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DB

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

Case No. : WP(C)/6075/2021

SANDHYA PAUL
D/O. LT. TOFAN CHANDRA DEY @ AMAR CH. DEY, W/O. SAMBHU PAUL,
VILL. DHEKIPELOWA KACHARI, P.S. MISSAMARI, DIST. SONITPUR,
ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY, HOME AFFAIRS, NEW DELHI, DELHI-01.

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSION OF INDIA

NE DELHI-01.

4:THE SPECIAL COUNSEL FOR NRC

GOVT. OF ASSAM
GUWAHATI-01.

5:THE SPECIAL COUNSEL OF FOREIGNER/S TRIBUNAL

GOVT. OF ASSAM
GUWAHATI-01.

6:THE SUPDT. OF POLICE

BORDER
SONTIPUR
ASSAM.

7:THE DEPUTY COMMISSIONER

DIST. SONITPUR
ASSAM
PIN-784001

Advocate for the Petitioner : MR S C DAS, MR P BURAGOHAIN

Advocate for the Respondent : ASSTT.S.G.I., SC, F.T,SC, ECI,SC, NRC

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MRS. JUSTICE SHAMIMA JAHAN

O R D E R

19.06.2026

(K.R. Surana, J)

Heard Mr. S.C. Das, learned counsel for the petitioner. Also heard Mr. B. Deka, learned CGC; Ms. A. Verma, learned standing counsel for the FT & Border matters; Mr. A.I. Ali, learned standing counsel for the ECI; and Mr. P. Sarmah, learned Addl. Senior Govt. Advocate for the State respondent.

2. In brief, the case of the petitioner is that by an impugned *ex-parte* opinion dated 24.05.2016 passed by the learned Member, Foreigners' Tribunal, Tezpur 1st, Sonitpur, Assam, in F.T. Case No. 830/2012, corresponding to S.P.(B) Case No. 675/2010, the petitioner was declared to be a foreigner post 25.03.1971. On coming to know about the said *ex-parte* opinion, the petitioner

had filed an interlocutory application for setting aside of the *ex-parte* opinion. However, the said prayer was rejected by the said learned Tribunal vide order dated 03.10.2016 passed in Miscellaneous Case No.6/2016, arising out of F.T. Case No. 830/2012, corresponding to S.P. (B) Case No. 675/2010.

3. Aggrieved by the *ex-parte* opinion as well as rejection of the prayer to set aside the ex-parte opinion, the petitioner had approached this Court and this Court vide order dated 18.12.2017 passed in WP(C) 168/2017 interfered with the said *ex-parte* opinion and allowed the petitioner an opportunity to contest the proceedings and the matter was remanded back to the said learned Tribunal.

4. During the pendency of the proceedings of F.T. Case No. 830 of 2012, a new Tribunal was constituted at Thelamara being F.T. (8th), Tezpur, Thelamara. Accordingly, on remand of the matter, the learned Member, foreigners Tribunal, Tezpur 1st, Assam, vide order dated 18.05.2018, took note of the fact that the jurisdictional Tribunal would now be F.T. (8th) Tezpur, Thelamara and accordingly, vide order dated 18.05.2018, the said proceeding was sent to the jurisdictional Tribunal. The matter was again taken up by the learned Member, Foreigners Tribunal, Tezpur 1st, Assam, on 16.03.2021. The said learned Tribunal, having taken note of the fact that this Court vide an order dated 18.12.2017, passed in W.P.(C) 168/2017, had remanded the matter back to the said learned Tribunal, the learned Member, Foreigners Tribunal, Tezpur 1st, Assam was of the view that since the High Court had sent the matter back to the Tribunal, the proceedings should be continued before the same learned Tribunal.

5. On 19.10.2021, the petitioner filed an application before the learned

Member, Foreigners Tribunal 1st, Tezpur for sending the records to the jurisdictional Tribunal, i.e., Foreigners Tribunal (8th), Thelamara. However, the learned Member, Foreigners Tribunal Tezpur 1st, Assam vide an order dated 19.10.2021, rejected the said prayer on the ground that the High Court had returned the matter to the said learned Tribunal.

6. This Court vide order dated 17.11.2021, sought for instructions from the learned Special Counsel for the F.T. matters and in the meantime, the proceedings of F.T. Case No. 830/2012 were stayed. The matter was listed on a couple of occasions. However, pursuant to order dated 17.06.2026, the learned Standing Counsel for the Border and F.T. matters has obtained instructions to the effect that the Foreigners Tribunal having jurisdiction over residence of Missamari Police Station and certain other locations have been now set up in the year 2015, which is Foreigners Tribunal (8th) at Tezpur, Thelamara. Accordingly, it is submitted that there is no dispute that for the petitioner, the Judicial Tribunal would be Foreigners Tribunal (8th) at Tezpur, Thelamara.

7. Therefore, in the considered opinion of this Court, at the time when the order dated 18.12.2017 was passed in WP(C) 168 of 2017, it was not brought to the notice of this Court that the Foreigners Tribunal has been set up at Thelamara, having jurisdiction over the place of residence of the petitioner. Therefore, this is not a case where the Court is exercising any jurisdiction to transfer the proceedings from one Tribunal to the other. Rather, this is a case where the jurisdictional Tribunal has been set up in respect of the place of residence of the petitioner, which was and continues to be at Dhekipellowa Kachari under Missamari Police Station for which area F.T. Foreigners Tribunal (8th) at Tezpur, Thelamara, has been constituted.

8. As a Foreigners Tribunal has been set up having jurisdiction over the place of residence of the petitioner, this Court in exercise of power under Article 226 of the Constitution of India, is hereby inclined to direct that the proceedings of F.T. Case No.830/2012, arising out of S.P.(B) Case No.675/2010, would now proceed before the jurisdictional Foreigners Tribunal, i.e., Foreigners Tribunal (8th) at Tezpur, Thelamara.

9. It is clarified that this order shall not be construed to be an order modifying the order dated 18.12.2017 passed in W.P.(C) 168/2017. However, as the jurisdictional Tribunal has been set up, it would be appropriate to direct the proceedings to be taken up before the jurisdictional Tribunal.

10. Accordingly, the petition is allowed to the extend as indicated above.

11. On the production of a certified copy of the order, the learned Member, Foreigners Tribunal, Tezpur (1st), Assam, shall send the records of F.T. Case No.830/2012 to the Foreigners Tribunal (8th) at Tezpur, Thelamara, by fixing a date of appearance of the petitioner before the said learned Tribunal.

12. Accordingly, the petitioner is directed to appear before the learned Member of Foreigners Tribunal, Tezpur (1st), Assam on 15.07.2026, and to produce a certified copy of this order, whereupon, the said learned Tribunal shall send the records of F.T. Case No.830/2012 to the Jurisdictional Tribunal, i.e. Foreigners Tribunal (8th) at Tezpur, Thelamara, after fixing a date for appearance of the petitioner before the learned transferee Tribunal.

13. The learned Standing Counsel for the (Border) and F.T. matters, shall sent a downloaded copy of the order to the Superintendent of Police (Border), Sonitpur, Tezpur, to bring out the order to the notice of the said authorities, so

that the matter can be followed up before the jurisdictional Tribunal.

14. This writ petition allowed as indicated above.

15. No order as to cost(s).

JUDGE **JUDGE**

Comparing Assistant