

GAHC010170382019



2026:GAU-AS:9359

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

Case No. : WP(C)/5227/2019

FARJUL HAQUE @ MD. FAIZUL @ FAZLUL HOQUE
S/O- ABDUL JABBAR @ A. JABBAR, VILL- DATIALBORI, P.S. BHELOWGURI
(THEN LAHARIGHAT), DIST- MORIGAON, ASSAM, PIN- 782127

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF INDIA, HOME DEPTT.,
NEW DELHI-1, INDIA

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
ACHYUT PLAZA
BHANGAGARH
GHY-5
ASSAM

4:THE ELECTION COMMISSION OF INDIA
TO BE REP. BY THE COMM.
NIRVACHAN SADAN
ASHOKA ROAD
DELHI- 110001

5:THE DY. COMMISSIONER
NAGAON

DIST- NAGAON
ASSAM

6:THE SUPERINTENDENT OF POLICE (B)
NAGAON
DIST- NAGAON
ASSA

BEFORE

HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MRS. JUSTICE SHAMIMA JAHAN

Advocates for the petitioner(s) : Mr. Z. Hammad,
Advocate.
Advocate for the respondent(s) :Mr.C. K. S. Baruah,CGC.

Mr. A. I. Ali, S.C., ECI.

Ms. A. Verma, S.C., FT & Border
matters.

Ms. R. B. Bora,
Jr. Govt. Adv.

Date of which Judgment is reserved : 22.06.2026

Date of pronouncement of Judgment : 26.06.2026

Whether the pronouncement is of the : N/A
operative part of the Judgment?

Whether the full judgment has been : Yes
pronounced?

JUDGMENT & ORDER (CAV)

(S. Jahan, J.)

Heard Mr. Z. Hammad, learned counsel for the petitioner. Also heard Mr. C. K. S. Baruah, learned CGC; Ms. A. Verma, learned Standing Counsel for the FT and Border matters; Mr. N. Kalita, learned counsel appearing on behalf of Mr. A. I. Ali, learned Standing Counsel for the ECI and Ms. R. B. Bora, learned Government Advocate for the State respondent.

2. The petitioner has filed this application with the endeavor to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, for a writ in the nature of Certiorari for setting aside the Opinion dated 28.03.2017, passed by the learned Member, Foreigners Tribunal-5th, Morigaon, Assam in F.T. (D) Case No. 563/2016 (New Number), F.T. (D) 1233/2012 (Old Number), arising out of D/N Case No. 1601/98 dated 22.06.1998, by which, the petitioner was declared as a foreigner of post 25.03.1971 stream. The petitioner, in the alternative, had also prayed for remanding the matter back to the learned Tribunal for considering his case in its true perspective.

FACTS :-

3. It is the case of the petitioner that he is the son of Late Abdul Jabbar @ A. Jabbar and that he was born and brought up at village Datialbori, P.S.-Bhelowguri, Mouza-Moirabari, in the district of Morigaon, Assam. It is the further case of the petitioner that he was suffering from mental disease and was a patient in Lokopriya Gopinath Bordoloi Regional Institute of Mental Health, Tezpur, Assam. To substantiate the said contention, the petitioner relied on one

OPD Ticket which was issued by the said hospital in favour of the petitioner, by which medicines were prescribed to the petitioner for his mental illness. The petitioner further relied on a certificate dated 17.08.2015, issued by the Village Headman (Gaonburha), Kisam Borbori, Datialbori, Hugoltoli, in favour of the petitioner as well as another certificate dated 15.09.2015, issued by the President of Gaon Panchayat, Morigaon, Assam. He also relied on a School Certificate dated 10.07.2012, issued by the Headmaster of Dakhin Borbori Bagarijopa L.P. School.

4. Further, the petitioner also relied on the Voter list, wherein, his father had appeared as a voter before the cutoff date of 25.03.1971. The petitioner also stated that his grandfather had purchased a plot of land in the district of Morigaon by way of a Sale Deed dated 14.10.1957, which was, thereafter, inherited by his father.

