

GAHC010027212020



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

Case No. : I.A.(Civil)/294/2020
in
WP(C) No. 4765/2017

MATIBUR RAHMAN @ MATIBUR ISLAM
S/O MD. JABBAR ALI @ ABDUL JABBAR, VILL-DHARMUKH, P.O.-
DHARMUKH, P.S.-KAMPUR, DIST-NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW
DLEHI-01

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR GUWAHATI-06

3:THE DIRECTOR GENERAL OF POLICE
ULUBARI GUWAHATI-07

4:THE SUPERINTENDENT OF POLICE (B)
JORHAT P.O. AND P.S.-JORHAT
ASSAM

5:THE SUPERINTENDENT OF POLICE (B)
NAGAON
P.O. P.S. AND DIST-NAGAON
ASSAM

6:ISWAR PRASAD BARTHAKUR
MEMBER OF FOREIGNERS TRIBUNAL
JORHAT
P.O. P.S. AND DIST-JORHAT
ASSAM

7:THE DEPUTY COMMISSIONER
NAGAO

Advocate for the Petitioner : MR. M H AHMED
Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

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

ORDER

03-04-2024

(M.R.Pathak, J)

Heard Mr. M. H. Ahmed, learned counsel for the applicant/petitioner and Mr. G. Sarma, learned Standing Counsel, Home Department, Assam for the opposite party Nos. 2, 3, 4 and 5.

2) From the relevant record of the Case No. FT/SVR/536/11, wherein the impugned judgment was passed by the learned Member, Foreigners Tribunal, Jorhat, Assam on 06.05.2017 declaring the applicant /petitioner/proceedee to be a foreigner under the Foreigners Act, 1946, we have seen that a reference being Police Enquiry No. 490/2011 was made on 28.10.2011 by the Superintendent of Police (Border), Sivasagar to the Foreigners Tribunal, Sivasagar to give its opinion, as to whether, the applicant/petitioner/proceedee is a foreigner or not, as after investigation police personnel from Gourisagar Police Station of Sivasagar District found the applicant/petitioner /proceedee to be a suspected foreigner.

3) Since there was no Member in the Foreigners Tribunal, Sivasagar, the said reference being Police Enquiry No. 490/2011 that was made by the SP (B), Sivasagar on 28.10.2011 was placed before the learned Foreigners Tribunal, Jorhat and the said Foreigners Tribunal after considering the material evidence passed the impugned judgment on 06.05.2017.

4) However, in its order dated 09.08.2017, passed in the connected WP(C) No. 4765/2017, the Court while issuing notice to the respondents in said WP(C) No. 4765/2017, that was preferred by the applicant as petitioner challenging the impugned judgment dated

06.05.2017, passed by the learned Foreigners Tribunal, Jorhat, in the interim, by the said order dated 09.08.2017 directed the applicant/petitioner/proceedee to appear before the Superintendent of Police (Border), Jorhat granting interim bail to him.

5) Since the reference was from Sivasagar District, the SP (Border), Jorhat could not comply with the said order dated 09.08.2017, passed by the Court in said WP(C) No. 4765/2017.

6) Hence this application by the applicant i.e., the petitioner of connected WP(C) No. 4765/2017 praying for a direction to allow him to appear before the SP(B), Sivasagar, pursuant to the order dated 09.08.2017 passed earlier in the connected WP(C) No. 4765/2017 by extending the time period for execution of his bail.

7) After hearing the learned counsels for the parties and considering the entire aspect of the matter, the petitioner, namely, **Matibur Rahman @ Matibur Islam** is granted time to appear before the Superintendent of Police (Border), Sivasagar on or before **10.04.2024** without fail, along with a certified copy of this order, to comply with the order dated 09.08.2017, passed in the connected WP(C) No. 4765/2017.

8) This order shall be read together with the order dated 09.08.2017 passed in the connected WP(C) No. 4765/2017 that is preferred by the present applicant as petitioner.

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

JUDGE

JUDGE

Comparing Assistant