

GAHC010270132023



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

Case No. : I.A.(Civil)/3558/2023
in
WP(C) 6638/2022

JARINA KHATUN,
D/O- ENNAS ALI,
W/O- MOZIBAR RAHMAN,
VILL- ALENGAMARI,
P.S- GOBARDHANA, DIST- BAKSA (BTAD), ASSAM,
PIN-781316

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, DEPARTMENT OF
HOME AFFAIRS, NEW DELHI- 110001.

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

3: THE DEPUTY COMMISSIONER
BAKSA (BTAD)
ASSAM
PIN-781343

4: THE SUPERINTENDENT OF POLICE (B)
BAKSA (BTAD)
ASSAM
PIN-781343

5: THE ELECTION COMMISSION
GOVT. OF INDIA
NEW DELHI-01

6:THE STATE COORDINATOR
OF NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-32

7:FOREIGNERS TRIBUNAL
NO- 11TH
BARPETA
REP. BY THE STANDING COUNSEL
FOREIGNERS TRIBUNAL
PIN-78130

Advocate for the Petitioner : MR. A ROSHID

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

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

09-01-2024

(M.R.Pathak, J)

Heard Mr. A. Roshid, learned counsel for the applicant and Mr. G. Sarma, learned Standing Counsel, Home Department, Assam for the opposite party Nos. 2 and 4. Also heard Mr. P. Sharma, learned Additional Senior Government Advocate, Assam for the opposite party No.3.

2) In a reference being made by the Superintendent of Police (Border), Barpeta, the learned Member, Foreigners' Tribunal 11th, Barpeta at Sorbhog by the impugned judgment dated 21.02.2022, passed in Case No. (Bpt/11th) F.T. 652/2017, opined the petitioner to be a foreigner under the Foreigners Act, 1946, who had illegally entered into the territory of India

(Assam) from the specified territory of Bangladesh on or after 25.03.1971.

3) Dissatisfied with the said impugned judgment dated 21.02.2022, passed by the learned Member, Foreigners' Tribunal 11th, Barpeta at Sorbhog, noted above, the applicant as petitioner filed the connected WP(C) No. 6638/2022, wherein, the Court by order dated 21.10.2022, while issuing notice to the respondents, in the interim, directed the petitioner i.e., the present applicant to appear before the Superintendent of Police (Border), Barpeta on or before 15.11.2022.

4) However, it is submitted by Mr. Roshid, learned counsel for the applicant/petitioner that when the applicant appeared before the SP(Border), Barpeta, pursuant to the order dated 21.10.2022, passed in said WP(C) No. 6638/2022, the concerned SP(Border) did not consider her bail application as the jurisdiction after bifurcation of Barpeta district lies with the SP(Border), Baksa. Thereafter, the applicant appeared before the SP(Border), Baksa for her bail in terms of the order dated 21.10.2022, but the same was not considered by the SP(Border), Baksa, since the applicant was directed to appear before the concerned SP(Border), Barpeta on or before 15.11.2022 and the time period had already elapsed.

5) Hence, this application by the applicant, i.e., the petitioner of connected WP(C) No. 6638/2022 praying for a direction to allow her to appear before the SP(Border), Baksa, BTAD, pursuant to the order dated 21.10.2022 passed earlier in the connected WP(C) No. 6638/2022 by extending the time period for execution of her bail.

6) Pursuant to the order dated 21.10.2022 passed in the connected WP(C) No. 6638/2022, wherein, the records of Case No. (Bpt/11th) F.T. 652/2017 was called for have already been received and on perusal of the records, it is seen that village of the applicant/petitioner Alengamari under Police Station and Mouza – Gobardhana of erstwhile District – Barpeta is now under the district of Baksa, BTAD as the same is reflected in the verification and affidavit filed by the applicant before the concerned Foreigners' Tribunal.

7) Considering the above, the applicant/petitioner namely, **Jarina Khatun** is directed to appear before the Superintendent of Police (Border), Baksa, BTAD **on or before 25.01.2024** in compliance of the order dated 21.10.2022, passed earlier in the connected WP(C) No. 6638/2022.

8) However, it is made clear that the remaining conditions specified in the order dated 22.10.2022, passed earlier in the connected WP(C) No. 6638/2022 shall remain intact/unchanged.

9) To that extent, this Interlocutory Application stands allowed.

JUDGE

JUDGE

Comparing Assistant