

GAHC010191542024



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

Case No. : I.A.(Civil)/2910/2024

ISLAM UDDIN MIRDHA @ ISLAM UDDIN
S/O- LATE SIRAJUL ISLAM MIRDHA, VILL- KATAJHAR, P.S- SORBHOG,
DIST- BARPETA, ASSAM

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GHY- 781006

3:THE DEPUTY COMMISSIONER
BARPETA
DIST- BARPETA
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA
ASSAM
PIN- 781301

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS

BHANGAGARH
PIN- 78103

Advocate for the Petitioner : MR. A M AHMED, MRS S RAHANA,P. GHOSH

Advocate for the Respondent : , SC, ELECTION COMMISSION.,SC, NRC,SC, F.T,GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

O R D E R

26.09.2024

(Soumitra Saikia, J)

Heard Mr. A.M. Ahmed, learned counsel appearing for the applicant/writ petitioner and Ms. S. Barua, learned C.G.C, for the respondent No.1, Union of India. Also heard Mr. G. Sharma, learned Standing Counsel, Home Department, Assam for the respondent Nos. 2 & 4, Mr. H.K. Hazarika, learned Government Advocate, Assam for the respondent No.3 and Mr. A.I. Ali, learned Standing Counsel, Election Commission of India, for the respondent No.5.

2. This interlocutory application has been filed seeking modification of the order dated 01.02.2023 passed by a Co-ordinate bench of this Court in WP(C) No.403/2023. By the said order, while issuing notice in the said writ petition filed by the writ petitioner, the Court in the meantime directed the applicant/petitioner to appear before the Superintendent of Police (Border), Barpeta within 15 days from the date of the order and to furnish a bail bond of Rs.5000/- with one local surety of like amount to the satisfaction of the authority, whereupon, the petitioner was to be permitted to remain on bail. The concerned Superintendent of Police (Border), Barpeta was also directed to take steps for capturing the fingerprints of both hands and biometrics of the iris of

the petitioner and further the petitioner was directed not to leave the jurisdiction of the Barpeta district without giving the details of the place of destination and his/her place of stay to the Superintendent of Police (Border), Barpeta including the relevant contact/mobile numbers.

3. It is stated that pursuant to the order dated 01.02.2023, although the applicant/petitioner presented himself before the office of the Superintendent of Police (Border), Barpeta, he was informed that the records could not be traced out and he was required to come back after a few days. It is stated that when the applicant/petitioner again went to the office of the Superintendent of Police (Border), Barpeta for submitting the bail bond, he was informed by the officials therein that the records of the concerned F.T. Case has already been sent to the concerned Superintendent of Police (Border), Baksa.

4. It is submitted by the learned counsel for the applicant/writ petitioner that though the applicant/petitioner was a resident of village Katajhar, police station-Sorbhog in the district of Barpeta and the order dated 30.09.2022 in F.T. Case No.(Bpt/11th) 2535/2017 was passed by the learned Foreigners Tribunal No.11th, Barpeta, but however, the records of the Tribunal's case have now been transferred to Superintendent of Police (Border), Baksa in view of the Baksa district being subsequently carved out of Barpeta.

5. The learned counsel for the applicant/petitioner submits that although he has approached the Superintendent of Police (Border), Baksa for furnishing the bail bond, the same was not accepted in view of the fact that there was no direction issued to the Superintendent of Police (Border), Baksa in the order dated 01.02.2023 passed in WP(C) No.403/2023.

6. The learned counsel for the applicant/petitioner fairly submits that he was

not aware at the time of filing the writ petition that the records have been transferred to the Superintendent of Police (Border), Baksa and consequently he did not array the Superintendent of Police (Border), Baksa as a necessary party in the writ petition.

7. By the present interlocutory application, the prayers made by the applicant/writ petitioner are to permit the applicant/writ petitioner to make necessary correction in the cause title of WP(C) No.403/2023 in respect of Superintendent of Police (Border), Barpeta to be reflected as Superintendent of Police (Border), Baksa as well as the Deputy Commissioner, Barpeta to be reflected as Deputy Commissioner, Baksa. The further prayer of the applicant is to grant him further time to comply with the order dated 01.02.2023 and to appear before the Superintendent of Police (Border), Baksa and furnish necessary bail bond permitting the applicant/petitioner to remain on bail during the pendency of the writ petition being WP(C) No.403/2023.

8. The learned counsel for the respondents do not object to the prayers being made.

9. Accordingly, having perused the grounds urged in the interlocutory application and upon consideration of the submissions made by the learned counsel for the applicant, this interlocutory application stands disposed of permitting the applicant/writ petitioner to make necessary corrections in the cause title of WP(C) No.403/2023 and substitute the Deputy Commissioner, Barpeta as Deputy Commissioner, Baksa and the Superintendent of Police (Border), Barpeta as Superintendent of Police (Border), Baksa.

10. The applicant/writ petitioner will file an amended cause title by 30.09.2024 before the Registry.

11. Further, we extend the period granted and permit the applicant/petitioner to appear before the Superintendent of Police (Border), Baksa by 03.10.2024 pursuant to the order dated 01.02.2023 passed in WP(C) No.403/2023. Upon appearance before the Superintendent of Police (Border), Baksa in terms of the order passed today in IA(Civil) No.2910/2024, the applicant/petitioner will furnish a bail bond of Rs.5000/- with one local surety of like amount to the satisfaction of the said authority and be permitted to remain on bail during the pendency of WP(C) No.403/2023. All other directions contained in the order dated 01.02.2023 passed in WP(C) No.403/2023 will remain same.

12. This order passed today in IA(Civil) 2910/2024 shall be read together with the order dated 01.02.2023 passed in WP(C) No.403/2023.

13. The petitioner will produce a certified copy of the order dated 01.02.2023 passed in WP(C) No.403/2023 along with a certified copy of this order passed today in IA(Civil) No.2910/2024 before the Superintendent of Police (Border), Baksa at the time of furnishing bail bond.

14. The interlocutory application accordingly allowed and disposed off.

JUDGE

JUDGE

Comparing Assistant