5. On being suspected of not being an Indian citizen, the Superintendent of Police (Border), Morigaon referred the case to the then Chairman, IMDT, Nagaon, which, however, was later on transferred to the Court of the learned Member, Foreigners Tribunal-5th, Morigaon, Assam and his case was adjudicated upon.

6. The learned Tribunal issued notice to the petitioner and on receipt of the same, the petitioner filed his written statement.

PLEADINGS ACCORDED BY THE PETITIONER IN HIS WRITTEN STATEMENT :-

- (i) The Verification Officer did not make the proper enquiry and submitted a false report, on the basis of which, the case is registered.

- (ii) The Verification Officer had neither visited his house nor issued any notice to produce the relevant documents by the petitioner.
- (iii) The petitioner's father was born at village Datialbori, P.S.- Laharighat, District-Morigaon, Assam and that his father casted his vote in the year 1966 and 1971 from the same address.
- (iv) In support of his claim for citizenship, the petitioner exhibited the following documents-
 - (a) 1966 Voter list, wherein, his father was shown as a voter.
 - (b) 1971 Voter list, wherein, the same position continued.
 - (c) 1993 Voter list, wherein, the name of the petitioner was shown as a voter.
 - (d) 1989 Voter list, wherein, the same position continued.
 - (e) Registered Sale deed of buying a land by the projected father, Sudhan Mondal.
 - (f) Registered Sale deed of buying a land by the projected father, Sadu Moral.
 - (g) Revenue Receipt in the name of projected father, Suhan Seikh.
 - (h) Certificate by the Gaon Panchayat in favour of the

petitioner.

- (i) Certificate by the Gaonburha in favour of the petitioner.

EXAMINATION OF DEFENCE WITNESSES :-

7. Apart from the said written statement, the petitioner examined himself as 'DW-1' and he stated before the Tribunal that he was living in the same house where his father was born and lived. He further stated that he voted in the year 1993 and since the 'D' mark was put against his name in the year 1997, he could not vote thereafter.

The rest of the statements are similar to the statements made in the written statement.

8. To the questions put by the Court purportedly under Section 165 of the Evidence Act, the petitioner replied that his father died in the year 1986 and that his mother also died when he was a child and that he has one elder brother.

9. Apart from the petitioner, his wife was examined as 'DW-2', wherein, she stated that the petitioner is her husband and that he had no land in his name, but her father-in-law had land property and further, that the land which belonged to her father-in-law was not vested on her husband. She further stated that her husband has been suffering from mental disease for 15 years and that she will submit relevant papers to that effect. She also exhibited documents in support of her husband and they are the Panchayat certificate, the School certificate, the Voter list of 1993, the Voter list of 1971, the Voter list

of 1966, the Sale Deed executed in the year 1936, the land paper for the year 1957 and the Land Revenue paying receipt for the year 1957. She also exhibited the medical paper, showing mental disease of the petitioner.

10. On the query put by the Court, she replied that her father-in-law died in the year 1997 and that at the time of his death, he was around 86 years old. She also stated that her husband had 4 brothers and had also named them. She further stated that her mother-in-law is alive and that her husband would be 52 years of age and her eldest son was of 21 years of age.

FINDINGS AND CONCLUSIONS OF THE TRIBUNAL :-

11. On the basis of the aforesaid evidence adduced by the petitioner, the learned Tribunal had held as follows -

- (i) Although the petitioner had stated that the name of his father is Abdul Jabbar, but he had failed to establish his link with said Abdul Jabbar.
- (ii) The documents produced by the petitioner were not favorable for the purpose of establishing Indian citizenship.
- (iii) The petitioner has failed to establish his link with his 'projected' father, in view of the fact that his wife had given contrary statements.

On the said findings, the learned Tribunal declared the petitioner as a foreigner of post 25.03.1971 stream.

