

GAHC010194082024



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

Case No. : I.A.(Civil)/2943/2024

MIR HAMZA @ AMIR HUSSAIN AND 4 ORS
S/O MD. ABUL HUSSAIN, R/O NO. 1 NARAMARI, P.O. BANGALDHARA, P.S.-
DHARAMTUL, DIST. MORIGAON, ASSAM

2: AMIR HAMZA
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

3: NURUL AMIN @ NURUL ALI
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

4: RUHUL AMIN
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

5: RAFIQUUL ISLAM
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSA

VERSUS

THE UNION OF INDIA AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF HOME AFFAIRS
DISPUR
GUWAHATI-06

3:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSA

Advocate for the Petitioner : MD. S HUDA, MR. N HOQUE,MR. A R SIKDAR

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

Linked Case : WA/49/2020

MD ABUL HUSSAIN and 6 ORS
S/O LT. TAJUMUDDIN DEWAN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

2: AMIRJAN NESSA
W/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

3: MIR HAMZA @ AMIR HUSSAIN
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON

ASSAM

4: AMIR HAMZA
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

5: NURUL AMIN @ NURUL ALI
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

6: RUHUL AMIN
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM

7: RAFIQUUL ISLAM
S/O MD. ABUL HUSSAIN
R/O NO. 1 NARAMARI
P.O. BANGALDHARA
DIST. MORIGAON
ASSAM
VERSUS

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MINISTRY OF HOME AFFAIRS
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3:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON

ASSAM

Advocate for : S HUDA

Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA and 2 ORS

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

01.10.2024

(S. SAIKIA,J)

Heard Mr. A.R. Sikdar, learned counsel for the applicants. Also heard Mr. CKS Baruah, learned CGC for the respondent No. 1; Mr. P. Sharma, learned Addl. Senior Government Advocate, Assam for the respondent No. 2 and Mr. G. Sharma, learned Standing Counsel, FT for the respondent No. 3.

2. This interlocutory application has been filed praying for extension of time to comply with the directions of this Court passed by the order dated 20.08.2024 in W.A. No. 49/2020.

3. By the said order dated 20.08.2024, the writ appal was closed directing that the order passed by the Tribunal dated 01.02.2010 in FT(C) No. 324/2006 as well as the order passed by the learned Single Judge vide order dated 11.09.2015 passed in W.P. (C) No. 2128/2010 will not operate against the appellants No. 3 to 7 till the enquiry as directed is made by the State authorities and in the event they called upon to appear before any competent Tribunal pursuant to any reference made by the State authority, the applicants will be at liberty to file their representations and place all evidences as

felt necessary in support of their defence. It was held that the findings of the Foreigners Tribunal (1st), Morigaon against the family members will not operate as a bar to discharge their burden under Section 9 of the Foreigners Act, 1946 in the event the State decides to make any reference against them. This Court further directed that the benefit of this order will accrue to the appellants No. 3 to 7 only, if they appear before the Superintendent of Police (Border), Morigaon within a period of 15 (fifteen) days from the date of the order and upon their appearance before the Superintendent of Police (Border), Morigaon, the biometrics of iris of the both eyes, the fingerprints of both hands and the photographs will be recorded including necessary information and documentation as required under the Rules for securing their presence whenever necessary.

4. The learned counsel appearing for the applicants submits that the appellants No. 3 to 7 in the W.A. No. 49/2020 which was disposed of by order dated 20.08.2024. The learned counsel for the applicants submits that because of failure to be communicated in due time about the order dated 20.08.2024, the applicants could not appear before the Superintendent of Police (Border), Morigaon within the time frame prescribed in the order dated 20.08.2024. It is submitted that because of failure to be informed about the order due to failure of phone connection, there was a delay of 11 days. The learned counsel for the applicants submits that under these circumstances, the present interlocutory application has been filed praying for extension of further time.

5. The learned counsels for the respondents do not object to the prayer made.

6. Having heard the learned counsels for the parties and upon careful perusal of the interlocutory application along with the enclosures, this Court is of the view that the interlocutory application can be disposed of as under:

The applicants are directed to appear before the Superintendent of Police (Border), Morigaon in terms of the order dated 20.08.2024 passed in W.A. No. 49/2020 by 14.10.2024.

The other conditions contained in the order dated 20.08.2024 more particularly the conditions in paragraph No. 22 will remain the same.

7. This order shall be read together along with the order dated 20.08.2024 passed in W.A. No. 49/2020.

8. The interlocutory application accordingly stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant