

GAHC010056322017



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

Case No. : I.A.(Civil)/4122/2017

BADAL CH. SILL @ BADAL CH. SEAL

VERSUS

THE UNION OF INDIA and 4 ORS.

Advocate for the Petitioner : MR. S BISWAS

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

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

04-04-2024

(M.R.Pathak, J)

Heard Ms. R Saha, learned counsel for the applicant/writ petitioner and Mr. A Kalita, learned Standing counsel, Home Department, Assam for the opposite party/respondent Nos. 2 & 4. Also heard Mr. P Sharma, learned Additional Senior Government Advocate, Assam for the opposite party/respondent No. 5.

- 2.** Earlier the applicant as petitioner filed the connected WP(C) No. 6667/2017 challenging the

ex-parte order dated 23.08.2016 passed by the learned Member, Foreigners' Tribunal No. 1, Bongaigaon in BNGN/FT/Case No. 1262/2007 declaring him to be a foreigner under the Foreigners Act, 1946, who had illegally entered into the territory of India (Assam) from the specified territory of Bangladesh on or after 25.03.1971 as well as the order dated 30.03.2017 passed by the same Tribunal in BNGN/FT/Case No. 1498/2010 reiterating the order dated 23.08.2016.

3. A Co-Ordinate Bench of this Court by its order dated 08.11.2017 passed in the connected WP(C) No. 6667/2017 after hearing the parties set aside both the orders dated 23.08.2016 and 30.03.2017 and remanded the two References back to the Foreigners' Tribunal No. 1, Bongaigaon for deciding afresh on merits, with the observation that the petitioner shall appear before the said Tribunal in connection with BNGN/FT/Case No. 1262/2007 and BNGN/FT/Case No. 1498/2010 along with his written statement on 08.11.2017, whereafter the said Tribunal shall hear both the References together in accordance with law, observing further that if there is any default on the part of the petitioner, the Tribunal would be at liberty to pass appropriate order that may be deemed fit and proper.

4. The Co-Ordinate Bench of this Court in the said order dated 08.11.2017 categorically observed that it did not express any opinion on merits of both the cases.

5. Thereafter, the petitioner/proceedee appeared before Foreigners' Tribunal No. 1, Bongaigaon in BNGN/FT/Case No. 1262/2007 and BNGN/FT/Case No. 1498/2010, but as he did not submit any bail application, he was kept in custody. Since, he was kept in custody in spite of setting aside the orders dated 23.08.2016 and 30.03.2017, noted above, the applicant/petitioner filed this Interlocutory Application to pass necessary order, granting him bail in BNGN/FT/Case No. 1262/2007 and BNGN/FT/Case No. 1498/2010.

6. Earlier, though this application was listed on 03.10.2018 and 17.07.2019, on both the occasions, the learned counsel for the applicant/writ petitioner took time. When the matter was taken up for consideration on 01.04.2024, it was submitted that the applicant/petitioner had expired.

7. As directed earlier on 01.04.2024, the Superintendent of Police (Border), Bongaigaon after due verification by its communication dated 03.04.2024 placed before the Court today by Mr. A Kalita, Standing counsel, Home Department clarified that while the petitioner/proceedee was in

custody during continuance of said BNGN/FT/Case No. 1262/2007 and BNGN/FT/Case No. 1498/2010, he was released on conditional bail on 22.04.2020 vide WP(C)(SOU MOTU) No-1/2020 (IN RE-CONTAGION OF COVID/19 VIRUS IN PRISON).

8. It is also submitted by the Superintendent of Police (Border), Bongaigaon that the applicant/petitioner later died on 15.05.2021 as per the records available in its office.

9. It is to be noted herein that as the petitioner/proceedee did not file his written statement in BNGN/FT/Case No. 1262/2007 and BNGN/FT/Case No. 1498/2010 in spite of the order of the Co-Ordinate Bench of this Court passed earlier on 08.11.2017 in WP(C) No. 6667/2017, the said Tribunal, i.e., the Foreigners' Tribunal No. 1, Bongaigaon again on 09.03.2018 passed an ex-parte order declaring the petitioner to be a foreigner under the Foreigners' Act, 1946.

10. Since the applicant/petitioner already expired on 15.05.2021, as has been affirmed by the Superintendent of Police (Border), Bongaigaon by his communication dated 03.04.2024, noted above, this Interlocutory Application, being infructuous, stands closed.

11. The communication of the Superintendent of Police (Border), Bongaigaon dated 03.04.2024 placed before the Court today by Mr. A Kalita, Standing counsel, Home Department along with the relevant orders of the Foreigners' Tribunal No. 1, Bongaigaon be kept as part of the records.

JUDGE

JUDGE

Comparing Assistant