

Md. Nizamuddin Vs Union Of India And 6 Ors.

Court: Gauhati High Court

Date of Decision: June 15, 2021

Hon'ble Judges: Sudhanshu Dhulia, CJ; Manash Ranjan Pathak, J

Bench: Division Bench

Advocate: K M Hassan

Judgement

Heard Mr. KM Hassan, learned counsel for the petitioner. Mr. J. Payeng, learned Standing Counsel, Foreigners Tribunal, Mr. A. Bhuyan, learned

Standing Counsel, Election Commission of India, Ms. L Devi, learned Standing Counsel, NRC and Ms. A Gayan, learned Central Government Counsel

are present.

The matter relates to Foreigners Tribunal.

The petitioner has challenged the order dated 27.03.2019 passed by the Foreigners Tribunal No.3rd, Morigaon in F.T. (D) Case No.5/2008 by which

the petitioner was declared as a foreigner. Presently the petitioner is in Tezpur Detention Centre since the date of his arrest, i.e. 11.10.2019.

This matter has to be decided on its merits. All the same, presently the petitioner prays for his release in terms of the directions given by the

Hon'ble Apex Court in the order dated 13.04.2020 in Suo Motu Writ Petition (Civil) No.1/2020 (In Re: Contagion of Covid 19 virus in prisons),

which had been followed by a Division Bench of this Court in WP(C) (Suo Moto) No.1/2020 (Gauhati High Court -Vs- Union of India & Ors.) in its

order dated 15.04.2020. In terms of the aforesaid order of the Apex Court, a detainee who has already remained in detention for two years or more, is

liable to be released on his furnishing personal bond and surety. Following the said order of the Hon'ble Apex Court, we have already released a

number of detainees.

Technically the order, however, is not applicable in the present case since the petitioner has not completed two years in detention. As of now he has

completed 1 year 8 months in detention.

However, considering the unusual, strange and difficult situation of COVID-19 pandemic which is in its second wave and also on consideration of the

fact that the jails and the detention centres are to be decongested under the present circumstances so that the Coronavirus does not spread any

further, we are inclined to pass an order of release in favour of the petitioner, as has been done in other similar cases.

Consequently, we direct that the present petitioner be released on his furnishing personal bond of Rs.5000/- and one surety of like amount. The

concerned authority will be at liberty to take all the particulars including the bio matrix of the petitioner before his release.

The other conditions which are already there in the order dated 15.04.2020 passed in WP(C) (Suo Moto) No.1/2020 will apply in the present case as

well.

List after three months.