

GAHC010014482026



2026:GAU-AS:1264-DB

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

Case No. : WP(C)/435/2026

ASMA BEGUM
D/O LATE ABDUL LATIF, W/O ABDUL HASIB, RESIDENT OF VILLAGE -
DALGRAM, P.S. NILAMBAZAR, DISTRICT - KARIMGANJ, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, SHASTRI BHAWAN, TILAK MARK, NEW DELHI.

2:THE ELECTION COMMISSION OF INDIA
GOVT. OF INDIA
NEW DELHI-2.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
DEPARTMENT OF HOME
DISPUR
GUWAHATI-6.

4:THE ASSAM STATE COORDINATOR OF NRC
BHANGAGARH
GUWAHATI-5.

5:THE SUPERINTENDENT OF POLICE (B)
KARIMGANJ
DIST. - KARIMGANJ
ASSAM
PIN 788710.

6:THE DEPUTY COMMISSIONER

KARIMGANJ
DIST. - KARIMGANJ
PIN - 788710

Advocate for the Petitioner : MRS R BEGUM, MR R DHAR

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 30.01.2026
(K.R. Surana, J)

Heard Mr. R. Dhar, learned counsel for the petitioner. Also heard Ms. B. Sarma, learned CGC; Ms. S. Katakey, learned standing counsel for respondent no.2; Mr. J. Payeng, learned standing counsel for respondent nos. 3, 4 and 5; and Mr. P. Sarmah, learned Addl. Senior Govt. Advocate for respondent no.6.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Asma Begum, has assailed the *ex parte* opinion dated 30.04.2024, passed by the learned Member, Foreigners Tribunal (3rd), Karimganj [now Sribhumi], in F.T. 3rd Case No. 171/2017 [old F.T. Case No. 32/2017], by which the petitioner was declared to be a foreigner who had entered Assam illegally on or after 25.03.1971.

3) On service of notice, the petitioner had entered appearance in the proceeding on 30.10.2017 and again appeared and took bail on 12.12.2017. Thereafter, the petitioner had remained absent on 27.06.2018, 31.07.2018, 08.10.2018, 03.12.2018, 21.01.2019, and 27.02.2019 and filed her written

statement on 27.03.2019 and then filed her evidence-on-affidavit on 05.08.2019, Thereafter, the petitioner had remained absent without steps on 18.06.2022, 08.08.2022, 21.09.2022, 29.11.2022, 18.01.2023, 22.03.2023, 08.05.2023, 13.06.2023, 20.07.2023, 24.08.2023, 16.10.2023, 13.12.2023, 05.02.2024, and 09.04.2024 and thus, did not appear for her cross-examination. Thereafter, by the impugned opinion dated 30.04.2024, the petitioner was declared to be a foreigner. Thus, with full knowledge of the proceeding, the petitioner did not appear in the proceeding to face cross-examination.

4) Although the learned Tribunal has referred to the said opinion as an *ex parte* order, but under the scheme of the Foreigners (Tribunals) Order, a Tribunal is authorized to render an opinion and as in this case, the petitioner had filed her written statement and evidence-on-affidavit, the said opinion cannot be considered to be an *ex parte* opinion.

5) As the present writ petition to assail the impugned opinion dated 30.04.2024, has been filed on 27.01.2026, after about 1 year, 8 months, 28 days (i.e. 637 days), apart from making submissions on merit, the learned counsel for the petitioner was asked to address the Court on the huge and inordinate delay and laches in not contesting the proceeding.

6) The learned counsel for the petitioner, by referring to the statements made paragraph 6 of the writ petition, has submitted that the petitioner is a poor and illiterate person, and after engaging a learned advocates, he had handed over all her documents to the petitioner, but she was not informed by her learned advocate about her requirement to appear and to face cross-examination. Accordingly, the petitioner, having not being informed about the dates, she remained sitting silently and she came to know about the opinion only after he apprehended arrest by police personnel.

7) It has been submitted that the learned Tribunal had exceeded its jurisdiction by deciding the reference *ex parte* because the Foreigners (Tribunals) Order, 1964 mandated that a reasonable opportunity has to be given to the proceedee to prove her case and therefore, it was the duty of the learned Tribunal to issue and serve a fresh notice of the proceeding. It has also been submitted that the petitioner has all the relevant documents to prove that she is a citizen of India and therefore, the petitioner may be given an opportunity to be heard on merit. It has been submitted that if no opportunity is granted to the petitioner, she would be deprived of principles of natural justice and shall suffer great injustice and her valuable citizenship right would be irreversibly lost forever. It has also been submitted that the petitioner has no other efficacious remedy.

8) Per contra, the learned standing counsel for the FT, Border matters and NRC had opposed this writ petition on ground of delay and laches.

