

(2016) 09 SC CK 0017

In the Supreme Court Of India

Case No : Civil Appeal No. 9338 of 2016 (Arising out of S.L.P. (Civil) No. 23748 of 2016)

Md. Harun Rashid

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 19-09-2016

Acts Referred:

Constitution of India, 1950 — Article 133

Citation : (2016) 9 JT 519

Hon'ble Judges : Kurian Joseph and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : Sanjay R. Hedge, Senior Advocate, Prabal Pratap Singh Solanki, Hitendra Nath Rath, Advocates, for the Appellant

Final Decision : Disposed Of

Judgement

Kurian, J.—Leave granted.

2. On the ground of inordinate delay in approaching the High Court for quashing of order dated 08.2.2005 passed by the Illegal Migrants (D) Tribunal, Hojai, declaring the appellant to be an illegal migrant, the High Court has dismissed the Writ Petition.

3. According to the appellant, he could not avail a fruitful opportunity before the Illegal Migrants(D) Tribunal and therefore he had produced all the relevant documents before the Illegal Migrants (D) Appellate Tribunal.

4. Since the Illegal Migrants (Determination by Tribunal) Act, 1983, itself has been struck down by this Court, the Appellate Tribunal ceased to function. Therefore, the appellant had to challenge the original order before the High Court, and thus the delay.

5. Having regard to the facts and circumstances of the case mentioned above, we are also of the view, that interest of justice would be served, in case, the

matter is remitted to the Foreigner's Tribunal, Shankardev Nagar, Hojai, Assam, so as to have an opportunity for the appellant to prove his case.

6. Accordingly, we set aside the impugned judgment and remand the matter to the Foreigner's Tribunal, Shankardev Nagar, Assam. The appellant is permitted to appear before the Foreigner's Tribunal, Assam on 24th October, 2016. He shall also produce all the relevant documents. The Tribunal shall dispose of the case as expeditiously as possible. Till orders are passed as above, all proceedings for arrest and deportation of the appellant, shall be deferred.

7. The Civil Appeal is disposed of in the aforesaid terms.

8. No costs.