
(2022) 01 GAU CK 0009

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 9500 Of 20 19

Pramila Debnath

APPELLANT

Vs

Union Of India And 8 Ors.

RESPONDENT

Date of Decision : 04-01-2022

Acts Referred:

Citation : (2022) 01 GAU CK 0009

Hon'ble Judges : N. Kotiswar Singh, J; Malasri Nandi, J

Bench : Division Bench

Advocate : P Bora

Final Decision : Disposed Of

Judgement

N. Kotiswar Singh, J

1. Heard Mr. R. Chetri, learned counsel for the petitioner. Also heard Mr. B. Deka, learned Central Government Counsel for respondent No.1; Mr. J.

Payeng, learned Standing Counsel, Foreigners Tribunal for respondent Nos.2, 5, 6, 7 & 8; Mr. A. Bhuyan, learned Standing Counsel, ECI appearing

for respondent No.3 and Ms. L. Devi, learned Standing Counsel, NRC for respondent No.4

2. In this petition, the petitioner has challenged the ex-parte order dated 14.06.2019 passed by the learned Foreigners Tribunal, Udalguri, BTAD in

FT(DV) Case No. UDL/FT/1263/2015 by which the matter was proceeded ex-parte as the petitioner remained absent and was declared a foreigner

of post 25.03.1971.

3. The plea of the petitioner is that though the petitioner received summons, on the date fixed, the petitioner could not appear because of local Bandh

called by some organizations. However, on subsequent dates, the petitioner could

not appear as the petitioner remained unaware of the date fixed by the Tribunal. Accordingly, the matter was proceeded ex-parte.

4. Learned counsel for the petitioner submits that otherwise the petitioner had no intention to evade the process of law and would like to contest the claim as the petitioner has sufficient documentary evidence in her possession to show that she is an Indian citizen, not a foreigner.

5. In this regard, the learned counsel for the petitioner has drawn attention to the various documents including the voters list of 1965 of No.69 Paneri

Legislative Assembly, District-Darrang, P.S. Paneri, Mouza- Majikuchi, Sub-Division- Mangaldoi, Village- Dudgar Makha, Part-95 showing the name

of Girish Chandra Debnath who the petitioner claims to be her father, the voters list of 1970 and the name of the petitioner also appears in the voters

list of 1989 and other documents have also been referred.

6. Citizenship is one of the most important rights of a person in today's world. It is the key to enjoyment of the rights guaranteed by law of the

land. It is through citizenship that a person can enjoy and enforce fundamental rights and other legal rights conferred by the Constitution and other

statutes, without which a person cannot lead a meaningful life with dignity. A person stripped of citizenship would be rendered a stateless person, if

any other country refuses to accept him or her as its citizen. Such is the overarching significance and importance of citizenship to a person. Therefore,

any such proceeding which has the potential of depriving citizenship ought to be accordingly, examined from that perspective also. In a normal

proceeding before a court of law, in spite of any adverse finding, the person will continue to enjoy the rights as a citizen. Only in a criminal proceeding

because of any adverse finding, some of the rights of a person may get affected because of incarceration, except in the case of capital punishment,

when life itself gets extinguished and all the rights also go away along with it. Though a proceeding under the Foreigners' Tribunal, is merely

quasi-judicial in nature, yet an adverse opinion by the Tribunal that the proceedee is a foreigner almost seals the fate of the proceedee as far as the

issue of citizenship is concerned, as the authorities are expected to declare such a person a foreigner in terms of the opinion of the Tribunal and he

would be liable to be detained and deported. Thus, ordinarily, such an opinion of the Tribunal, in our view, ought to be given after analyzing the

evidence that may be produced by the proceedee and not by way of default as has been done in the present case.

7. Under the circumstances, we are inclined to grant another opportunity to the petitioner to appear before the Foreigners Tribunal to prove her case

that she is an Indian citizen, not a foreigner.

8. Accordingly, the impugned ex-parte order dated 14.06.2019 passed by the learned Foreigners Tribunal, Udalguri, BTAD in FT(DV) Case No.

UDL/FT/1263/2015 is set aside.

9. Petitioner will appear before the Foreigners Tribunal, Udalguri on or before 07.02.2022.

10. Since the citizenship of the petitioner is under cloud, she will appear before the Superintendent of Police (Border), Udalguri within 15 (fifteen) days

and furnish a bail bond of Rs.5,000/- (Rupees five thousand) with one local surety of the like amount to the satisfaction of the said authority

whereafter she shall be allowed to remain on bail. On such appearance, the Superintendent of Police (Border) Udalguri may obtain necessary

information and documentation as required under the rules from the petitioner for securing her presence and also shall take steps for capturing the

finger prints and biometrics of the iris of the petitioner, if so advised.

The petitioner shall not leave the jurisdiction of Udalguri District without giving details of the place of destination and her place of stay to the

Superintendent of Police (Border), Udalguri.

11. With the above observations and directions, the present petition is disposed of.