

GAHC010171252024



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

Case No. : I.A.(Civil)/2662/2024
In WP(C)/3861/2023

MAHAMMAD ALI
S/O- LATE AMIR UDDIN @ AMERUDDIN, PERMANENT RESIDENT OF
VILLAGE- SATBOINIR TUP, MOUZA- HOWLY, P.S. BARPETA ROAD, DIST.-
BARPETA, ASSAM, PIN- 781315

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVERNMENT OF
INDIA, SHASTRI BHAWAN, NEW DELHI- 110001

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

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.A.ROAD
BHANGAGARH
GUWAHATI

ASSAM
PIN- 781005

5:THE DEPUTY COMMISSIONER
BARPETA
P.O. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

6:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

7:THE OFFICER-IN-CHARGE
OF BARPETA ROAD POLICE STATION
DIST.- BARPETA
ASSAM
PIN- 78131

Advocate for the Petitioner : MR. A R SIKDAR, MR. A R SIKDAR,MR. S I TALUKDAR

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

Linked Case : **WP(C)/3861/2023**

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Advocate for : MS. D GHOSH
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 6 ORS

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

06-11-2024

(S. K. Medhi, J)

Heard Shri A. R. Sikdar, learned counsel for the applicant. Also heard Shri J. Payeng, learned counsel for the Home Department and Shri H. Kuli, learned counsel appearing on behalf of Shri A. I. Ali, learned counsel for the respondent no. 3.

2. By the instant application extension of time for appearance before the Superintendent of Police (Border), Barpeta has been sought for.

3. The learned counsel for the applicant has submitted that vide an order dated 04.08.2023 passed in the connected WP(C)/3861/2023 while notice was issued, it was directed that in the interim the applicant shall not be taken into custody and the deported from India. The aforesaid direction was however conditional that the applicant was required to appear before the Superintendent of Police (Border), Barpeta within 15 days and shall furnish bail bond of Rs.5000/- with one local surety. It however appears that the applicant did not appear before the Superintendent of Police (Border), Barpeta within the prescribed period of 15 days. Thereafter, the applicant had filed IA(C)/2832/2023 praying for extension of time to comply with the directions passed in the earlier order. The aforesaid application was disposed of vide an order dated 06.10.2023 whereby the time to appear was extended by fixing the date as on or before 18.10.2023. It however appears that even within the

extended period, the applicant did not appear before the concerned authority.

4. Shri Sikdar, the learned counsel has submitted that there was a communication gap between the learned counsel who were engaged earlier and the aspect of extension was not informed, as a result of which, the applicant could not appear in time. He has accordingly submitted that the time for appearance before the concerned authorities be further extended and he is ready and willing to fulfill the conditions imposed by the first order dated 04.08.2023.

5. *Per contra*, Shri Payeng, the learned counsel for the Home Department has submitted that the *bona fide* of the applicant is in serious doubt. He submits that the initial order was passed on 04.08.2023 whereby 15 days time was granted for the applicant to appear and the same was a pre condition for grant of the interim order. However, instead of complying with the aforesaid direction the applicant had filed the IA (C)/2832/2023 praying for extension in which, this Court, by taking a lenient view had further extended the time to 18.10.2023. He submits that even the said order was not complied with and the present application has been filed long thereafter on 28th of August, 2024 which is almost a year from the last date of extension. He, accordingly, submits that no case for extension of time is made out and the application is liable to be rejected. The learned counsel for the rest of the respondents have endorsed the submissions advanced by Shri Payeng, learned counsel and has prayed for dismissal of the IA.

6. We have noticed that while issuing notice vide the order dated 04.08.2023 an interim order was passed subject to the primary condition requiring the

applicant to appear before the Superintendent of Police (Border), Barpeta within 15 days. Admittedly, the aforesaid condition was not fulfilled and this Court in the IA (C)/2832/2023 had granted further time vide order dated 06.10.2023 directing the applicant to appear on or before 18.10.2023. It however transpires that even the aforesaid order was not complied with. What is further intriguing is that the present application has been filed long thereafter on 28th of August, 2024 which raises serious doubts on the *bona fide* of the applicant to comply with the directions of this Court. A Writ Court being a Court of Equity the conduct of the party approaching the same is a paramount importance.

7. In view of the aforesaid facts and circumstances, we are of the considered opinion that no case for extension of time is made out and accordingly the IA is dismissed.

8. At this stage, Shri Sikdar, the learned counsel submits that the writ petition may be taken up for hearing expeditiously.

9. The writ petition may be listed for **hearing** in the **1st week of January, 2025**.

JUDGE

JUDGE

Comparing Assistant