

GAHC010145462024



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

**Case No. : WP(C)/3727/2024**

ABUL KASHEM @ MD. ABUL KASEM ALI  
S/O- HASMAT ALI @ MD. HASMAT ALI, R/O- VILLAGE- LAWGAON, P.O.  
SOLMARI, P.S.- NAGAON SADAR, DISTRICT- NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS  
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, GOVERNMENT OF  
INDIA, NEW DELHI- 110001

2:THE ELECTION COMMISSION OF INDIA  
NEW DELHI. 110001

3:THE STATE OF ASSAM  
REPRESENTED BY THE GOVERNMENT OF ASSAM  
HOME DEPARTMENT  
DISPUR  
GUWAHATI- 781006

4:THE ASSAM STATE CO-ORDINATOR OF NRC  
BHANGAGARH  
GUWAHATI- 781005

5:THE DEPUTY COMMISSIONER  
NAGAON  
DISTRICT- NAGAON  
ASSAM  
PIN- 785690

6:THE SUPERINTENDENT OF POLICE (B)  
NAGAON  
DISTRICT- NAGAON

ASSAM  
PIN- 785690

7:THE DEPUTY COMMISSIONER  
SIVASAGAR DISTRICT- SIVASAGAR  
ASSAM  
PIN- 785640

8:THE SUPERINTENDENT OF POLICE (B)  
SIVASAGAR DISTRICT- SIVASAGAR  
ASSAM  
PIN- 78564

**Advocate for the Petitioner** : MR. S A AHMED, A. KHANAM,MR. F A AHMED,C S  
KAMTHONG

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

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

**ORDER**

**Date : 14.08.2024**  
(S. Saikia, J)

Heard Mr. S.A. Ahmed, learned for the petitioner. Also heard Ms. A. Verma, learned standing counsel for the Home Department; Ms. P. Barua, learned standing counsel for the Election Commission of India; and Mr. P. Sarma, learned Govt. Advocate appearing for the Deputy Commissioner.

2. The petitioner before this Court has prayed for transferring of the proceedings of Case No. FT/SVR/208/09 from the Foreigner's Tribunal, Jorhat to the Foreigner's Tribunal 1<sup>st</sup>, Nagaon, where another F.T. Case, being F.T. Case No. 14/2016 is presently pending against the petitioner and to amalgamate both the cases. By order dated 29.07.2024, this Court has permitted the learned counsel for the respondents to obtain instruction from both the Tribunals.

3. The instructions received by the respondent counsel are placed before this Court.

4. Instructions received from the Foreigner's Tribunal 1<sup>st</sup>, Nagaon reveals that the F.T. Case No. 14/2016 is presently pending at the stage of examination of official witness. Written statement and evidence-on-affidavit have also been filed and the witnesses have also been cross-examined. Next date fixed is 27.08.2024 for official witness.

5. As regards the instructions received from the Foreigner's Tribunal, Jorhat, it is seen that Case No. FT/SVR/208/09 is pending before the Foreigner's Tribunal, Jorhat, where written statement and written evidence have been filed. Another case number being FT/SVR/1420/04 was seen to be reflected in the written statement filed before the Foreigner's Tribunal, Jorhat. The Tribunal has clarified that Case No. FT/SVR/1420/04 was wrongly reflected in the written statement filed on behalf of the petitioner in connection with Case No. FT/SVR/208/09. The Tribunal has also clarified that the Case No. FT/SVR/1420/04 was registered in the name of Md. Nurul Islam, S/o Md. Rustom Ali, resident of Namti Nazira, P.S.- Nazira, District- Sivsagar, Assam, which was disposed of on 26.03.2024.

6. Having noticed the instructions that were placed before the Court, it is seen that presently there are two matters pending against the writ petitioner, being F.T. Case No. 14/2016, pending before the Foreigner's Tribunal 1<sup>st</sup>, Nagaon as well as FT Case No. FT/SVR/208/09, pending before the Foreigner's Tribunal, Jorhat.

7. Upon hearing the counsels for the parties and upon consideration of the instructions placed before the Court as well as upon perusal of the pleadings

available on record, this Court is of the view that the prayer for transfer sought for by the petitioner cannot be granted at this stage. Since the case pending before the Foreigner's Tribunal 1<sup>st</sup>, Nagaon was instituted at an earlier point in time, this Court is of the view that the said proceeding should be allowed to be continued against the writ petitioner. The writ petitioner has already entered appearance in the said proceeding before the Tribunal and the next date fixed for the matter is 27.08.2024. The said proceedings will be decided by the Foreigner's Tribunal 1<sup>st</sup>, Nagaon in terms of the procedure prescribed by law and any opinion that may be rendered in the said proceeding by the Foreigner's Tribunal 1<sup>st</sup>, Nagaon will thereafter be placed by the petitioner before the Foreigner's Tribunal, Jorhat, in which Case No. FT/SVR/208/09 stated to be instituted against the petitioner, which is also pending. The opinion that may be rendered by the Foreigner's Tribunal 1<sup>st</sup>, Nagaon in F.T. Case no. 14/2016 upon being placed before the Foreigner's Tribunal, Jorhat, the said Tribunal will thereafter pass necessary orders as per law.

8. Till the time the proceedings in F.T. Case No. 14/2016, pending before the Foreigner's Tribunal 1<sup>st</sup>, Nagaon is decided, the proceedings of Case No. FT/SVR/208/09, pending before the Foreigner's Tribunal, Jorhat shall not be proceeded with and be kept in abeyance.

9. The petitioner is permitted to file necessary application for leave to modify or vacate this order by which the proceedings before the Foreigner's Tribunal, Jorhat has been kept in abeyance till disposal of the proceedings before the Foreigner's Tribunal 1<sup>st</sup>, Nagaon. Such application can be moved by the petitioner only after the rendition of the opinion by the Foreigner's Tribunal 1<sup>st</sup>, Nagaon.

10. The writ petition accordingly stands closed in terms of above.
11. Interim order, if any, stands vacated.

**JUDGE**

**JUDGE**

**Comparing Assistant**