

GAHC010105862026



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

Case No. : WP(C)/2848/2026

MAIFUL NESSA ALIAS MUSSTT MAIFUL NESHA ALIAS MAYFUL NESSA
ALIAS MOYFUL NESSA
D/O LT MOKSED ALI ALIAS MD MOKSED ALI, W/O MD ABDUL KALAM
ALIAS ABUL KALAM, PERMANENT R/O VILL NASATRA, PS ABHAYAPURI,
DIST BONGAIGAON, ASSAM

VERSUS

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

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

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

4:THE DISTRICT COMMISSIONER
BONGAIGAON
ASSAM
PIN 783380

5:THE SUPERINTENDENT OF POLICE (B)
BONGAIGAON
ASSAM
PIN- 783380

6:COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI- 78100

Advocate for the Petitioner : MR A W AMAN, R MALI,S T AMAN,MR SARFRAZ NAWAZ,MD
A RAHMAN

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

Date : --03.06.2026

Heard Mr. A.W. Aman, learned counsel for the petitioner; Mr. A.I. Ali, learned Standing Counsel, ECI for the respondent no. 2; Mr. G. Sarmah, learned Standing Counsel, NRC, Home & Political Department for the respondent nos. 3, 5 & 6; and Mr. P. Sharma, learned Additional Senior Government Advocate, Assam for the respondent no. 4.

2. In this writ petition, assail is made to an Order/Opinion dated 27.08.2025 passed by the Foreigners Tribunal, Bongaigaon no. 2, Abhayapuri in F.T. Case no. BNG/FT-2/APR/770/2016. By the Order/Opinion dated 27.08.2025, the Tribunal has found that the petitioner had failed to discharge her burden of proof as envisaged under Section 9 of the Foreigners Act, 1946 with cogent and reliable evidence and she had illegally entered into the territory of India [Assam] from the specified territory after 25.03.1971 without any valid document.

3. We have gone through the statements and averments made in the writ petition as well as the documents annexed with the writ petition.

4. The matter would require examination.

5. The records of F.T. Case no. BNG/FT-2/APR/770/2016 be requisitioned.

6. Issue notice, returnable on 24.07.2026.

7. As Mr. Ali, learned Standing Counsel, ECI has appeared and accepted notice for the respondent no. 2; Mr. G. Sarmah, learned Standing Counsel, NRC, Home & Political Department has appeared and accepted notices for the respondent nos. 3, 5 & 6; and Mr. P. Sharma, learned Additional Senior Government Advocate, Assam has appeared and accepted notice for the respondent no. 4, formal notices need not be issued to the said respondents. Mr. Aman, learned counsel for the petitioner shall furnish requisite nos. of extra copies of the writ petition along with the annexures, to Mr. Ali, Mr. G. Sarmah and Mr. P. Sharma, within 2 [two] working days from today.

8. The learned counsel for the petitioner shall serve a copy of the writ petition along with annexures to Mr. R.K. Deb Choudhury, learned Deputy Solicitor General of India for service of notice upon the respondent no. 1, within 2 [two] working days from today.

9. Heard the learned counsel for the parties also on the interim prayer.

10. Having considered the materials on record, this Court is inclined to allow the prayer for bail of the petitioner, though the prayer for bail is opposed by the learned counsel for the respondents. The petitioner is to appear before the Superintendent of Police [Border], Bongaigaon [the respondent no. 5], within 10 [ten] days from today. On such appearance, the petitioner may be released on furnishing a bond of Rs. 5000/- [Rupees five thousand] with one surety to the satisfaction of the Superintendent of Police [Border], Bongaigaon [the respondent no. 5]. The Superintendent of Police [Border], Bongaigaon [the respondent no. 5] may also take steps for capturing the finger prints and biometrics of iris of the petitioner's eye balls, if so advised.

JUDGE

JUDGE

Comparing Assistant