GAHC010009672017

2026:GAU-AS:16520-DB

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

Case No. : WP(C)/89/2017

AZMIRA BIBI @ AZMIRA KHATUN
W/O. SOHIDUR RAHMAN, D/O. AMZAD ALI, VILL. CHITAGURI, P.O. MAKRITHORA, P.S. GAURIPUR, DIST. DHUBRI, ASSAM.

VERSUS

UNION OF INDIA and 4 ORS.
REP. BY THE SECRETARY OF MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-1.

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

3:THE DEPUTY COMMISSIONER
DHUBRI

DIST. DHUBRI
ASSAM.

4:THE SUPERINTENDENT OF POLICE B DHUBRI

DIST. DHUBRI
ASSAM.

5:THE OFFICER-IN-CHARGE
GURIPUR POLICE STATION

DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR.M R Z CHOUDHURY, MS.S KAKATI,MD.H BHUYAN,MS.J BEGUM,MS.J H CHOUDHURY,MS.S BEGUM

Advocate for the Respondent : , ASSTT.S.G.I.,GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE PRANJAL DAS

Advocate for the petitioner : Md. H. Bhuyan.
Advocate for the respondents : Mr. S. Chakraborty, CGC,
: Mr. A.I .Ali, SC, ECI
: Mr. J. Payeng, SC, FT,
Border matters and NRC.
: Mr. P. Sarmah, Addl. Sr. G.A.

Date on which judgment is reserved : 21.07.2026

Date of pronouncement of judgment : 11.11.2026

Whether the pronouncement is of the operative part of the judgment? : No.

Whether the full judgment has been Pronounced? : Yes.

JUDGMENT AND ORDER

(*CAV*)

(K.R. Surana, J)

Heard Md. H. Bhuyan, learned counsel for the petitioner. Also heard Mr. S. Chakraborty, learned CGC; Mr. A.I. Ali, learned standing counsel for the ECI; Mr. J. Payeng, learned standing counsel for the FT matters and NRC;

and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Azmira Bibi @ Azmira Khatun has assailed the impugned opinion dated 14.09.2016, passed by the learned Member, Foreigners' Tribunal, 6th Dhubri at Bilasipara, in FT. Case No 6th, Dhubri 1-272/2016, arising out of Ref No.1509/D/07 and Tr. No.781/BLP/11, by which the petitioner was declared as an illegal migrant.

3. On receipt of notice, the petitioner had entered appearance and filed her written statement denying that she is a foreigner or illegal migrant and claimed to be an indigenous citizen of Assam by birth. The petitioner claimed that her father is Amzat Ali @ Amzat Ali Shekh and her grandfather is Noimuddin @ Noimuddin Shekh. She claims to born and brought up at vill-Chataguri Pt-II under Bagribari P.S, in the district of Dhubri (now Kokrajhar). She claims that the name of her grandfather was enrolled in the voter's list of 1961 and name of her grandparents were entered in the voter's list of 1966 moreover, the name of her grandfather and grandparents were also entered in the NRC with legacy data. She claims that her grandfather had died in the year 1970 and accordingly, her grandmother namely, Jamiron Bewa appeared in the electoral roll of 1970 and her name also appears in the voter details of legacy data for the said year. The name of her father appeared in the electoral roll of 1997. The petitioner claimed that on 20.09.2002 she was married with Sahidur Rahman of Vill-Poyasti Salmara in the district of Dhubri by exhibiting a marriage Kabinnama and her name was enrolled in the voter's list of 1997 at Vill-Chataguri Pt-II under Bagribari P.S. However, against her name "D" mark was made. The petitioner in order to substantiate the linkage with her projected father has referred to the certificate issued by the Mahamaya VCDC. The

petitioner has stated that before the marriage her name was Azmira Khautun and after marriage was Azmira Bibi and accordingly, both are same person. In order to support her contention, the petitioner relies on the certificate counter signed by BDO, Mahamaya Block.

4. In support of the stand taken in the written statement, the petitioner has examined herself as DW-1 and she had filed her evidence-on-affidavit, wherein the reiterating the statements has exhibited the following documents:-

Ext.1 is the said NRC details.

Ext.2 is the image of NRC.

