

GAHC010176452019



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

Case No. : WP(C)/5377/2019

ABUL KALAM AND ANR.
S/O. LT. HAFIJ ALI AND HABEJ UDDIN, VILL. PASCHIM SINGIMARI, P.S.
RUPAHIHAT, DIST. KARIMGANJ, ASSAM.

2: ANOWAR HUSSAIN
S/O. ABUL KALAM
VILL. PASCHIM SINGIMARI
P.S. RUPAHIHAT
DIST. KARIMGANJ
ASSAM

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, NEW DELHI-110001.

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE DY. COMMISSIONER

NAGAON
782001.

4:THE SUPDT. OF POLICE (B)

GOLAGHAT
785702.

5:THE ELECTION COMMISSION OF INDIA

NEW DELHI-110001.

6:THE STATE COORDINATOR

NATIONAL REGISTRAR OF CITIZENS (NRC)
ASSAM
GUWAHATI-781005

Advocate for the Petitioner : MS. R CHOUDHURY

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

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

ORDER

Date : 23-07-2024

(K.R. Surana, J)

Heard Ms. R. Choudhury, learned counsel for the petitioners as well as Mr. J. Payeng, learned standing counsel for the Foreigner's Tribunal; Mr. G. Sarma, learned Govt. Advocate appearing for the Home Department; Mr. R. Talukdar, learned Govt. Advocate appearing for the respondent no.3, Ms. R. Devi, learned CGC and Mr. T. Pegu, learned standing counsel for the Election Commission of India.

2. The learned counsel for the petitioners has submitted that pursuant to the order dated 07.09.2016 passed by the Division Bench of this Court in WP(C) 5174/2016, the petitioner no.1 has registered himself before the Registering authority under the Citizenship Act, 1955 on 21.09.2016 vide Registration no.R-6106. In this regard, the learned standing counsel for the State's Home Department has confirmed that the petitioner no.1 namely, Abul

Kalam has registered himself before the FRRO, Nagaon. It is also submitted that the legal consequences of the petitioner no.1, being so registered, would follow.

3. In so far as the petitioner no.2, namely, Anowar Hussain is concerned, from the Trial Court Record of the Foreigner's Tribunal, Jorhat it is seen that as against the petitioner no.2, a reference, being Case no. FTG/1781/2011 was registered and by a common order dated 27.04.2020, the Foreigner's Tribunal, Jorhat has given its opinion, declaring the petitioner no.2 to be a foreigner who has illegally entered into the territory of India (Assam) after 25.03.1971 without any valid document.

4. The learned counsel for the petitioners has submitted that the present appeal was filed on 26.07.2019 and she was not instructed about the said opinion of the Foreigner's Tribunal, Jorhat in Case no. FTG/1781/2011 and accordingly, she prays to permit the petitioners to withdraw the writ petition only on behalf of petitioner no.2 so as to enable the petitioner no.2, namely, Anowar Hussain to challenge the award passed against him. Prayer is allowed.

5. This writ petition is allowed to be withdrawn in respect of petitioner no.2.

6. In respect of the petitioner no.1, we take notice of the previous proceeding against him vide Case no. FTG/139/14 of the Foreigner's Tribunal, Jorhat, wherein the said learned Tribunal had already given its opinion that the petitioner no.1 was a foreigner who had entered India (Assam) after 01.01.1966 and before 25.03.1971 and accordingly, the Division Bench of this Court, by

order dated 07.09.2016, had directed the registration of the petitioner before the FRRO, Nagaon. In this regard the learned counsel for the petitioner has submitted that the second proceeding is a harassment to the petitioner.

7. As the opinion of the Foreigner's Tribunal, Jorhat in Case no. FTG/139/14 in respect of the petitioner has attained finality in view of the order passed by the Division Bench of this Court in WP(C) 5174/2016, the Court is inclined to provide that in the event the proceedings of FTG/1784/2011, instituted against the petitioner no.1, namely, Abul Kalam before the Foreigner's Tribunal, Jorhat is still pending, the petitioner would be at liberty to produce the certified copy of those orders before the learned Foreigner's Tribunal, Jorhat, if so advised. On such documents being produced, the said learned Tribunal would take note of the same and pass appropriate orders if the present proceeding is the second proceeding against the same proceedee.

8. Needless, to say that if the petitioner no.1 is still aggrieved, it would be open for the petitioner no.1 to approach this Court again.

9. This writ petition is disposed of.

10. Let the TCR be sent back.

JUDGE.

JUDGE

Comparing Assistant