

ITEM NO.2

Court 5 (Video Conferencing)

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.9085/2019

(Arising out of impugned final judgment and order dated 07-01-2019
in WPC No.8524/2018 passed by the Gauhati High Court)

MANGLA DAS

Petitioner(s)

VERSUS

THE UNION OF INDIA & ORS.

Respondent(s)

Date : 12-07-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Parthiv K Gautam, Adv.
Mr. Rahul Pratap, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Mr Parthiv K Goswami, learned counsel appearing on behalf of the petitioner has adverted to the order passed by a two-Judge Bench of this Court on 7 November 2016 in SLP(C) CC No 20428 of 2015 [*Anima Sutradhar @ Anima Rani Sutradhar vs Union of India and Others*], which reads as

follows:

“Delay condoned.

Our attention has been drawn to a notification issued in the Gazette of India on 8th September, 2015.

The order reads as follows:

G.S.R. 686(E).- In exercise of the powers conferred by Section 3 of the Foreigners Act, 1946(31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order, 1948, namely:-

1.(1) This Order may be called the Foreigners (Amendment) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, after paragraph 3, the following paragraph shall be inserted, namely:-

"3A. Exemption of certain class of foreigners.(1) Persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

(a) without valid documents including passport or other travel documents and who have been exempted under rule 4 from the provisions of rule 3 of the Passport (Entry into India) Rules, 1950, made under Section 3 of the Passport (Entry into India) Act, 1920(34 of 1920); or

(b) with valid documents including passport or other travel document and the validity of any of such documents has expired. are hereby

granted exemption from the application of provisions of the Foreigners Act, 1946 and the orders made thereunder in respect of their stay in India without such documents or after the expiry of those documents, as the case may be, from the date of publication of this order in the Official Gazette".

It appears that this order was not brought to the notice of the High Court. Under the circumstances, we grant liberty to petitioner to approach the High Court with a review petition. The High Court will consider this notification as well as any other document that the petitioner may choose to file on record.

The special leave petition is disposed of.

There will be a stay of the order of the High Court for a period of four weeks from today."

- 2 Learned counsel submits that in terms of the above direction, the petitioner at this stage, rests content with liberty to be granted in similar terms to file a review before the High Court, drawing the attention of the court to the Gazette Notification being GSR 685(E) dated 7 September 2015 of the Government of India under Section 3 of the Foreigners Act 1950 and to any other documents that are relied upon.
- 3 The Special Leave Petition is accordingly disposed of granting liberty to the petitioner to apply for review.
- 4 For a period of eight weeks from today, no coercive steps shall be taken against the petitioner in pursuance of the impugned order of the High Court so as to enable the petitioner to seek the remedy in review. We clarify that

we have made no observation in regard to the entitlement of the petitioner to claim under the Notification dated 7 September 2015.

- 5 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
BRANCH OFFICER