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

Case No. : WP(C)/6290/2022

MUSSTT RUMENA KHATUN
D/O- NABI HUSSAIN @ NABI,
W/O- AZIZUR RAHMAN,
VILL- ALISINGA URIAMGURI,
P.O AND P.S- TEZPUR, DIST- SONITPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
REP. BY THE ASSISTANT SOLICITOR GENERAL OF INDIA

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

3:THE SUPERINTENDENT OF POLICE (B)
CACHAR
SILCHAR
ASSAM
PIN-788001

4:THE DEPUTY COMMISSIONER
AND DISTRICT ELECTION OFFICER
SONITPUR ASSAM
PIN-788001

5:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS

ASSAM

ACHYUT PLAZA
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

6:THE ELECTION COMMISSION OF INDIA
TO BE REP. BY DISTRICT ELECTION OFFICER
SONITPUR
ASSA

Advocate for the Petitioner : MR M J QUADIR, MR. F RAHMAN,MR. K MIRA

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

24.08.2026

(K.R. Surana, J)

Heard Mr. A. K. Hannan, learned counsel for the petitioner. Also heard Mr. S. K. Medhi, learned CGC; Mr. A. I. Ali, learned standing counsel for the ECI, Mr. G. Sarma, learned standing counsel for the FT & Border Matters and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for the State.

2. The case of the petitioner is that by an opinion dated 22.10.2019, the

petitioner namely, Musstt. Rumena Khatun was declared to be a foreigner by the learned Member, Foreigners Tribunal-1st, Tezpur, Sonitpur, passed in F.T. Case No. 83/2017, arising out of Police Enquiry No. 215/2017. The petitioner had assailed the said opinion dated 22.10.2019, by filing WP(C)/1864/2020 and this Court by judgment and order dated 19.12.2024, allowed the writ petition and the matter was remanded back to the said learned Tribunal for a fresh decision. The petitioner was directed to appear before the said learned Tribunal by 10.01.2025.

3. The petitioner is in receipt of another summons from the learned Member, Foreigners Tribunal-1st, Tezpur, Sonitpur, in connection with F.T. Case No. (D)/8005/12, arising out of SP (Border)'s Reference No. TZP(B)/06/1293 dated 14.06.2006, alleging that the petitioner is a foreigner/illegal migrant, requiring the petitioner to submit written statement.

4. On the ground that the principles of *res judicata* applies in the proceedings before the Foreigners Tribunal, the learned counsel for the petitioner relies on the case of *Abdul Kuddus Vs. Union of India & Ors., Civil Appeal No. 5012/2019*, decided by the Supreme Court of India on 17.05.2019.

5. As it is trite that the principles of *res judicata* would apply in the proceedings before the Foreigners Tribunals, as decided by the Supreme Court of India in the case of *Abdul Kuddus (supra),* the Court is of the considered opinion that the said learned Member, Foreigners Tribunal-1st, Tezpur, Sonitpur, be directed to examine as to whether the identity of the petitioner is same as the proceedee before the said learned Foreigners Tribunal-1st, Tezpur, Sonitpur, in connection with F.T. Case No. 83/17, arising out of Police Enquiry No. 215/2017, which was remanded back to the said learned Tribunal by virtue of

the judgment and order dated 19.12.2024 passed by this Court in W.P. (C)/1864/2020.

6. In this regard, as the records of both the cases appear to be lying before the same learned Tribunal being the Foreigners Tribunal-1st, Tezpur, Sonitpur, the said learned Tribunal shall first decide whether the proceedee in both the cases are one and same, if necessary, by directing the Superintendent of Police (Border), Sonitpur, Tezpur, to assist the said learned Tribunal in the matter.

7. It is provided that in the event, the identity of the petitioner is found to be one and same as that of the proceedee in F.T. Case No. 83/2017 arising out of Police Enquiry No. 215/17, the said learned Tribunal shall apply the principles of *res judicata* as per the law laid down in the Supreme Court of India by the case of *Abdul Kuddus (supra).*

8. However, it is made clear that in the event, the identity of the petitioner is found to be different from the identity of the proceedee in F.T. Case No. 83/17, there would be no impediment for the said learned Tribunal to proceed to answer the reference in accordance with law.

9. Before parting with the records, it is made clear that the Court has not entered into the merit of the proceedings of both the cases.

10. The writ petition stands allowed to the extent as indicated above.

11. The petitioner, namely, Musstt. Rumena Khatun, who is duly represented by a learned counsel, is directed to appear before the learned Member, Foreigners Tribunal-1st, Tezpur, Sonitpur on or before 28.09.2026, and by producing a certified copy of the order and await for further orders to be passed by the said learned Tribunal.

12. The learned standing counsel for the FT & Border matters shall transmit a downloaded copy of this order to the Superintendent of Police (Border), Tezpur, Sonitpur, to bring the order to the notice of the said authority.

13. The writ petition stands allowed to the extent as indicated above.

JUDGE **JUDGE**

Comparing Assistant