Ext.3 is said voter details 1961.

Ext.4 is said image of Electoral Roll 1961.

Ext.5 is certified copy of Electoral Roll 1961.

Ext.6 is the said voter Details 1966 of her grandfather

Ext.7 is voter Details 1966 of my grandmother.

Ext.8 is said image of Electoral Roll 1966.

Ext.9 is the said certified copy of Electoral Roll 1966.

Ext.10 is the said voter details.

Ext.11 is image of Electoral Roll of 1970.

Ext.12 is the certified copy of Electoral Roll of 1970.

Ext.13 is the said certified copy of Electoral Roll 1997.

Ext.14 is the certified copy of Electoral Roll of 2005.

Ext.15 is the certified copy of Electoral Roll of 2011.

Ext.16 is her marriage Kabinnama.

Ext.17 is certificate of Gaon Burah and

Ext.18 is certificate of Mahamaya V.C.D.C.

5. The learned counsel for the petitioner by referring to the various exhibits referred above has submitted that the petitioner has been able to show

and prove that she is the daughter of Amzat Ali @ Amzat Ali Sheikh and the name of her grandfather is Noimuddin Sheikh accordingly, it is submitted that exhibited documents were wrongly appreciated by the learned Tribunal which has vitiated the opinion. Accordingly, the learned counsel for the petitioner prays for setting aside the impugned opinion and to declare the petitioner not a foreigner.

6. Per contra, the learned standing counsel for the FT and Border matters has submitted that the petitioner is trying to connect her to one Amzat Ali whose name appears in the voter's list of 1977. It is submitted that through Amzat Ali, projected father, the petitioner is trying to connect herself to Noimuddin Sheikh her projected grandfather. It is further submitted that existence of the projected father of the petitioner in the State of Assam is only from voter's list of 1997 (Ext.13) and therefore, the existence of the projected father of the petitioner in the State of Assam is not available before the year 1971. It is also submitted that the marriage certificate would not have relied on by the learned Tribunal as the marriage disclosed in the Kabin Nama was held on 20.09.2002 and since it is not registered after 12 years and moreover, the author of the Kabin Nama was not examined though the entry in the Kabin Nama was made on 30.10.2014 which is about 12 years after purported marriage took place on 20.09.2002. Accordingly, the learned standing counsel for the FT and Border matters prayed for dismissal of this writ petition.

7. The petitioner had also examined Amzat Ali @ Amzat Ali Sheikh, her projected father as DW-2. He had reiterated the statement made by the petitioner in her evidence-on-affidavit and he had re-exhibited all the relating documents already exhibited by the petitioner. On a query of the learned Tribunal, the DW-2 had stated that he had put his signature on understanding

the contents.

8. The petitioner had also examined one Zakir Hussain Mondal, LDA at the office of the Election Officer, Dhubri, as DW-3, who had stated in his evidence-on-affidavit that he had brought the Electoral Roll of 1961, containing the name of Noimuddin Shekh, S/o. Kosimuddin, aged 30 years (Ext.5) and he had also exhibited the signature of the Election Officer, Dhubri [Ext.5(i)]. He had also brought the Electoral Roll of 1970, containing the name of Jamiron Bewa, W/o. Noimuddin, aged 36 years (Ext.12) and the signature of the Election Officer [Ext.12(i)]. On a query of the learned Tribunal, DW-3 had also stated that he had put his signature on understanding the contents of the affidavit.

9. The petitioner had examined one Abdur Rahman Sk. as DW-4, who is the Govt. appointed Muslim Marriage Registrar and Kazi at Panbari Rangamati, Dist. Dhubri, Assam. He had stated that on 20.09.2002, muslim marriage was held by executing marriage Kabin Nama between Sahidur Rahman, S/o. Md. Gyeas Uddin Shekh, village- Poyasthi Salmara, P.S. South Salmara, Dist. Dhubri, Assam; and Azmira Khatun, daughter of Amzat Ali of village- Chataguri, PS. Bagribari, Dist. Dhurbri, Assam, which was registered by his office vide No. 1053/2016, dated 30.10.2014. He had brought his office register and on being tallied, the contents of the same are found to be correct. He had exhibited the marriage Kabin Nama (Ext.16); his signatures [Ext.16(i) and 16(ii)]; seals [Ext.16(iii) and 16(iv)]; official round seal [Ext.16(v)]; and Marriage Registrar Seal [Ext.16(vi)]. On a query of the learned Tribunal, he had stated that he had put his signature on understanding the contents of the affidavit. Along with his evidence-on-affidavit, the DW-4 had also produced his licence under the Assam Moslem Marrriage and Divorce Act, 1935, dated 13.01.1992, issued by the Inspector General of Registration, Assam. The said

