

WP(C) 243/2010
BEFORE
HON'BLE MR. JUSTICE B.P. KATAKEY

Heard Mr. I Choudhury, learned counsel for the petitioner, Mr. M Bhagawati, learned Central Government counsel appearing for the respondent No.1 and Mr. RK Bora, learned State counsel appearing for the respondent Nos.2 to 5.

The petitioner by the present petition has challenged the ex-parte opinion dated 4th November, 2009 passed by the learned Member, Foreigners Tribunal, Goalpara in FT Case No.36/G/06 (District Case No.4/2001).

A full Bench of this Court in State of Assam & Anr. Vs. Moslem Mondal & Ors. reported in 2013(1) GLT 809 has held that the Tribunal does not become functus officio for the purpose of entertaining an application seeking setting aside the ex-parte opinion.

In view of the above, the writ petition is disposed of allowing the petitioner to approach the Tribunal for setting aside the ex-parte opinion within 15(fifteen) days from today. In the event of filing such application, the same shall be considered in accordance with law and having regard to the decision of the full Bench of this Court in Moslem Mondal's (supra) case, within 30(thirty) days thereafter. The petitioner, in the meantime, shall not be deported from India for a period of 45(forty-five) days.

The writ petition is accordingly disposed of. No costs.

The Registry is directed to send down the lower Court records, so as to reach the said Court within 15(fifteen) days from today.