Police (Border), Darrang, is directed that on appearance of the applicant/petitioner, the biometrics of the iris of both eyes, the fingerprints of both hands and the photographs of the applicant/petitioner shall be obtained, where after, she shall be allowed to remain on bail.

On her appearance before the Superintendent of Police (Border), Darrang, as directed above, the said authority shall obtain necessary information and documentation as required under the Rules from the applicant/petitioner for securing her presence.

6. With the above observations and directions, the Interlocutory Application stands disposed of.

JUDGE

JUDGE

Comparing Assistant