

GAHC010237162023



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

Case No. : I.A.(Civil)/3181/2023
in
WP(C)/2890/2023

SURJYA BHANU,
D/O- LATE BADSAH ALI, W/O- KUDDUSH ALI, VILL- SANTOSH PUR PT-III,
P.S. MERERCHAR, DIST.- BONGAIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE 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-06

3:THE DEPUTY COMMISSIONER
BONGAIGAON
DIST.- BONGAIGAON
ASSAM
PIN- 783380

4:THE SUPERINTENDENT OF POLICE (B)
BONGAIGAON
ASSAM
PIN- 783380

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI
110001

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BHANGAGARH
PIN- 78103

Advocate for the Petitioner : MR. A M AHMED

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

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

16.02.2024

(M.R. Pathak, J.)

Heard Mr. M. Ali, learned counsel for the applicant / writ petitioner. Also heard Mr. A. Kalita, learned Standing counsel, Home Department for the opposite party Nos. 2 and 4; Mr. P. Sarma, learned Additional Senior Government Advocate, Assam for the opposite party No. 3 and Mr. H. Kuli, learned counsel appearing on behalf of Mr. A.I. Ali, learned Standing counsel, ECI for the opposite party No. 5.

2. Earlier the applicant / writ petitioner had preferred the connected WP(C)/2890/2023 challenging the opinion dated 23.12.2023 passed by the Foreigners Tribunal Bongaigaon No. 2 Abhayapuri in BNGN/ FT-2/ APR/ Case No. 847/2017 wherein the petitioner was declared to be a foreigner of post 25.03.1971 stream under the Foreigners Act, 1946.

3. By an order dated 20.07.2023, a Coordinate Bench of this Court disposed of the said WP(C)/2890/2023 remanding back the said FT Case No. BNGN/FT-2/APR/Case No. 847/2017 directing the Tribunal concerned to examine the Voter Lists of 1966, 1970, 1977, 1985, 1997 and 2008 of village Sontoshpur Pt.III and

to decide the nationality of the petitioner afresh.

4. Thereafter, the petitioner by filing an interlocutory application being IA(C)/2359/2023 in the said WP(C)/2359/2023 prayed for correction in paragraph 6 of said order dated 20.07.2023, passed in WP(C)/2890/2023 stating that the Voter List of 1977 pertaining to village Sontoshpur in the district of Bongaigaon is not available.

5. The Court by an order dated 14.08.2023 disposed of said IA(C)/2359/2023 with the observation that in paragraph 6 of the order dated 20.07.2023 passed in WP(C)/2890/2023 instead of Voter List of 1977 it shall be read as 1979 with further observation that the present applicant shall appear before the Tribunal on 30.08.2023.

6. The applicant immediately applied for the certified copy of the said order on 21.08.2023, noted above and on obtaining the same on 21.08.2023 itself, she thereafter applied for the certified copy of Voter List of 1979 pertaining to the village Sontoshpur of Bongaigaon district which she received on 05.09.2023.

7. Since the petitioner could obtain the certified certificate of the Voter List of 1979 of village Sontoshpur only on 05.09.2023, and as in the meanwhile extended the date of her appearance in said FT Case No. BNGN/FT-2/APR/Case No. 847/2017 on 30.08.2023 had already expired in terms of the order dated 14.08.2023, noted above, the applicant has filed this application for extension of time for her appearance before the Foreigners Tribunal Bongaigaon No. 2, Abhayapuri in said BNGN/FT-2/APR/ Case No. 847/2017.

8. Heard the learned counsels for the parties.

9. We found that the applicant / writ petitioner after obtaining of the certified

copy of this order on 14.08.2023 and on 21.08.2023, applied for the certified copy of the Voter List of 1979, which she obtained only on 05.09.2023 and as such she could not appear before the learned Tribunal concerned within the extended date as directed earlier by the Court on 14.08.2023.

10. Considering the entire aspect of the matter, we hereby modify the earlier order dated 20.07.2023 passed in WP(C)/2890/2023 as well as the order dated 14.08.2023 passed in IA(C)/2359/2023 extending the time to the applicant / writ petitioner to appear before the learned Foreigners Tribunal Bongaigaon No. 2 Abhayapuri in BNGN/FT-2/APR/Case No. 847/2017 **by 04.03.2024** along with a certified copy of this order.

11. It is also observed that this order shall not be considered as a precedent as it has been passed only on the facts and circumstances of the present case stated above.

12. This order shall be read together with the order dated 20.07.2023 passed in WP(C)/2890/2023 and the order dated 14.08.2023 passed in IA(C)/2359/2023.

13. With the above observations and directions, this application stands disposed of.

JUDGE

JUDGE

Comparing Assistant