

GAHC010032712024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/774/2024
in
WP(C) 3425/2019

GOPAL DEY @ SARKAR
S/O- LATE PURNA CH SARKAR @ PURNA CH DEY, R/O- VILL- SALMARA,
P.O AND P.S- TAMULPUR, PIN- 781367, DIST- BAKSA, ASSAM

VERSUS

UNION OF INDIA AND 6 ORS
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI

3:THE DEPUTY COMMISSIONER
BAKSA
DIST- BAKSA
ASSAM
PIN- 781343

4:THE SUPERINTENDENT OF POLICE (B)
BAKSA
ASSAM
PIN- 781343

5:THE SUPERINTENDENT OF POLICE
BAKSA
ASSAM
PIN- 781343

6:THE STATE COORDINATOR

NRC
BHANGAGARH
GUWAHATI- 05

7:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 0

Advocate for the Petitioner : MR A K DAS

Advocate for the Respondent : DY.S.G.I.

BEFORE

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

20-03-2024

(M.R.Pathak, J)

Heard Mr. A. K. Das, learned counsel for the applicant and Ms. A. Verma, learned Standing Counsel, Home Department, Assam for the opposite party Nos. 2, 4 and 5. Also heard Mr. R. Talukdar, learned Government Advocate, Assam for the opposite party No. 3 as well as Mr. A. I. Ali, learned Standing Counsel, Election Commission of India for the opposite party No. 7.

2) In a reference being made by the Superintendent of Police (Border), Nalbari, the learned Foreigners' Tribunal Baksa, Tamulpur by its opinion & order dated 31.10.2018, passed in F.T. Case No. 352/BAKSA/2017, opined the petitioner to be a foreigner under the Foreigners Act, 1946, who had illegally entered into the territory of India (Assam) on or after 25.03.1971 from the specified territory.

3) Dissatisfied with the said impugned judgment dated 31.10.2018, passed by the Foreigners' Tribunal Baksa, Tamulpur, noted above, the applicant as petitioner filed the connected WP(C) No. 3425/2019, wherein, the Court by order dated 04.12.2023, while issuing notice to the respondents, in the interim, directed the petitioner therein, i.e., the present applicant to appear before the Superintendent of Police (Border), Baksa on or before

20.12.2023.

4) It is submitted by Mr. A. K. Das, learned counsel for the applicant/petitioner that after obtaining the certified copy of the said order dated 04.12.2023 passed in WP(C) No. 3425/2019, the applicant along with his bailor appeared before the SP (B), Baksa on 19.12.2023 but on their appearance he was informed that the SP (B), Baksa was busy in a meeting and were asked to come on the next day. Pursuant to the same the petitioner with his bailor again on 20.12.2023 went to the office of the SP (B), Baksa and he was informed that the said police officer had gone to Guwahati for some official purpose. Thereafter, the petitioner on 28.12.2023 with his bailor appeared before the SP (B), Baksa, and placed the certified copy of the said order dated 04.12.2023 passed in WP(C) No. 3425/2019. However, on this occasion the concerned SP (B) did not consider to regularise his bail rather asked him to obtain an extension for the period of his appearance before the said authority.

5) Hence, this application by the applicant, i.e., the petitioner of connected WP(C) No. 3425/2019 praying for a direction to allow him to appear before the SP(B), Baksa, BTAD, pursuant to the order dated 04.12.2023 passed earlier in the connected WP(C) No. 3425/2019 by extending the time period for execution of his bail.

6) It is seen that the applicant has filed this application on 13.02.2024 for extension of time for his appearance before the SP (B), Baksa as directed by the order dated 04.12.2023 passed in the connected WP(C) No. 3425/2019 without explaining the reasons for the delay from 29.12.2023 till 12.02.2024. Ms. Verma, learned Standing Counsel, Home Department, Assam on telephonic instruction submitted that the applicant/petitioner actually appeared before the SP(B), Baksa on 28.12.2023 after the expiry of the period specified in the said order dated 04.12.2023, noted above.

7) We have seen that the said writ petition of the applicant i.e., WP(C) No. 3425/2019 is pending for adjudication and the relevant records from the concerned Foreigners Tribunal have also been received.

8) After hearing the learned counsels for the parties and considering the entire aspect of the matter, the petitioner is granted time to appear before the Superintendent of Police (Border), Baksa on or before **05.04.2024** without fail to comply with the order dated

04.12.2023, passed in the connected WP(C) No. 3425/2019 and to submit about the same before the Court on the next date of listing of said WP(C) No. 3425/2019.

9) This order shall be read together with the order dated 04.12.2023 passed in the connected WP(C) No. 3425/2019 that is preferred by the present applicant as petitioner.

10) Accordingly, this Interlocutory Application stands allowed to the extent above.

JUDGE

JUDGE

Comparing Assistant