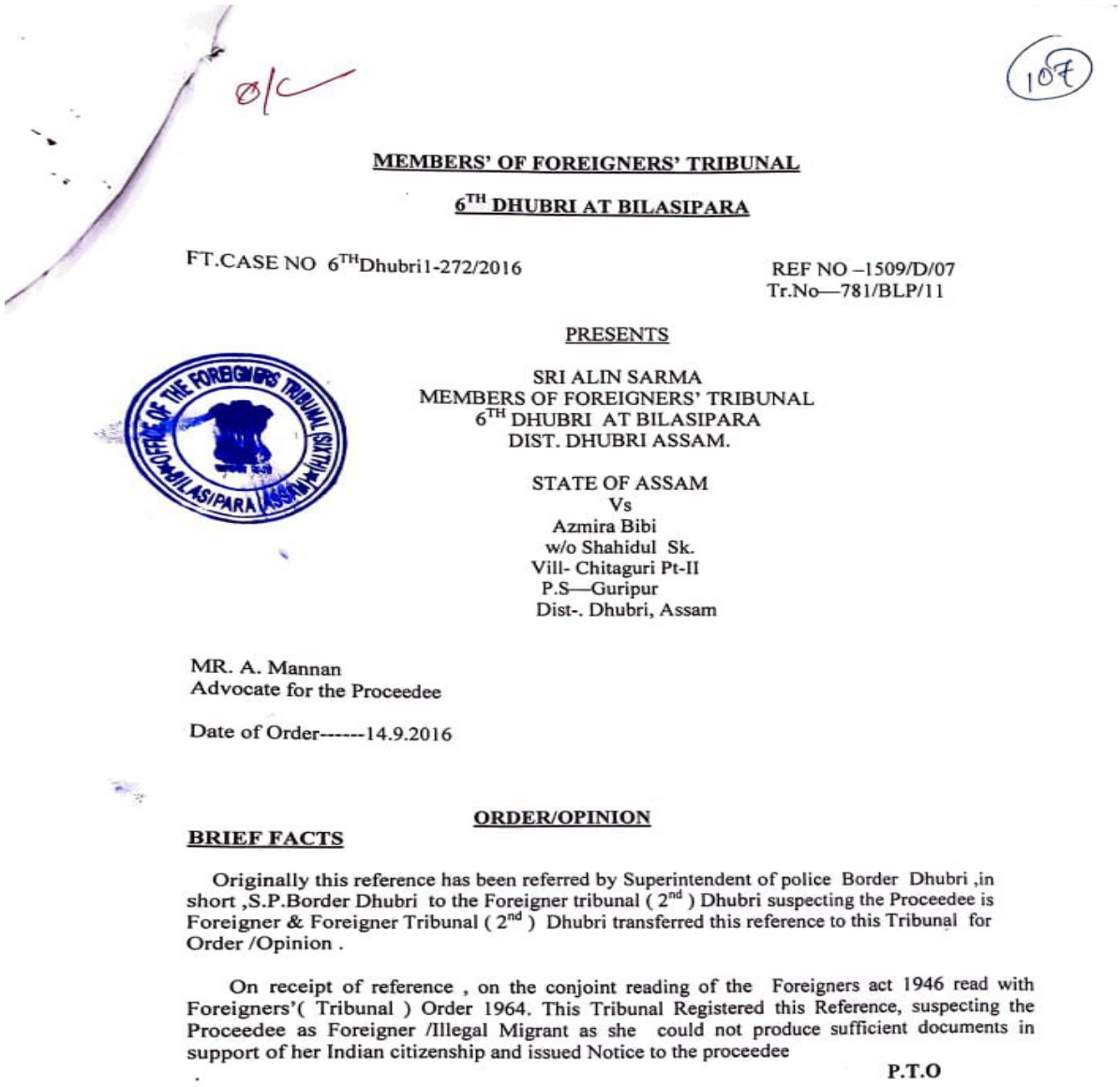
document contains counter signature by the learned Tribunal with an endorsement "compared with original copy, dated 14.06.2016".

