GAHC010295652019

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

Case No. : WP(C)/8968/2019

RIYAZ UDDIN
S/O- LT. BAREK ALI, VILL. PAKHIURA NC, P.S. PANCHARATNA, DIST. GOALPARA, PIN- 783101.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, DEPTT. OF HOME, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GHY.-6.

3:THE DY. COMMISSIONER
GOALPARA
PIN- 783101.

4:THE SUPDT. OF POLICE (B)
GOALPARA
PIN- 783101.

5:THE ELECTION COMMISSION
GOVT. OF INDIA
NEW DELHI-1.

6:THE STATE CO-ORDINATOR OF NATIONAL REGISTRATION (NRC)
ASSAM
GHY.-32.

7:THE FOREIGNERS TRIBUNAL NO. 1
GOALPARA
REP. BY THE STANDING COUNSEL
FOREIGNERS TRIBUNAL
PIN- 783101

Advocate for the Petitioner : MR. A ROSHID, MS. M R DEVI,MS. T BEGUM

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

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
HONOURABLE MR. JUSTICE PRANJAL DAS

Advocate for the petitioner	: Shri. A. Roshid
Advocate for the respondent No.1	: Shri. H.K Baishya, CGC
Advocate for respondent No. 2, 4, 6 & 7	: Ms. A. Verma, SC
Advocate for the Respondent No.5	: Shri. N. Kalita, SC, ECI
Advocate for the respondent No.4	: Shri. P. Sarma, Govt. Adv.

Date on which judgment is reserved	: No
Date of pronouncement of judgment	: **12.08.2026**
Whether the pronouncement is of the operative part of the judgment ?	: No.
Whether the full judgment has been pronounced?	: Yes

JUDGMENT & ORDER (ORAL)

Date : 12-08-2026
(*S.K Medhi, J*)

The instant application under Article 226 of the Constitution of India has been instituted putting to challenge an opinion dated 03.01.2012 passed by the learned Foreigners Tribunal No. 1, Goalpara in Foreigners Case No. F.T 1928/G/08, whereby the petitioner has been declared a foreigner post-1971 stream.

2. We have heard Shri. A. Roshid, learned counsel for the petitioner. We have also heard Ms. A.

Verma, learned Standing Counsel, Home & NRC for the respondent No. 2, 4, 6 & 7, Shri. N. Kalita learned Standing counsel, ECI for the respondent No. 5, Shri. P. Sharma, learned State Counsel for the respondent No. 4 and Shri. H.K Biashya, learned CGC for the respondent No. 1.

3. This Court, by order dated 12.05.2020, had called for the records and had also granted an interim protection. The records have also been perused.

4. Shri. Roshid, the learned counsel, has submitted that after receipt of notice from the learned Tribunal, the petitioner had appeared and filed a written statement. However, thereafter, there has been some miscommunication and no further steps, including the aspect of filing of evidence on affidavit, could be taken. The matter was accordingly taken up by the learned Tribunal, which culminated in the impugned opinion dated 03.01.2012, as mentioned above.

5. The learned counsel has also contended that subsequently, he came to know from the local Gaonburah about the order and thereafter has filed the present petition, in which sufficient time of about seven years had elapsed. He has also submitted that this Court, vide the above-referred order dated 12.05.2020, has granted him bail.

6. By relying upon the recent judgment of the Hon'ble Supreme Court in the case of **Sabitri Dey @ Swasthi Dey** -versus- **Union of Indi**a, reported in **2026 INSC 694**, the learned counsel has submitted that the interest of justice would require remanding the matter to give another opportunity to the petitioner to contest the reference.

7. Ms. Verma, the learned Standing Counsel, has however, submitted that the negligence and laches on the part of the petitioner stand manifested by the apparent delay in instituting the present writ petition, which was done after almost seven years from the date of the impugned opinion. She has also highlighted that it is not a case where the petitioner was not aware of the proceeding in the Tribunal and had rather appeared and filed a written statement, where after he had abandoned the proceedings at his own volition. She has accordingly submitted that the petitioner may not be entitled to any equitable relief from this Court.

8. The learned counsel for the rest of the respondents have endorsed the submissions advanced by Ms. Verma and have prayed for dismissal of the writ petition.

9. From the materials on record and after hearing the parties, it is apparent that the petitioner had indeed received notice from the learned Tribunal and had also appeared and filed a written statement. However, there is nothing on record to show that the petitioner had good reasons not to appear, leading

to the passing of the impugned opinion on 03.01.2012.

10. Apparently, we do not find any fault in the approach of the learned Tribunal, as all proceedings are required to be completed within a time frame as provided in Order 3(14) of the Foreigners (Tribunals) Order, 1964. We have also seen that the learned Tribunal had taken note of the fact that no steps were taken by the petitioner after filing of the written statement, and therefore, the burden cast upon the petitioner under Section 9 of the Foreigners Act was not discharged.

11. At the same time, the Hon'ble Supreme Court in the recent case of Sabitri Dey (supra), by taking into consideration the interest of justice, has observed that a fair opportunity is required to be given to a person facing a proceeding wherein his or her citizenship is in doubt.

12. Considering the above and by balancing the equities, we are of the opinion that the interest of justice would be served if another opportunity is granted to the petitioner.

13. We accordingly remand the matter to the learned Tribunal by fixing a date for appearance and filing of all the evidence on affidavit by the petitioner in support of his case. Let such date be fixed on **09.09.2026**.

14. On such appearance and filing of the evidence on affidavit of all the witnesses for the petitioner, the learned Tribunal would take charge of the proceedings and proceed with the matter. The learned Tribunal would also take steps for expeditious disposal of the matter in terms of Order 3(14) of the Order of 1964, as mentioned above.

15. It is, however, made clear that if the petitioner does not abide by the aforesaid condition of appearance and filing of the evidence on affidavit on the date fixed, the impugned opinion dated 03.01.2012 shall become effective.

16. Send back the records forthwith.

JUDGE **JUDGE**

Comparing Assistant