

GAHC010252502025



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

Case No. : WP(C)/1205/2026

SULTANA BEGUM @ SULTANA KHAN @ SUTRABIBI BEGUM
D/O. ADAM KHAN, W/O. MD. ANWAR KHAN,R/O. VILLAGE- DARJEE
BASTI, BALIPARA, P.O. AND MOUZA- BALIPARA, P.S. CHARIDUAR,DISTICT
- SONITPUR, ASSAM. PIN - 784001.

VERSUS

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

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-6

3:THE SUPERINTENDENT OF POLICE (B)
SONITPUR
DISTRICT- SONITPUR
ASSAM
PIN- 784001

4:THE DISTRICT-COMMISSIONER OF SONITPUR
AT SONITPUR
DISTRICT- SONITPUR
ASSAM
PIN- 784001

5:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
INDIA
PIN- 110001

6:THE NATIONAL REGISTER OF CITIZEN
REPRESENTED BY THE STATE COORDINATOR
ASHYUT PLAZA
BHANGAGARH
KAMRUP (M)
ASSAM
PIN- 78100

Advocate for the Petitioner : MR. M A SHEIKH, MS S AHMED,MS F INTAZ

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

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

HON'BLE MR. JUSTICE PRANJAL DAS

Advocate for the petitioner : Shri MA Sheikh
Advocates for the respondents : Ms. A. Verma, SC- Home Deptt.,
Shri G. Sarma, SC - NRC,
Shri P. Sarma, GA, Assam,
Ms. S. Katakey, SC, ECI,
Ms. B. Sarma, CGC

Date on which judgment is reserved : **NA**
Date of pronouncement of judgment : **13.05.2026**
Whether the pronouncement is of the operative part of the judgment? : NA
Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER

(S.K. Medhi, J.)

The instant writ petition has been filed under Article 226 of the Constitution of India, challenging an order dated 13.08.2025 whereby learned Member, Foreigners Tribunal No.7th, Tezpur, Sonitpur has refused to vacate the *ex parte* order dated 20.04.2025 passed in the connected Case No. FTDC 1442/2016.

2. We have heard Shri MA Sheikh, learned counsel for the petitioner. We have also heard Ms. A. Verma, learned Standing Counsel, Home Department; Shri G. Sarma, learned Standing Counsel, NRC; Shri P. Sarma, learned GA, Assam; Ms. S. Katakey, learned Standing Counsel, Election Commission of India and Ms. B. Sarma, learned CGC.

3. Shri Sheikh, learned counsel for the petitioner, at the outset, has submitted that though the impugned order dated 13.08.2025 has referred the *ex parte* order dated as 20.04.2025, the same should be 16.04.2024. This aspect has also been verified from the original records, which have been requisitioned by this Court, vide order dated 25.03.2026.

4. The learned counsel for the petitioner has submitted that the petitioner has also filed her written statement and one chance be given to her to contest the proceeding.

5. On the other hand, Ms. A. Verma, the learned Standing Counsel, Home Department has submitted that the petition has been filed with suppression of material facts. She has submitted that the records would reveal that the proceeding which is of the year 2016 had culminated in an *ex parte* order dated 28.09.2022. However, there was an application to vacate the said *ex parte* order

which was accordingly done on 06.12.2022 with a direction to file the written statement. Thereafter, the written statement was filed on 19.07.2023. It however appears that the petitioner had again neglected to appear and contest the proceeding leading to passing of the order dated 16.04.2024. The said order was sought to be vacated by filing Petition No.1/2025 dated 28.07.2025 which has been rejected vide the impugned order dated 13.08.2025. It is submitted that the petitioner had wilfully and deliberately neglected to contest the proceeding and accordingly she is not entitled to any equitable relief.

6. The rival submissions made have been duly considered and the materials placed before this Court including the records of the Tribunal have been carefully perused.

7. At the outset, we would like to put on record that in matters of vacating *ex parte* order, normally this Court takes a lenient view. At the same time, we cannot be oblivious of the fact that the jurisdiction exercised by us under Article 226 of the Constitution of India is an equitable in nature where the conduct of the party approaching this Court is of paramount importance. The records would reveal that there was an earlier *ex parte* order dated 28.09.2022. It further reveals that the petitioner had filed an application for vacating the *ex parte* order which was accordingly done on 06.12.2022 with a direction to file the written statement. It however transpires that the written statement was not filed immediately and was done after more than one year i.e. 19.07.2023. Thereafter, the petitioner had again neglected to appear before the Tribunal and vide the order dated 16.04.2024, the learned Tribunal has passed an *ex parte* order. The said *ex parte* order was sought to be vacated by filing Petition No. 1/2025 after a period of one year three months i.e. 28.07.2025. The learned Tribunal has accordingly passed the impugned order dated 13.08.2025 refusing

to vacate the *ex parte* order.

8. We have seen that the proceeding is lingering since the year 2016 and in spite of a fair and adequate chance been given to the petitioner, she has neglected to contest the same. We have also seen that when the petitioner was aware of the proceeding, the Petition No. 1/2025 was filed on 28.07.2025 which is more than a year after passing of the order dated 16.04.2024. The learned Tribunal in the impugned order dated 03.08.2025 has rightly taken into consideration the requirement of filing a petition within a specified time to vacate *ex parte* order. The Foreigners Tribunal Orders of 1964, more specifically order 3(14) also mandates that a proceeding is to be completed within a period of 60 days. Taking into consideration of all the facts and circumstances, we are of the opinion that the petitioner is not entitled for any equitable relief from this Court.

9. The writ petition is accordingly dismissed.

10. The records be sent back.

JUDGE

JUDGE

Comparing Assistant