Heard Mr. MU Mahmud, learned counsel for the petitioners and Mr. M Bhagabati, le arned Central Government Counsel appearing for respondent No. 1. Also heard Ms. K Phukan, learned State Counsel, Assam appearing for respondent Nos. 2 & 3.

Challenge made in this writ petition is to the order dated 04.10.2012, passed by the Foreigners Tribunal, Goalpara (Tribunal) in FT Case No.2314/G/10 opining th at petitioners are illegal migrants of post 1971 stream from Bangladesh and directing deletion of their names from the electoral roll. Police was also given liberty to push them back from the territory of India.

Petitioner No. 2 is the son of petitioner No. 1, whereas, petitioner Nos. 3 & 4 are the daughters of petitioner No. 1. Wife of petitioner No. 1 had expired during the pendency of the proceeding before the Tribunal.

The above case was registered against the petitioners, including wife of petitio ner No. 1, on the suspicion that they were foreign nationals. On receipt of notice, petitioners engaged their counsel and filed written statement.

A proceeding was earlier initiated against the petitioner and his parents and ot her family members under the Illegal Migrants (Determination by Tribunals) Act, 1983 by the IM(D) Tribunal, Goalpara in Case No. New 282(G)/1988. The proceeding was contested by the petitioner No. 1 and the other family members. By order da ted 25.11.1989, the learned Tribunal declared that the petitioner, his parents a nd sisters were not illegal migrants.

In the present proceeding, the petitioners filed written statement on 04.08.2011. In paragraph 4, it was stated that petitioner and his parents migrated from the then East Pakistan to Assam in the year 1967 and settled at Khutabari under Dh updhara Police Station in the district of Goalpara. In para 7, it was stated that a proceeding under the IM(D)T Act was initiated against them, whereafter the IM(D)T Tribunal declared them to be not illegal migrants.

A perusal of the impugned order dated 04.10.2012 would show that after filing of written statement, petitioners failed to appear on a number of dates. Ultimately, the matter was proceeded ex-parte. As already noticed above, the learned Tribunal opined that the petitioners are illegal migrants of post 1971 stream. Relevant portion of the order dated 04.10.2012 reads as under: -

To pass final order there is nothing except forming opinion that though respond ents contested the case by filing written statement, they hopelessly failed to p rove their claim. On the other hand respondent in the written statement admitted fact that he was born in East Pakistan. The W/S does not give us any smelling t hat Arabinda Biswas took his citizenship by registration. So his status remained as illegal migrant and status of his children are also illegal migrant. On the other hand, the allegation against respondents that they entered into Assam afte r the 25th day of March 1971 could not be disproved by the respondents. So I am of opinion that respondent Arabinda Biswas, Prahlad Biswas, Himani Biswas and Ku hima Biswas are illegal migrant of post 1971 stream from Bangladesh. So they have no locus standi to live within territory of India rather they are liable to be pushed back within early date. Respondent Jaimati Biswas W/O Arabinda Biswas is dead. So case is abetted against her.

Inform Suptd. of Police (B) Goalpara to restrain the free movement of all above named four respondents forthwith through his subordinate agency. Goalpara Police (B) shall be at liberty to push back all four respondents from territory of Ind ia within early date in accordance with provision of law without Quit India noti ce and shall report their compliance with to this Tribunal within one month from the date of communication of order of this day without fail.

ERO, 36 Dudhnoi ST LAC shall delete names of respondents from electoral roll of village Laodoba (Khutabari Pt.I) under his constituency.

Admittedly, learned Tribunal failed to give due consideration to the earlier dec

ision of the IM(D)T Tribunal declaring the petitioner to be not an illegal migra nt. Petitioners have explained their non-appearance in paragraph 5 of the writ p etition. It has also been placed on record that petitioners had filed necessary application under section 6A of the Citizenship Act, 1955 for their registration having entered Indian territory in 1966.

Petitioner No. 1 having been declared to be not an illegal migrant once by a dul y constituted Tribunal, cannot now be declared as an illegal migrant along with his children. To that extent, the impugned order suffers from an apparent perver sity. Since, petitioner No. 1 belongs to the 1966-1971 stream, he is required to register his name under the relevant provisions of the Citizenship Act, which he has done.

A Full Bench of this Court in the case of State of Assam & Anr. Vs. Moslem Monda l & Ors., reported in 2013 (1) GLT 809 has held that the initial time limit for filing application for registration which is one month is extendable by another 60 days by the registering authority. However, such time limit cannot be further extended by the registering authority beyond the said period except under exceptional circumstances.

Thus, having regard to the above, impugned order dated 04.10.2012 is hereby set aside and quashed. Registering Authority, Goalpara is directed to immediately take a decision on the application filed by the petitioner No. 1 for registration under the 1966-1971 stream.

Writ petition is, accordingly, allowed. No costs. Registry to send down the case record immediately.