

GAHC010176782024



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

Case No. : I.A.(Civil)/2588/2024

AMBIYA BIBI @ AMBIA KHATUN @ AMRIYA KHATUN
DAUGHTER OF ABBAS ALI, WIFE OF SAMSUL HOQUE, PERMANENT
RESIDENT OF VILLAGE- POKALAGI, POST OFFICE- CHENGLIMARI,
POLICE STATION- SALBARI, DISTRICT- BAKSA, BTR (ASSAM) PIN- 784145

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT 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
BAKSA
MUSHALPUR
781372

5:THE SUPERINTENDENT OF POLICE (B)
BAKSA
MUSHALPUR
781372

6:THE COORDINATOR
NATIONAL REGISTER OF CITIZENS

BHANGAGHAR
GUWAHATI-0

Advocate for the Petitioner : MR. J ABBAS,

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

Linked Case : WP(C)/97/2024

AMBIYA BIBI @ AMBIA KHATUN @ AMRIYA KHATUN
DAUGHTER OF ABBAS ALI
WIFE OF SAMSUL HOQUE
PERMANENT RESIDENT OF VILLAGE- POKALAGI
POST OFFICE- CHENGLIMARI
POLICE STATION- SALBARI
DISTRICT- BAKSA
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6:THE COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGHAR
GUWAHATI-05

Advocate for : MR. J ABBAS

Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

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

ORDER

Date : 02.09.2024.

(S. Saikia, J.)

Heard Mr. J. Abbas, learned counsel for the applicant. Also heard Mr. G. Sharma, learned Standing Counsel, Foreigners' Tribunal, Baksa at Tamulpur; Ms. N. Bedi, learned counsel appearing for Ms. P. Baruah, 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 Interlocutory Application is filed praying for extension of time for compliance of the directions contained in the order dated 07.03.2024, passed by this Court in WP(C) No.97/2024.

The petitioner filed the WP(C) No.97/2024, challenging the order dated 14.01.2020, passed in F.T. Case No.50/BAKSA/2019. By the said order, the petitioner was declared to be a foreigner who entered into India illegally from the specified territory after 25.03.1971. The said order, however, passed ex-parte.

Upon consideration of the submissions before this Court, a co-ordinate Bench by order dated 07.03.2024, was pleased to dispose of the Writ Petition by interfering with the impugned ex-parte order passed by the Foreigners' Tribunal, Baksa at Tamulpur.

This Court, however, directed the petitioner to appear before the said Tribunal at Tamulpur in the said matter i.e. F.T. Case No.50/BAKSA/2019, by 02.04.2024, along with a certified copy of this order. The petitioner was permitted to file the written statement as well as written evidence-in-chief, along with all relevant documents and thereafter, the Tribunal was directed to dispose of the said matter, in accordance with law, as provided under the Foreigners Act, 1946, read with the provisions specified in the Foreigners Tribunal Order, 1964.

The petitioner submits before this Court that because of lack of communication with the counsel who represented the Writ Petitioner before the co-ordinate Bench, the order was not communicated to the petitioner in time and as such, she failed to appear before the Tribunal on 02.04.2024, as directed. Subsequently, when the petitioner came to be made aware of the order dated 07.03.2024, passed by the co-ordinate Bench in WP(C) No.97/2024, the present Interlocutory Application has been filed praying for extension of time to comply with the directions contained in the order dated 07.03.2024, passed in WP(C) No.97/2024.

It is submitted by the learned counsel appearing on behalf of the applicant/writ petitioner that the applicant and her husband are poor and illiterate people and there was no mobile phone available with the applicant/writ petitioner and the cell-phone, available with the husband of the petitioner had also malfunctioned

and as such could not contact the counsel who represented the applicant/writ petitioner in the High Court. Subsequently, on 22.08.2024, the applicant was able to establish contact with her engaged counsel with the help of another counsel, practicing in Mushalpur and Tamulpur Courts, in the Baksa District. Upon contacting the said learned counsel, she was informed of the order dated 07.03.2024, passed by the co-ordinate Bench in WP(C) No.97/2024. Accordingly, upon being informed, the petitioner instructed her engaged counsel to take necessary steps in the matter. Copy of the order dated 07.03.2024, was accordingly applied for on 27.08.2024, which was received on the same day and subsequently this Interlocutory Application has been filed on 29.08.2024.

It is submitted by the learned counsel for the applicant that because of this reason, the applicant/writ petitioner could not appear before the Foreigners' Tribunal, Baksa at Tamulpur, in terms of the order dated 07.03.2024, passed by the co-ordinate Bench in WP(C) No.97/2024. It is further submitted that unless further time is enlarged, enabling the applicant/writ petitioner to appear before the concerned Foreigners' Tribunal, in terms of the order dated 07.03.2024, passed in WP(C) No.97/2024, the petitioner is likely to suffer grave prejudice, as her citizenship is at stake.

Learned counsel representing the respondents submitted that if the prayer made by the applicant is to be considered, then limited time may be granted to the applicant/writ petitioner to appear before the concerned Foreigners' Tribunal, as directed in the order dated 07.03.2024, in WP(C) No.97/2024.

Learned counsel for the parties have been heard and the grounds urged in the Interlocutory Application is carefully taken note of.

These grounds urged, have sufficiently explained the reasons why the applicant/writ petitioner could not appear before the Tribunal, as directed by the co-ordinate Bench in the order dated 07.03.2024, in WP(C) No.97/2024.

Taking into consideration the submissions made and the grounds urged and also in the interest of justice, this Interlocutory Application stands allowed.

The applicant/writ petitioner is directed to appear before the Foreigners' Tribunal, Baksa at Tamulpur, in connection with the F.T. Case No.50/BAKSA/2019, by 20.09.2024 positively. The petitioner will file her written statement as well as her evidence-in-chief, as directed earlier by the order dated 07.03.2024, passed in WP(C) No.97/2024, by 20.09.2024.

The petitioner will appear before the concerned Tribunal along with a certified copy of this order.

The Interlocutory Application stands allowed, in terms of the above and disposed of.

JUDGE

JUDGE

Comparing Assistant