10. The petitioner had also examined one Khushiman Barman, the Gaonburah of Chataguri Part-II village under Bagribari P.S., Dist. Kokrajhar, BTAD, Assam as DW-5. He had exhibited his certificate dated 10.03.2016 (Ext.16); his signature and seal [Ext.17(i)]; official round seal [Ext.17(ii)]; and photo of proceedee Azmira Bibi @ Azmira Khatun [Ext.17(iii)]. On a query of the learned Tribunal, the said witness had also stated that he had put his signature on understanding the contents of the affidavit.

11. The petitioner has examined one Nurul Islam, Election Assistant at the office of the Election Officer, Bilsaipara as DW-6. He had brought the record of the Electoral Roll 1966 (Ext.9) containing the names of Noimuddin Shekh, S/o. Kosimuddin, aged 40 years; and Jamiron Bibi, W/o. Noimuddin, aged 32 years. He had exhibited the signature of the Election Officer, Bilasipara [Ext.9(i)]. The said witness had exhibited the Electoral Roll of 1997 (Ext.13), where the voter is Amjat Ali Shekh, S/o. Noimuddin, aged 35 years. He had exhibited the signature of the Election Officer, Bilasipara [Ext.13(i)]. He had exhibited the Electoral Roll of 2011 (Ext.15), where the voter is Amjat Ali Shekh, S/o. Noimuddin, aged 49 years. He had exhibited the signature of the Election Officer, Bilasipara [Ext.15(i)]. On a query of the learned Tribunal, the said witness had submitted that he had put his signature after understanding its contents.

12. On perusal of the records of the learned Tribunal, it is seen that the learned Tribunal has not even referred to the 6 (six) other witnesses examined by the petitioner and the documents exhibited by them by producing the originals, which are referred to above.

13. In a perfunctory and casual manner, the learned Tribunal has discussed the evidence and given its reasons. Therefore, it would be appropriate to extract the scanned copy of that part of the opinion and make it a part of this order. This is the relevant portion of the order.



O/C

107

MEMBERS' OF FOREIGNERS' TRIBUNAL

6TH DHUBRI AT BILASIPARA

FT.CASE NO 6TH Dhubri1-272/2016

REF NO –1509/D/07
Tr.No—781/BLP/11

PRESENTS

SRI ALIN SARMA
MEMBERS OF FOREIGNERS' TRIBUNAL
6TH DHUBRI AT BILASIPARA
DIST. DHUBRI ASSAM.

STATE OF ASSAM
Vs
Azmira Bibi
w/o Shahidul Sk.
Vill- Chitaguri Pt-II
P.S—Guripur
Dist-. Dhubri, Assam

MR. A. Mannan
Advocate for the Proceedee

Date of Order------14.9.2016

ORDER/OPINION

BRIEF FACTS

Originally this reference has been referred by Superintendent of police Border Dhubri ,in short ,S.P.Border Dhubri to the Foreigner tribunal (2nd) Dhubri suspecting the Proceedee is Foreigner & Foreigner Tribunal (2nd) Dhubri transferred this reference to this Tribunal for Order /Opinion .

On receipt of reference , on the conjoint reading of the Foreigners act 1946 read with Foreigners'(Tribunal) Order 1964. This Tribunal Registered this Reference, suspecting the Proceedee as Foreigner /Illegal Migrant as she could not produce sufficient documents in support of her Indian citizenship and issued Notice to the proceedee

P.T.O

108

-2-

On receipt of notice the Proceedee appeared , filed written statement and adduced evidence before this Tribunal .

As per section 9 of the Foreigners' Act 1946 the burden of proof lies on the proceedee, claiming to be Indian Citizenship and so the documents deposed by the proceedee has been scrutinized at utmost care.

POINT OF DETERMINATION

Whether the Proceedee is a Foreigner /Illegal Migrant within the meaning of Foreigners' Act 1946 ?

