

GAHC010148892024



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

Case No. : MC/50/2024

JAMILA KHATUN
AGED ABOUT 57 YEARS, D/O LT. RAGU FAKIR AND LT. MAHIRAN NESSA
AND W/O ATABAR ALIAS ATOWAR RAHMAN BY RELIGION-ISLAM AND A
PERMANENT RESIDENT OF VILL- SATIBORGAON, P.S. DHALIGAON, DIST.
CHIRANG, ASSAM

VERSUS

THE UNION OF INDIA and 5 ORS
REP. BY THE SECRETARY TO THE GOVT.OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE COMMISISONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI - 781006.

3:THE DEPUTY COMMISSIONER

BARPETA DISTRICT.

4:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI - 781007.

5:THE SUPERINTENDENT OF POLICE BORDER
BARPETA

6:THE OFFICER-IN-CHARGE

DHALIGAON POLICE STATION
DIST. CHIRANG
ASSA

Advocate for the Petitioner : MR N AHMED, MR. M M ZAMAN,MR A BASUMATARY

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

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

ORDER

Date : 02.09.2024.
(*S. Saikia, J.*)

Heard Mr. N. Ahmed, learned counsel for the applicant. Also heard Mr. G. Sharma, learned Standing Counsel, Foreigners' Tribunal; Mr. H. Kuli, learned counsel appearing for Mr. A.I. Ali, learned Standing Counsel, Election Commission of India; Mr. S.S. Roy, learned C.G.C. and Mr. R. Talukdar, learned Government Advocate, Assam for the D.C. Barpeta.

This Misc. Case is filed seeking restoration of the Writ Petition being WP(C) No.6799/2017, which came to be dismissed for non-prosecution by the order dated 12.06.2024.

A co-ordinate Bench of this High Court, by the said order, dismissed the Writ Petition when the learned counsel for the petitioner failed to appear when the matter was called upon.

It was recorded that earlier also, when the matter was called up, the petitioner was not represented and accordingly, the Writ Petition was dismissed

for non-prosecution.

Mr. N. Ahmed, learned counsel for the applicant submits that the earlier engaged counsel, because of personal difficulty, could not appear before the Court and consequently, the matter stood dismissed for non-prosecution. It is further submitted by Mr. Ahmed, learned counsel for the petitioner submits that only after the dismissal of the Writ Petition, the Writ Petitioner could obtain the information from the office of the Superintendent of Police (Border), Barpeta about the status of the Writ Petition.

The learned counsel for the petitioner submits that there was no fault on the part of the Writ Petitioner and for the default of the counsel representing the Writ Petitioner, the Writ Petitioner could not be made to suffer. It is submitted that since, it is a question of citizenship of the petitioner, dismissal of the case for non-prosecution will cause great prejudice to the petitioner and accordingly, the order should be recalled and the Writ Petition be restored to file.

The learned counsel for the respondents do not object to the prayer made by the learned counsel for the Writ Petitioner.

Accordingly, upon hearing the learned counsel for the parties and upon perusal of the grounds urged in the Misc. Case, this Court is of the view that since the question of citizenship of the petitioner is at stake, for the ends of justice, this Court is of the view that the order dated 12.06.2024, passed in WP(C) No.6799/2017, ought to be recalled and the Writ Petition be restored to file. It is ordered accordingly.

The earlier bail order dated 10.11.2017, passed by this Court, is also restored.

Since the record of the Tribunal is already available, let the matter be listed for hearing after two (2) weeks.

The Misc. Case stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant