GAHC010044912024

2026:GAU-AS:15548-DB

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

Case No. : WP(C)/1267/2024

MONOWARA BEGUM @ MONOWARA KHATUN
D/O- LATE SUKUR ALI,
W/O- KURAN ALI,
A R/O- VILLAGE KALAHIKASH,
P.S- BOKO,
PIN-781123, DIST- KAMRUP, ASSAM

VERSUS

UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, SASTRI BHAWAN, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE SUPERINTENDENT OF POLICE (B)
AMINGAON
GUWAHATI-31

4:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
GUWAHATI-31

5:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD

NEW DELHI-110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M

Advocate for the Petitioner : MR. S ALIM, MR. A H AHMED

Advocate for the Respondent : DY.S.G.I., GA, ASSAM,SC, ECI,SC, F.T

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 13.10.2026
(R. Mazumdar, J)

Heard Mr. S. Alim, learned counsel for the petitioner. Also heard Mr. J.K. Goswami, learned CGC; Ms. A. Verma, learned standing counsel for the FT and Border matters; Mr. N. Kalita, learned counsel on behalf of Mr. A.I. Ali, learned standing counsel for the ECI; and Ms. R.B. Bora, learned Junior Govt. Advocate for the State respondent.

2. Dissatisfied with the final opinion dated 02.03.2023, passed by the learned Member, Foreigners Tribunal, No.2, Kamrup (Rural) at Boko, Assam, in B.F.T. Case No. 1983/16, corresponding to F.T. Case No. 527/08, by which the petitioner was declared as an illegal migrant of post 25.03.1971 stream, the present writ has been filed.

3. The learned counsel for the petitioner has submitted that a perusal of

the impugned order would reflect that the petitioner had, in addition to his own evidence and the exhibits from Ext. A to Ext. R, also adduced the evidence of 4 (four) other defence witnesses namely, DW-2 to DW-5. The learned counsel for the petitioner has submitted that as reflected at paragraph no. 24 of the impugned order, the learned Tribunal simply recorded that the "O.P had adduced the evidence of DW-2, 3, 4 and 5 to assist her plea to prove herself as an Indian citizen but the DW's could not do much help to prove the same." He has submitted that the failure of the learned Tribunal to discuss the evidence adduced by DW-2 to DW-5 has caused a prejudice to the petitioner. The learned counsel for the petitioner has therefore, submitted that in the absence of discussion of the evidence of the petitioner, the impugned order cannot stand the scrutiny of law and which is required to interfered with.

4. We have perused the order dated 02.03.2023 and we have noticed that the learned Tribunal had discussed the exhibits made by the petitioner as DW-1. However, we do not find any discussion with regard to the evidence adduced by DW-2 to DW-5 in favour of the petitioner.

5. The learned standing counsel for the Border and FT matters has submitted that a perusal of the records before of the Courts would show that the evidence of DW-2 to DW-5 would not be of any assistance to the case of the petitioner and mere absence of a discussion would not require any interference in the order impugned.

6. We have learned counsel for the parties and perused the records.

7. The present petition has been filed invoking jurisdiction under Article 226 of the Constitution of India. This Court, while evaluating the submissions made by the petitioner, would not go into the detailed discussion regarding the

evidence of DW-2 to DW-5 and their impact on the assertions made by the petitioner. However, we are of the considered opinion that the complete absence of any discussion by the learned Tribunal regarding the evidence adduced by the DW-2 to DW-5 would require an interference to the extent that the matter would now have to be remanded back to the learned Tribunal to discuss the effect of the evidence of the DW-2, 3, 4 and 5 and thereafter, pass a reasoned order.

8. Accordingly, the impugned opinion dated 02.03.2023, passed in B.F.T. Case No. 1983/16, corresponding to F.T. Case No. 527/08 is interfered with and set aside. The proceedings are remanded to the learned Member, Foreigners Tribunal, No.2, Kamrup (Rural) at Boko, Assam to take into consideration the evidence led by DW-2, 3, 4 and 5 and after discussing the effect of the evidence so led, render a fresh opinion in the matter. We make it clear that we have not rendered our opinion in any manner with regard to the claim made by the petitioner.

9. The Registry is directed to return back the Tribunal's record along with a copy of the order to made a part of record of the proceedings before the learned Tribunal.

10. The petitioner shall appear before the learned Tribunal on or before 30.11.2026. On appearance of the petitioner before the learned Tribunal, the learned Tribunal shall fix a date for arguments in the matter and proceed in accordance with law.

11. On her appearance, the petitioner, shall be at liberty to apply for bail for the reminder of the proceedings, which will be considered by the learned Tribunal on its own merits

12. The writ petition is accordingly, disposed of. There shall be no order as to cost.

13. It is expected that the learned Tribunal would take up the matter expeditiously for disposal.

JUDGE **JUDGE**

Comparing Assistant