
(2018) 04 GAU CK 0099
In the Gauhati High Court
Case No : WP(C) 7314 of 2017

MD. ATOR ALI @ ATAR ALI APPELLANT
Vs
THE UNION OF INDIA and 5 ORS. RESPONDENT

Date of Decision : 27-04-2018

Acts Referred:

Citation : (2018) 04 GAU CK 0099

Hon'ble Judges : UJJAL BHUYAN, NELSON SAILO

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Ujjal Bhuyan, J.

None appears for the petitioner on call through Mr. UK Nair, learned senior Special Counsel, Foreignersâ?? Tribunal (FT) is present. Petitioner was

marked as a doubtful (D) voter in 2013 in the electoral rolls of Tamulpur Legislative Assembly Constituency. However, no consequential steps were

taken thereafter. Petitioner had approached this Court earlier by filing WP(C) No. 6199/2015 (Md.Ator Ali Vs. Union of India) with the grievance

that either consequential reference should be made or the tag of doubtful (D) voter should be removed against his name. The writ petition was

disposed of by a Single Bench of this Court vide order dated 09.10.2015 directing the Superintendent of Police (Border), Nalbari to make a reference

to the Foreigners Tribunal, Nalbari to determine the citizenship status of the petitioner within a month. With the grievance that the said direction of this

Court was not complied

with, and as a result, citizenship status of the petitioner continued to remain in a state of uncertainty, the present writ petition came to be filed.

However, this time, it has been stated that the competent authority to make the reference would be the Superintendent of Police (Border), Baksa and

not Superintendent of Police (Border), Nalbari, as the jurisdiction of the petitioner would be covered by the Superintendent of Police (Border) Baksa.

Therefore, a prayer has been made for issuance of necessary direction to the Superintendent of Police (Border), Baksa. On 29.11.2017, this Court

had passed the following order:

“Petitioner was marked as a doubtful voter in 2013 in respect of Tamulpur Legislative Assembly Constituency. Petitioner had earlier approached

this Court in WP (C) No.6199/2015 with the grievance that no consequential steps were taken thereafter. A Single Bench of this Court vide order

dated 09.10.2015 disposed of the writ petition by directing Superintendent of Police (Border), Nalbari to make a reference to the Foreigners

Tribunal, Nalbari to determine the citizenship status of the petitioner within a month. Petitioner is again before the Court complaining that Tamulpur

Legislative Assembly Constituency is in the district of Baksa and therefore jurisdictional authority would be Superintendent of Police (Border), Baksa.

She therefore, prays for issuance of necessary direction to the Superintendent of Police (Border), Baksa.

Since this Court had directed Superintendent of Police (Border), Nalbari to make a reference to the concerned Foreigners Tribunal within one month

vide order dated 09.10.2015, we would like to know from the Superintendent of Police (Border), Nalbari as to what steps he has taken following such

order of this Court. Let the information be furnished by Superintendent of Police (Border), Nalbari before the Court on the next date.” On 12.03.2018

Sri Shiladitya Chetia, Superintendent of Police (Border), Nalbari personally appeared before us and explained the reasons for the delay in taking

necessary steps which were accepted. Thereafter, the following order was passed:

“Mr. Nair, learned Senior Special Counsel appearing for the Superintendent of Police (Border), Nalbari submits that he had joined his present

office on 05.02.2018 and he was not aware of the previous orders passed by this Court, as it was not brought to his notice. However, now that he has

come to know about the previous orders of this Court, necessary steps would be taken. Mr. Nair also submits that jurisdiction of the petitioner would

be with the Superintendent of Police (Border), Baksa and, therefore, the

reference may have to be made to the Foreigners Tribunal, Baksa.

Since the order of this Court dated 09.10.2015 was specifically to the Superintendent of Police (Border), Nalbari, he should take up the matter with the Superintendent of Police (Border), Baksa immediately and ensure that necessary reference is made by the Superintendent of Police (Border), Baksa

before the competent Foreigners Tribunal. Superintendent of Police (Border), Baksa shall extend all possible cooperation to the Superintendent of

Police (Border), Nalbari. Let the reference be filed within a period of 30 days from today.â??

Today when the matter is called upon, Mr. Nair has informed us that Superintendent of Police (Border), Baksa had made a reference to the

Foreignersâ?? Tribunal, Baksa on 11.04.2018 suspecting the petitioner Md. Atar Ali to be a foreigner who had illegally entered into India (Assam)

from Bangladesh after 25.03.1971. It is further submitted that the said reference has since been registered as FT Case No.17/B/2018 before the

Foreignersâ?? Tribunal, Baksa.

In view of above, no further order is called for save and except that Foreignersâ?? Tribunal, Baksa shall now proceed with the reference in

accordance with law and render its opinion as sought for in terms of the Foreigners (Tribunals) Order, 1964. Writ petition is accordingly disposed of.

Registry to inform the concerned Foreignersâ?? Tribunal, Deputy Commissioner and the Superintendent of Police (Border) for doing the needful. A

copy of this order may be furnished to the learned Standing Counsel, Election Commission of India and State Coordinator, NRC.