

GAHC010215182024



AS:11725-DB

2024:GAU-

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

Case No. : MC/79/2024

ABUL @ ABDUL HUSSAIN
S/O- LATE FAIZUDDIN, VILL- KANUAMARI, P.S- SAMAGURI, DIST-
NAGAON, ASSAM, PIN- 782001

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI- 6

3:THE DEPUTY COMMISSIONER
NAGAON
DIST- NAGAON
ASSAM
PIN- 782001

4:THE SUPERINTENDENT OF POLICE(B)
NAGAON
ASSAM
PIN- 782001

5:THE STATE COORDINATOR
NRC
BHANGAGARH
GHY- 05

6:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 0

Advocate for the Petitioner : MR J ISLAM,

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27.11.2024
(K.R. Surana, J)

Heard Mr. J. Islam, learned counsel for the petitioner. Also heard Mr. G. Sarma, learned standing counsel for the FT matters, representing respondent nos. 2, 4 and 6, Mr. P. Sarma, learned Addl. Govt. advocate appearing for respondent no.3 and Mr. H. Kuli, learned counsel appearing on behalf of Mr. A.I. Ali, learned standing counsel for the respondent no.5.

2. The prayer in this misc. case is for restoration of WP(C) 4864/2018, which was dismissed for non-prosecution by order dated 12.06.2024. The explanation for the default in appearance of the learned counsel on 12.06.2024 is that he had gone to the washroom and by the time he came back, the matter was dismissed for non-prosecution. It is further projected that he was unwell then and thereafter, he left the Court.

3. The learned standing counsel for the FT matters, has opposed this application.

4. The explanation is totally unacceptable as it has never happened that even

after passing of an oral order of dismissal of a matter, if the learned counsel for the petitioner immediately thereafter comes and gives an explanation for his/her non-appearance that the matter was not restored to file, save and except in those cases where the order has been signed and uploaded. Moreover, there is absolutely no explanation as to why the petitioner remained unrepresented when the writ petition was previously listed on 07.06.2024.

5. The conduct of the learned counsel for the petitioner in non-appearance when the matter is called is required to be deprecated. It is only for the reason that the issue of citizenship is in challenge in the connected writ petition, that being a valuable right, we are inclined to restore the writ petition to file. However, at the same time, we are inclined to impose a cost of Rs.1,000/- (Rupees one thousand only) on the learned counsel for the petitioner to be recovered from him and not from the petitioner and to be deposited with the Advocate Benevolent fund of the Gauhati High Court Bar Association.

6. The said payment shall be made within 2(two) weeks from the date of the order and receipt of such deposit shall be produced when the connected writ petition is next taken up. The restoration is ordered subject to payment of cost and therefore, non-payment thereof may result in revoking and/ or recalling of this order on the next date of listing of the connected writ petition.

7. Subject to the condition of payment of cost as indicated above, this misc. case stands allowed despite objection made by the learned standing counsel for the FT matters.

JUDGE

JUDGE

Comparing Assistant