
(2019) 01 GAU CK 0050
In the Gauhati High Court
Case No : Writ Petition (C) No. 90 Of 2019

Chan Bhanu Nessa

APPELLANT

Vs

Union Of India And 6 Ors

RESPONDENT

Date of Decision : 25-01-2019

Acts Referred:

Citation : (2019) 01 GAU CK 0050

Hon'ble Judges : Achintya Malla Bujor Barua, J;Ajit Borthakur, J

Bench : Division Bench

Advocate : A. Roshid, A. Kalita, A Ali, A Verma, G Sarma

Final Decision : Allowed

Judgement

AM Bujor Barua, J

1. Heard Mr. A. Roshid, learned counsel for the petitioner. Also heard Mr. AI Ali, learned counsel for the Election Commission of India and Mr. A. Kalita, learned counsel for the State of Assam appearing for the Foreigners' Tribunal and Border Areas, Ms. A Verma, learned standing counsel for the authorities under the NRC as well as Ms. G Sarma, learned counsel for the authorities under the Union of India.

2. The petitioner was referred by the Superintendent of Police, Border, Goalpara and accordingly, I.M.(D).T. Case No. 41/2002 was registered. Subsequently, on the I.M.(D).T, Act, 1983 being declared ultravirous, the reference made against the petitioner was transferred to the Foreigners Tribunal No.8, Goalpara and was re-numbered case as F.T. No. 872/2018.

3. Upon receipt of notice, the petitioner appeared before the Tribunal but continuously sought adjournments for filing of the written statement on 26.06.2018, 11.07.2018, 04.08.2018, 24.08.2018, 06.09.2018 as well as 26.09.2018 on which date a last opportunity was given to be filed on 12.10.2018. The petitioner failed to submit her written statement, consequent

thereof an ex-parte order dated 15.11.2018 was passed declaring the petitioner to be a foreigner. Other than the request being made that the petitioner be allowed to appear before the Tribunal again, no other ground has been made out as to why the order dated 15.11.2018 is required to be interfered.

4. In the circumstance, keeping in view the prejudice that may be caused to the petitioner and also taking into consideration the repeated adjournments without any reason being sought, and also not comply with the requirement of filing of the written statement, we are of the view that the interest of justice would be satisfied if the petitioner is allowed to re-appear before the Tribunal.

5. Accordingly, the petitioner shall appear before the Foreigners Tribunal No.8, Goalpara on 21.02.2019 along with the copy of the written statement to be submitted and thereupon the Tribunal shall give a final adjudication to the reference within a period of 60(sixty) days therefrom. However, as the petitioner had defaulted earlier without any reason, she is directed to pay cost of Rs.5,000/- to be deposited before the District Level Authority, Goalpara.

6. Upon showing the documentary proof of payment of the cost, she will appear before the Tribunal on 21.02.2019 as indicated above.

7. In terms of the above, writ petition stands allowed.