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(2021) 06 GAU CK 0035

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2546 Of 2020

Hachinur @ Hasinur — APPELLANT

Vs

Union Of India And 6 Ors — RESPONDENT

Date of Decision : 07-06-2021

Acts Referred:

Citation : (2021) 06 GAU CK 0035

Hon'ble Judges : Sudhanshu Dhulia, CJ;Achintya Malla Bujor Barua, J

Bench : Division Bench

Advocate : A R Sikdar

Judgement

Sudhanshu Dhulia , CJ

The matter is taken up through video conferencing.

Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Mr. J. Payeng, learned Standing Counsel, Foreigners Tribunal, Mr. A. Bhuyan, learned

Standing Counsel, Election Commission of India, Ms. L Devi, learned Standing Counsel, NRC and Mr. K.K. Parashar, learned Central Govt. Counsel

are present.

The matter relates to Foreigners Tribunal.

The petitioner has been declared as a foreigner by the Foreigners Tribunal No.2, Kamrup (Metro), Guwahati vide impugned order dated 17.12.2018

and presently he is in Goalpara District Jail since 16.05.2019. He has already completed two years in detention.

This matter has to be examined on merits as the petitioner has challenged the order of the Foreigners Tribunal on fact as well as law. All the same,

presently we are concerned only with the release of the petitioner in terms of the directions given by the Honâ??ble Apex Court in the order dated

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13.04.2020 in Suo Motu Writ Petition (Civil) No.1/2020 (In Re: Contagion of Covid 19 virus in prisons), which had been followed by a Division Bench

of this Court in WP(C) (Suo Moto) No.1/2020 (Gauhati High Court -Vs- Union of India & Ors.) in its order dated 15.04.2020. The Apex Court in its

order dated 13.04.2020 directed that in such cases a person who has been in detention for more than two years, is liable to be released. This order has

been continuously followed by this Court.

Mr. J Payeng, learned Standing Counsel, Foreigners Tribunal, has, however, apprised this Court that the State is following the order of the Honâ??ble

Apex Court and as and when two years in detention are completed, a person is released and most probably the petitioner has also been released.

Consequently, we direct that the present petitioner be released (unless already been released) on his furnishing personal bond of Rs.5000/- and one

surety of like amount.

The other conditions which are already there in the order dated 15.04.2020 passed in WP(C) (Suo Moto) No.1/2020 will apply in the present case as

well.

We hereby direct Deputy Commissioner of Police, Border, Kamrup (Metro) to release the petitioner forthwith (if not already released).

List after three months.

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