

(2018) 11 GAU CK 0012
In the Gauhati High Court
Case No : Civil Writ Petition No.4153 Of 2018

Nand Lal Devnath

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 13-11-2018

Acts Referred:

Foreigners Act, 1946 — Section 9

Citation : (2018) 11 GAU CK 0012

Hon'ble Judges : Manojit Bhuyan, J;Prasanta Kumar Deka, J

Bench : Division Bench

Advocate : U Dutta

Final Decision : Disposed Off

Judgement

Heard Mr. U. Dutta, learned counsel for the petitioner as well as Ms. P. Baruah, learned counsel for respondent no. 1; Mr. J. Payeng, learned

counsel for respondent nos. 2, 3, 4 and 7; Mr. A.I. Ali, learned counsel for respondent no.5 and Mr. G. Taye, learned counsel for respondent No.6.

The Foreignersâ?? Tribunal (2nd) Morigaon, passed order dated 07.04.2016 in F.T. Case No. 846/2012, declaring the petitioner to be a foreigner

who illegally entered into India (Assam) from Bangladesh between 01.01.1966 to 24.03.1971.

Notice of the proceedings before the Tribunal was duly served upon the petitioner. However, he did not put in his appearance to discharge the burden

that he is not a foreigner, as required under Section 9 of the Foreigners Act, 1946.

Contrary to the above, a stand is taken in the writ petition that the petitioner had no knowledge of the proceedings until he was arrested on 25.04.2018.

It is also stated that presently the petitioner is lodged at the Tezpur Detention

Centre.

Despite the aforesaid order/opinion passed by the Tribunal, petitioner now submits that it would meet the ends of justice if a direction is made to the concerned Foreigners Regional Registration Officer for registering his name. It is submitted that such direction can be made even at this belated stage.

We have heard the learned counsels for the parties and also take note of the order passed in a writ petition involving similar subject matter. Notice is

had to the order dated 11.09.2017 passed in WP(C) 2295/2014 (Pronoti Bala Sarkar and others vs. State of Assam and Others). In the said case, this

Court after noticing the relevant provisions under the Citizenship Act, 1955, as amended, and that under the Citizenship Rules, 2009, together with the

Full Bench decision in State of Assam and Others vs. Moslem Mondal and Others, reported in (2013) 1 GLT 809, held that it would meet the ends of

justice to permit the petitioners therein to get themselves registered as foreigners belonging to the 01.01.1966 to 25.03.1971 stream, even at the belated

stage. Petitioner also places reliance in the order dated 23.07.2018 passed in WP(C) 4647/2018 (Laba Das and another vs. Union of India and others)

whereby direction was made for registration pursuant to order that had been passed way back on 15.11.1990. Having regard to the submission of Mr.

Dutta and in view of the order passed in Pronoti Bala Sarkar (supra) and Laba Das (supra), we make a direction to the petitioner to approach the

Foreigners Regional Registration Officer (FRRO), Nagaon within a period of 30 (thirty) days from today. To facilitate the process and having regard

to the fact that the petitioner is presently lodged at the Tezpur Detention Centre, we make a direction to the Superintendent of Police (Border),

Morigaon to make necessary arrangement to produce the petitioner before the FRRO, Nagaon within the aforesaid period of 30 (thirty) days, enabling

the petitioner to take the required steps for registering his name. In turn, the FRRO, Nagaon shall pass appropriate order, after making necessary

verification, towards registration of the name of the petitioner in accordance with law. Legal consequences shall accordingly follow, in that,

subsequent to registration of the name of the petitioner, he shall be released from custody.

With the above observation and direction, the writ petition stands disposed of.