DISCUSSIONS &REASONS

The proceedee purported father's name is Amzat Ali of village Chataguri, P.S – Bagribari, Dist – Dhubri Asam and purported Grand father name is Naimuddin Seikh.

That, I have perused the written statement , affidavit on record and documents .The Proceedee Exihibited--

(**Ex-1**), computer copy of NRC Details, in the name of purported grand father, (**Ex-2**) Computer copy of NRC, (**Ex-3**)voter details of 1961 in the name of Naimuddin Seikh, (**Ex-4**) Computer copy of voter list 1961,(**Ex-5**) certified copy of voter list 1961,(**Ex-6**)computer copy of voter details in the name of Naimuddin Seikh, (**Ex-7**) voter details in the name of Jamiran Bibi the purported grand father of the Proceedee,(**Ex-8**) Computer copy of voter list 1961 in the name of purported grand father Naimuddin Seikh, (**Ex-9**) certified copy of voter list 1966 in the name of Naimuddin Seikh, (**Ex-10**) computer copy of voter details in the name of Jamiran Bewa,(**Ex-11**), computer copy of voter list 1970 in the name of Jamiran Bewa,(**Ex-12**) certified copy of voter list in the name of Jamiran Bewa (**Ex-13,14,15**), certified copy (prove in original) of voter list in the year 1997,2005,2011 in the name of purported father Asmot AliSeikh, (**Ex-16**) Kabin Nama, (**Ex-17**) certificate from Mahamaya VCDC certifying Azmira Khatun is the daughter of Amzad Ali, , certificate issued by Gaon Burah of Chataguri Pt -II certifying Ajmira Khatuun is the daughter of Amzad Ali, (**Ex-18**) certificate from Mahamaya VCDC certifying Azmira Khatun is the daughter of Amzad Ali,

. On the perusal of evidence on record, I found that, the proceedee exhibited voter list of 1997 (Ex-13)2005,(Ex-14), 2011 (Ex-15) in the name of her purported father Asmot Ali Seikh, these documents is not prior to 25.3.1971, the purported father has filed an affidavit claiming that he is the father of the Proceedee, mere filling of an affidavit is not admissible as evidence, the proceedee exhibited Marriage Kabin nama (Ex-16), issued by the the Musim marriage Registrar& Kazi , who, in his affidavit has deposed that, Azmot Ali Seikh is Proceedee's father

P.T.O

OFFICE OF THE FOREIGNERS' TRIBUNAL SIXTH ★ BILASIPARA (ASSAM) ★

109

-3-

,but never deposed that Naimuddin Seikh is her grand father , though the name is in kabinnama that, contents of Name of Naimuddin Seikh is not proved on Record. in Kabin nama also it is mentioned that, Asmot Ali is the father of the Proceedee, the Proceedee exhibited(Ex-5,9) the voter list of 1961,1966 in the name of her purported grand father Naimuddin Seikh, are proved on Record. the voter list of post 25.3.1971 are not relevant, the Gaon Burah certificate(**Ex-17**) and VCDC certificate(**Ex-18**) are not proved on record, The exhibited computer copies(Ex-6,7,8,10,11, are not admissible as Evidence as it was not signed by compete tent authority complying u/s 65(B) Subsection 4 of the Indian Evidence Act. Another voter list of 1970 in the name of Jamiran Bewa(Ex-12) w/o Naimuddin , the purported grand mother of the proceedee is proved on record but no document is exhibited by the proceedee to link to her purported grand mother , There is no document in the name her father prior to 25.3.1971 in the name of her father . NRC (Ex-2) is a computer copy beside it is not admissible as evidence as it a document under the census act 1948(refer Mulem Mandal Vs- Union Of India [2010 (2) GLT DB].

From the above noted discussion I found that, the proceedee neither able to link with her purported grand father who has Recorded in the voter list of 1961.1966, and of her purported grand mother who has voter list of 1970 and nor had she is able to prove that, her purported father Asmot Ali is the son of her purported grand father Naimuddin Seikh,

REASONS- From the above noted discussion , I have the considered opinion that, the proceedee is Foreigner who came to Assam on or after 25.3.1971.

