
(2019) 02 GAU CK 0060
In the Gauhati High Court
Case No : Writ Petition (C) No. 1027 Of 2019

Majiron Bibi

APPELLANT

Vs

Union Of India And 5 Ors

RESPONDENT

Date of Decision : 20-02-2019

Acts Referred:

Citation : (2019) 02 GAU CK 0060

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

Bench : Division Bench

Advocate : A.R. Sikdar, A Ali, J Payeng, A Verma, G Sarma

Judgement

AM Bujor Barua, J

1. Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Also heard Mr. AI Ali, learned counsel for the Election Commission of India and Mr. J Payeng, 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. On being referred by the Superintendent of Police (B), Goalpara, F.T. Case No. 5714/G/13 was registered against the Foreigners Tribunal No.1, Goalpara.

3. Upon receipt of notice, the petitioner appeared and submitted her written statement but thereafter repeated adjournments were sought for filing of some documents. Another petition was filed seeking further time to submit the required documents which was rejected by the Tribunal by the order dated 23.12.2014 on the ground that although the provisions of the Foreigners Tribunal order 1964 provides 10(ten) days time for the purpose but the petitioner was already granted more than 5(five) months time. Consequently, the reference was decided ex-parte against the petitioner by the order dated 05.01.2015. Being aggrieved the present petition is preferred.

4. We could not notice any acceptable reason as to why the petitioner had not submitted the required documents within the prescribed statutory period and from the said point of view, the ex-parte order passed by the Tribunal cannot be said to be unsustainable. But, however in order to enable the petitioner to have a decision on merit in the reference, we are of the view that the petitioner be given another opportunity to produce all the required evidence.

5. Accordingly, the order dated 05.01.2015 of the Foreigners Tribunal No.1, Goalpara in F.T. Case No. 5714/G/13 is set aside. But however, as no acceptable reason was found as to why the petitioner had not adduced the required evidence, a cost of Rs.5,000/- is imposed on the petitioner. The cost be deposited with the District Level Legal Services Authority, Goalpara.

6. Upon showing the proof, the petitioner shall appear before the Tribunal on 18.03.2019 along with the required documents and other evidences that she may desire to produce.

7. Upon such appearance, the Tribunal shall decide the reference within a period of 45 days therefrom.

8. In the event, the petitioner does not appear or fails to cooperate, further the Tribunal will be at liberty to pass any order under the law.