GAHC010228822026

2026:GAU-AS:15550-DB

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

Case No. : WP(C)/5697/2026

SABIYA KHATUN ALIAS MABIYA KHATUN
WIFE OF ABDUL AWAL, DAUGHTER OF LATE RUSTOM ALI, RESIDENT OF VILLAGE GHORAMARA, S/O SIMLABARI P T I, P S MERCHAR, DISTRICT BONGAIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN 110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI
PIN 110001

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI 781006.

4:THE DISTRICT COMMISSIONER
BONGAIGAON
ASSAM
PIN 783380

5:THE SUPERINTENDENT OF POLICE B
BONGAIGAON
PIN 783380
ASSAM.

6:THE COORDINATOR
NATIONAL
REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI 78100

Advocate for the Petitioner : MR. D K AGARWALA, SHAHANAWAZ CHOWDHURY,ASHRAFUL BORBHUYAN,SC, F.T

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

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

ORDER

Date : 13.10.2026
(K.R. Surana, J)

Heard Ms. U. Chaterjee, learned counsel for the petitioner. Also heard Mr. J.K. Gowami, learned CGC; Mr. G. Sarma, learned standing counsel for the FT & Border matters; Ms. S. Katakey, learned standing counsel for the ECI; and Mr. P. Sarmah, learned Addl. Senior Govt. Advocate for the State respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the impugned order dated 06.05.2026, passed by the learned Member, Foreigners' Tribunal, Bongaigaon No. 2, Abhayapuri, in Misc. Case No. 47/2025, arising out of Case No. BNGN/FT/Case No. 1412/10.

3. By an opinion dated 10.05.2016, passed by the said learned Tribunal in BNGN/FT/Case No. 1412/10, arising out of Ref. BGN IM(D)T Case No. 83/2002, the petitioner was declared to be a foreigner of post-25.03.1971 stream. The said opinion was unsuccessfully challenged before this Court by filing WP(C) No. 3188/2016, which was dismissed by this Court by order dated

05.10.2016. Accordingly, the said opinion dated 10.05.2016 was not interfered with.

4. The petitioner challenged the order dated 05.10.2016, passed by this Court in WP(C) No. 3188/2016, by filing Special Leave Petition (Civil) Diary No. 41366 of 2025, and the following order was passed by the Supreme Court of India on 11.08.2025:

> 1. *Having regard to the inordinate and unexplained delay of over 9 years, we are not inclined to entertain this special leave petition. The same is, accordingly, dismissed on the ground of delay.*
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> 2. *However, if the petitioner or her family members have got some material to dislodge the finding of fact returned by the Foreigners Tribunal, they may approach the Tribunal with such material in accordance with law. Further, in case, the petitioner does not have sufficient means to engage a private counsel, the District Legal Service Authority, Bongaigaon, Assam is directed to provide free legal aid through a senior and seasoned counsel to the petitioner and her family members.*
>
> 3. *All pending applications, if any, also stand disposed of.*

5. Accordingly, the petitioner filed a review petition before the said learned Tribunal. By the impugned order dated 06.05.2026, the learned Tribunal, despite taking note of the directions contained in the order dated 11.08.2025 passed by the Supreme Court of India, dismissed the review petition on the ground of delay, in view of the provision of Section 3A(2) of the Foreigners (Tribunals) Order, 1964, which requires an application for review to be filed within 30 days, instead of examining the review petition on merits in the light of the aforesaid directions.

6. As the Supreme Court of India has granted liberty to the petitioner to approach the learned Tribunal with material to dislodge the finding of fact returned by it, we hope and trust that the learned Member, Foreigners' Tribunal, Bongaigaon No. 2, Abhayapuri, shall be well-advised to take up the review

petition and decide the same on merits, instead of dismissing it on the ground of delay.

7. The Court is inclined to record the objection raised by the learned standing counsel for the FT & Border matters against interference with the order dated 06.05.2026.

8. In view of the discussions above, the writ petition stands allowed at the motion stage, without issuance of notice to the respondents. Consequently, the order dated 06.05.2026, passed by the learned Member, Foreigners' Tribunal, Bongaigaon No. 2, Abhayapuri, in Misc. Case No. 47/2025, arising out of Case No. BNGN/FT/Case No. 1412/10 is set aside and the said Misc Case No. 47/2025 is restored to file of the said learned Tribunal.

9. The petitioner shall produce a certified copy of this order before the said learned Tribunal within an outer limit of three weeks from the date of this order. Upon production of the certified copy of this order, the learned Tribunal shall re-examine Misc. Case No. 47/2025 in the light of the discussions made hereinabove.

10. The petitioner is also granted liberty to approach the learned Tribunal with a prayer for bail, which, if filed, shall be considered by the said learned Tribunal.

JUDGE **JUDGE**

Comparing Assistant