That, the reference is answered as Affirmative.

That, the District Magistrate Dhubri is directed to delete the name of the Proceedee from today from the Electoral rolls ,if, any.

That, the S.P.(B) Dhubri is directed to keep the Proceedee in detention camp or in appropriate place as internee till, she is pushed back to Bangladesh.

That , the District Magistrate Dhubri and S.P(B) Dhubri shall submit compliance within 30 days of the receipt of this order/opinion.

Inform the District Magistrate , Dhubri S.P.(B) Dhubri along with the copy of this **ORDER/OPINION .**

That, this reference stands disposed of

14.9.2015

Member of Foreigners' Tribunal 6th Dhubri at Bilasipara.

Member,
Foreigners' Tribunal (6th), Dhubri
Bilasipara.

OFFICE OF THE FOREIGNERS TRIBUNAL (SIXTH) BILASIPARA (ASSAM)

14. From the scanned copy of the opinion of the learned Tribunal, as referred above, it is apparent that by referring to the voter list of 1961 (Ext. 5) and the voter list of 1966 (Ext. 9), the learned Tribunal had recorded that the name of the purported grandfather of the petitioner, namely, Naimuddin Shekh is proved on record. Therefore, there appears to be no dispute with regard to the fact that Naimuddin Shekh is the grandfather of the petitioner. However, the entire evidence was rejected on the ground that the petitioner had not been able to prove that her purported father, Amjat Ali, is the son of her purported grandfather, Naimuddin Shekh.

15. In this case, the petitioner, by examining the Gaonburah of village- Chataguri Part-II, namely, Khushiman Barman, had made an effort to prove through the said Gaonburah that there was some minor discrepancy in the name of Amzat Ali and Amzat Ali Shekh.

16. In her written statement as well as in her evidence-on-affidavit, the petitioner had stated that her father name was Amzat Ali Sheikh and in the Electoral Roll of 1997 and 2005, the name of her father was recorded as Amjat Ali Sheikh and that as per exhibited Kabin Nama, she is the daughter of Md. Amzat Ali. As stated above, the petitioner had examined her projected father, Amzat Ali Sheikh, as DW-2.

17. Under such circumstances, apart from examining herself, the petitioner had examined 5 (five) other witnesses, whose names are referred hereinabove, this Court is of the considered opinion that the learned Tribunal had perfunctorily and casually passed the opinion by ignoring the evidence of DW-2 to DW-6, which are available at pages 87 to 90 for DW-2, pages 92 to 93 for DW-3, pages 94 to 97 for DW-4, pages 98 to 100 for DW-5, and pages 102 to 104 for DW-6.

18. This appears to be a fit and proper case to hold that the learned Tribunal has failed to take into consideration the evidence on record, which is found to have vitiated the impugned opinion.

19. Accordingly, the impugned opinion dated 14.09.2016, passed by the learned Member, Foreigners' Tribunal, 6th Dhubri at Bilasipara, in FT. Case No 6th Dhubri 1-272/2016, arising out of Ref No.1509/D/07 and Tr. No.781/BLP/11 is hereby set aside and quashed.

20. The matter is remanded back to the learned Tribunal for passing a fresh opinion after examining all the evidence and exhibited documents on record.

21. The petitioner, namely, Azmira Bibi @ Azmira Khatun, who is duly represented by her learned counsel, is directed to appear before the said learned Tribunal within the outer time limit of 04.12.2026 and by producing a certified copy of the order, await for any further order that may be passed by the said learned Tribunal.

22. It is further provided that on the date of appearance of the petitioner, she shall be ready and willing to take bail of such sum as may be deemed fit and proper by the learned Tribunal. It is provided that the bail so granted by the learned Tribunal shall be valid for a period of 30 (thirty) days from the date of the opinion that may be passed by the said learned Tribunal.

23. This writ petition is allowed to the extent as indicated above.

24. The parties are left to bear their own cost.

25. The Registry shall expeditiously return back the Tribunal's record along with a copy of this order to be made a part of the records by the learned

Tribunal for future reference.

JUDGE **JUDGE.**

Digitally signed by Champak Rajbongshi
Date: 2026.11.11 17:13:31 +05'30'

Comparing Assistant **Private Secretary**