GAHC010219482026

2026:GAU-AS:15175-DB

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

Case No. : WP(C)/5515/2026

ASIA KHATUN ALIAS ASIYA BEGUM
D/O LT ABDUL GONI SHEIKH ALIAS ABDUL GONI ALIAS OSMAN GONI, W/O ABDUL MOJID ALI, R/O VILL BHURAKATA, P.O RADHAMADHAB HAT, P.S MANKACHAR, DIST SOUTH SALMARA MANKACHAR, ASSAM, PIN 783131

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT OF INDIA, SHASTRI BHAWAN, TILOK MARG, NEW DELHI 01

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GHY 06

3:THE DISTRICT COMMISSIONER
SOUTH SALMARA MANKACHAR AT HATSINGIMARI
PO HATSINGIMARI
DIST SOUTH SALMARA MANKACHAR
ASSAM
PIN 783135

4:THE SUPERINTENDENT OF POLICE BORDER
SOUTH SALMARA MANKACHAR
HATSINGIMARI
PO HATSINGIMARI
DIST SOUTH SALMARA MANKACHAR

ASSAM
PIN 783135

5:THE SUPERINTENDENT OF POLICE BORDER
DHUBRI
PO AND DIST DHUBRI
ASSAM
PIN 783301

6:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI 01

7:THE STATE CO ORDINATOR
NRC
ASSAM
BHANGAGARH
GHY 05

8:THE ELECTORAL REGISTRATION OFFICER
MANKACHAR LAC
DIST SOUTH SALMARA MANKACHAR
ASSAM
PIN 78313

Advocate for the Petitioner : MR. M R KHANDAKAR,

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

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

ORDER

Date : 07-10-2026
(K.R.Surana,J)

Heard Mr. M. R. Khandakar, learned counsel for the petitioner. Also heard Mr. N. Kalita, learned counsel appearing on behalf of Mr. A. I. Ali, learned Standing counsel for ECI; Mr. S. Choudhury, learned CGC and Mr. G. Sarma, learned Standing Counsel, Home Department and NRC.

2. By filing this writ petition under Article 226 of the Constitution of India,

the petitioner has assailed the opinion dated 25.03.2026 passed by the learned Member, Foreigner's Tribunal, South Salmara at Hatsingimari, in [F.T.Case No. 187/2018, arising out of IM (D) T Case No. 15403/D/00] and [Ref. F.T. Case No. 1316/MKCR/11, arising out of IM(D)T Case No. 1747/1998], by which the petitioner was declared to be a foreigner of post 25.03.1971 stream, on default to file the evidence.

3. The case of the petitioner is that the petitioner had filed a written statement on 21.06.2025, and though the case was fixed for evidence, evidence could not be filed on 09.07.2025, 14.08.2025, 24.09.2025, 26.11.2025 and on subsequent dates, i.e., on 30.12.2025, 03.02.2026 and 19.02.2026, the engaged learned counsel did not take steps which resulted in the passing of the opinion dated 25.03.2026. Accordingly, the learned counsel for the petitioner has prayed for one opportunity to file evidence and contest the proceedings.

4. Per contra, the learned Standing Counsel for the FT matters has opposed the prayer on the ground that the petitioner had willfully defaulted in filing the evidence for about 7 (seven) months, whereas the prescription of law as per paragraph 3 (14) of the Foreigners (Tribunals) Order, 1964, is that the Foreigners Tribunals are required to dispose of the reference within 60 (sixty) days from the receipt of such reference. Accordingly, it is submitted that in this case, as there was a willful and deliberate default on the part of the petitioner to file evidence for several months, the impugned opinion is sustainable in facts and in law.

5. We have perused the documents annexed in this writ petition.

6. The learned Tribunal has recorded that since 21.06.2025, the petitioner remained absent and on the strength of the petition filed by the learned counsel, consecutive opportunity was given to file evidence on 09.07.2025,

14.08.2025, 24.09.2025, 26.11.2025 and on subsequent dates, i.e., on 30.12.2025, 03.02.2026 and 19.02.2026, the engaged learned counsel had not taken any steps, though the case was fixed for necessary orders and the last chance was given for filing evidence-on-affidavit.

7. Upon considering that the citizenship of the petitioner is at stake, this Court is of the considered opinion that the petitioner may be given one opportunity to file evidence-on-affidavit and exhibit all the documents on which she intends to rely upon.

8. Accordingly, as a pre-condition to allow the petitioner to file her evidence on affidavit, this Court is inclined to direct the petitioner to deposit the cost of Rs. 2000/-(Rupees two thousand only) before the Secretary, District Legal Services Authority, South Salmara Mankachar, Hatsingimari, before the date of appearance as directed by this Court.

9. On the assumption that the petitioner would deposit such cost within the outer period of 3 (three) weeks, from the date of the order, the impugned opinion dated 25.03.2026 passed by the learned Member, Foreigner's Tribunal, South Salmara at Hatsingimari, in [F.T.Case No. 187/2018, arising out of IM (D) T Case No. 15403/D/00] and [Ref. F.T. Case No. 1316/MKCR/11, arising out of IM(D)T Case No. 1747/1998], is hereby set aside.

10. On deposit of such cost, the petitioner shall appear before the said learned Tribunal within the outer time limit of 23.11.2026 and on the date of appearance, the petitioner shall also submit her evidence-on-affidavit, and take steps to examine such witnesses she may so desire to examine and also exhibit the documents which she intends to rely upon.

11. The learned Tribunal shall make an endeavor to dispose of the reference as early as possible, keeping in mind the mandate of paragraph 3 (14) of the

Foreigners (Tribunals) Order, 1964.

12. It is provided that, in the event the cost as directed above is not deposited, or in the event the evidence-on-affidavit is not filed within the time allowed, it would be permissible for the learned Tribunal to pass a fresh opinion by treating the petitioner to be in default in filing evidence-on-affidavit and to comply with the order of this Court.

13. The petition stands conditionally allowed in terms as indicated above.

JUDGE **JUDGE**

Comparing Assistant