
(2021) 07 GAU CK 0081
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 618 Of 2021

Abdur Rohim

APPELLANT

Vs

Union Of India And 7 Ors

RESPONDENT

Date of Decision : 15-07-2021

Acts Referred:

Citation : (2021) 07 GAU CK 0081

Hon'ble Judges : N. Kotiswar Singh, J;Soumitra Saikia, J

Bench : Division Bench

Advocate : S Islam

Final Decision : Allowed

Judgement

1. Heard Mr. S. Islam, learned counsel for the petitioner. Also heard Ms. R. Devi, learned Central Government Counsel, appearing for respondent

No.1; Ms. A. Verma, learned Special Counsel, FT appearing for respondent Nos. 3-7; Mr. A. Bhuyan, learned Standing Counsel, ECI for respondent

No.2 and Ms. L. Devi, learned Standing Counsel, NRC for respondent No.8

2. The present petition has been filed by the petitioner being aggrieved by the ex-parte order dated 09.09.2015 passed by the learned Member,

Foreignersâ?? Tribunal, Jorhat in F/SVR No.33/2015 [F.T. Case Enquiry No.23/14 (Sivsagar)].

3. The learned counsel for the petitioner has fairly submitted before this Court that though the petitioner was served with the notice by the

Foreignersâ?? Tribunal and appeared before the Tribunal, however, on subsequent dates fixed for filing of written statement and adducing of

evidence, he could not appear as he suffered from Tuberculosis and was undergoing treatment in the local Public Health Centre at Lakhipur,

Goalpara.

Under the circumstances, the matter was proceeded ex-parte by the Tribunal and the aforesaid ex-parte opinion was rendered declaring him as a foreigner.

4. It has been submitted that the petitioner had no intention to avoid the proceeding of the Tribunal but because of poor health as he was suffering from Tuberculosis as mentioned above, he could not appear before the Tribunal.

Further, the said Foreignersâ?? Tribunal, Jorhat is located about 400 km away from his residence at Goalpara and as such, because of the aforesaid conditions he could not appear before the Tribunal leading to passing of the ex-parte order.

It has been submitted that now that the petitioner has recovered from Tuberculosis, he will be in a position to attend the proceeding of the Tribunal and prays for giving another opportunity to the petitioner to appear before the Foreigners Tribunal, Jorhat to prove his case that he is an Indian citizen.

5. Ms. A. Verma, learned Special Counsel, FT in her usual fairness has raised no serious objection to the aforesaid plea of the petitioner to prove his case by appearing again before the Tribunal.

6. Having heard the learned counsel for the parties and also on considering the materials on record and circumstances narrated by the petitioner, we are also satisfied that the petitioner may be permitted to appear before the Foreigners Tribunal, Jorhat to prove his case that he is an Indian.

7. In view of above, the present petition is allowed by setting aside the impugned order dated 09.09.2015 passed by the learned Member,

Foreignersâ?? Tribunal, Jorhat in FT/SVR/ No.33/14 [F.T. Case Enquiry No. 23/14 (Sivasagar)].

Accordingly, the petitioner will appear before the Foreigners Tribunal, Jorhat.

8. Since both the districts, Goalpara and Jorhat are under strict lockdown because of Covid pandemic, the petitioner is allowed to appear before the Foreigners Tribunal, Jorhat on or before 31.08.2021.

9. However, as the petitionerâ??s citizenship is under cloud because of the impugned order dated 09.09.2015 passed by the learned Member,

Foreigners Tribunal, Jorhat in the aforesaid case, though the same has been set aside, the petitioner will appear before the Superintendent of Police

(Border), Goalpara within 15 (fifteen) days from today but the petitioner will remain on bail on furnishing a bail bond Rs.5,000/- (Rupees five thousand) with one local surety of the like amount to the satisfaction of the said authority. The concerned Superintendent of Police (Border) shall also take steps for capturing the fingerprints and biometrics of the iris of the petitioner. The petitioner shall not leave the jurisdiction of Goalpara district without giving details of the place of destination and his place of stay to the Superintendent of Police (Border), Goalpara.