9) In this case, the opinion was rendered on 30.04.2024, after adjourning the case of the petitioner on 14 (fourteen) dates between 18.06.2022 and 09.04.2024.

10) In the considered opinion of the Court, after service of notice on the petitioner, when the petitioner had filed her written statement and evidence-on-affidavit, there was no further requirement of the learned Tribunal to give a fresh notice to the petitioner. Therefore, it was the duty of the petitioner to appear for her cross-examination as directed.

11) The Court is constrained to hold that the Courts and Tribunals, including the Foreigners Tribunal are under no duty to keep on issuing notices to the proceedee after they commit default in appearing in a proceeding. The

Court cannot accept that there can be an endless exercise to keep on issuing notices to a litigant after each and every default committed by a litigant. It was a duty cast on the petitioner to appear and contest the proceeding. Moreover, under Order 3(14) of the Foreigners (Tribunals) Order, 1964 the mandate of law is to the learned Tribunal to dispose of a reference within 60 (sixty) days.

12) This Court, in the case of *Ajbahar Ali v. Union of India*, (2025) 0 *Supreme (Gau)* 763, had held to the effect that the plea of compliance of the principles of natural justice cannot be permitted to lead to a farcical situation and to be an engine for defeating the very object of identification and deportation of foreigners. A similar opinion has also been expressed by this Court in the case of *Abu Bokkor Siddique v. Union of India*, 2019 (1) GLT 813.

13) The Supreme Court of India, in the case of *Sarbananda Sonowal v. Union of India*, (2005) 5 SCC 665, in paragraph 73, has held to the effect that the procedure under the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 is just, fair and reasonable and does not offend any constitutional provision. In paragraph 63, the Supreme Court of India had observed that there can be no manner of doubt that the State of Assam is facing external aggression and internal disturbance on account of large-scale illegal migration of Bangladeshi nationals and that it, therefore, becomes the duty of the Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution of India. In paragraph 70, it was observed that the influx of Bangladeshi nationals who have illegally migrated into Assam pose a threat to the integrity and security of the North Eastern region and that their presence has changed the demographic character of that region and the local people of Assam have been reduced to a status of minority in certain districts.

14) On a perusal of the materials available on record, it is seen that in support of her written statement, the petitioner had exhibited the following documents, viz., (i) Voter list of 1966 under No.6 North Karimganj LAC as Ext.1; (ii) Voter list of 1970 under No.6, North Karimganj LAC as Ext.2; (iii) Voter list of 1989 No.3, North Karimganj LAC as Ext.3; (iv) Land patta as Ext.4; (v) School Certificate as Ext.5; (vi) Unregistered kabin-nama as Ext.6; (vii) Registered Kabin-nama as Ext.7; (viii) Marriage Transfer Certificate as Ext.8; and (ix) Voter list of 1997 under No.4, South Karimganj LAC as Ext.9.

15) Although the petitioner has blamed her learned advocate engaged to represent her before the learned Tribunal, but the petitioner has not disclosed the name of the learned counsel and the petitioner is not even accusing her said counsel for committing professional misconduct. The learned counsel for the petitioner has failed to show any legal provision, which would compel the learned advocate to continue to take steps in a case when the litigant has stopped communicating with him. Thus, the allegations made against the learned counsel engaged by the petitioner are just an afterthought to cover-up the default which the petitioner had made by not contacting her engaged counsel and to file her written statement and evidence in the proceeding. It is not the case of the petitioner that she or her family members were all suffering from such disabilities which prevented them to visit the learned counsel for the petitioner to enquire about the dates fixed in her case. It is also not alleged that the petitioner's advocate had given her any false or misleading information, which convinced the petitioner that she was declared as not a foreigner.

16) Therefore, the petitioner is found to be grossly negligent in assailing the impugned order. The default in appearing and to take steps in the

proceeding is willful and deliberate, with full knowledge of the consequences that may follow. Thus, the impugned opinion cannot be held to be perverse or wrong on any count whatsoever.

17) Though the petitioner has filed several documents in this writ petition, but as this Court is exercising certiorari jurisdiction, this Court would refrain from appreciating the documents as a Court or Tribunal of first instance.

18) Accordingly, in light of the provisions of Order 3(14) of the Foreigners (Tribunals) Order, 1964, requiring opinion to be rendered within 60 (sixty) days, having not found any perversity in opinion dated 30.04.2024, this writ petition is dismissed at the motion stage without issuing notice upon the respondents.

19) There shall be no order as to cost.

20) The learned standing counsel for the FT, Border matters and NRC shall communicate a downloaded copy of this order to the Home and Political (B) Department, so as to send a copy of this order to be made a part of the record of the learned Tribunal for future reference.

JUDGE

JUDGE

Comparing Assistant