SUBMISSIONS :-

12. Mr. Z. Hammad, learned counsel for the petitioner submitted that the

petitioner was a psychiatric patient and he had placed the prescription issued by the doctor of Lokopriya Gopinath Bordoloi Regional Institute of Mental Health, Tezpur, Assam, by which, few medicines were prescribed to the petitioner in connection with his said mental illness. He submitted that the Voter list of 1966 showed that his father voted in the Assam Legislative Assembly elections from Laharighat, in the district of Morigaon, Assam. He further submitted that the petitioner's father also appeared as a voter in the year 1971 from the same place. He, thereafter, submitted that the name of the petitioner appeared as a voter, as reflected in the Voter list of 1993. He further relied on the Sale Deed executed on 14.10.1957, by which, the grandfather had a plot of land covered by Myadi Patta No. 249, Dag Nos. 252`s/253/254/289/290 at Laharighat, in the district of Morigaon, from one Md. Sangsher Ali Munshi. The petitioner, to substantiate his arguments, has placed reliance on the judgment cited by the Hon'ble Supreme Court in the case of ***Accused X Vs. State of Maharashtra***, reported in ***(2019) 7SCC 1*** by which the Court has prescribed certain procedures to be followed in cases of mental patient and a Judgment by this Court in the case of ***Adam Ali Vs. The Union of India & 5 Ors.***, in ***Writ Petition No. 1311/2018*** by which this Court held that Tribunal should consider all materials submitted by petitioner.

13. On the other hand, Ms. A. Verma, learned Standing Counsel for FT and Border matters submitted that in the written statement filed by the petitioner, neither the date of birth of the petitioner nor the date of birth of his siblings were stated. She further submitted that the petitioner could not establish the link with his projected father, since the Voter list placed by the petitioner showed the single name of Abdul Jabbar, whom he claimed to be his father. She

further submitted that it was the wife of the petitioner who had produced and exhibited the certificates issued by both the Gaonburha and the President of the Gaon Panchayat. She relied on the Judgment delivered by this Court in ***Sarbananda Sonowal Vs. Union of India***, reported in **(2017) 5 GLT 346**, to bring home the point that sudden appearance of a defence witness during the proceeding does not support the case of the proceedee. She also relied on the judgment delivered by this Court in the case of ***Momin Ali Vs. Union of India***, reported in **2017 (2) GLT 1076**, by which, this Court had held that written statement of the proceedee should contain all the material facts which are within his special knowledge and non-mentioning of the relevant facts results in raising suspicion of the actual facts. She also relied on a judgment delivered by this Court in ***Nur Begum Vs. The Union of India & 5 Ors.***, reported in **2000 (3) GLT 347**, by which, it was held that the writ Court under the Certiorari jurisdiction should refrain from reviewing the findings of facts reached by the Tribunal.

14. Mr. Hammad, learned counsel for the petitioner, in reply to the submissions made by the learned counsel for the F.T. and Border matters submitted that facts, regarding mental disease of the petitioner were clearly stated by his wife, i.e., DW-2. He also submitted that the medicines prescribed by the doctor in the prescription, related to 'Schizophrenia', which is a mental ailment suffered by the petitioner.

These are the submissions of the learned counsel for the parties.

ANALYSIS AND FINDINGS :-

15. The principle argument raised by the learned counsel for the petitioner is

that the petitioner suffered from mental ailments and as such, contractions arose in his statements, both in his written statement as well as during his examination as defence witness; with regard to certain issues, as stated by his wife. However, it is seen that the Mental Healthcare Act (MHCA), 2017 provides that if a person is found to be suffering from mental illness, the Court may refer the said person for examination by a Board, consisting of medical experts and on a report being furnished by the said board, the Court will take the necessary precautions. Section 105 of the said Act is quoted herein below -

“105. Question of mental illness in judicial process — *If during any judicial process before any competent court, proof of mental illness is produced and is challenged by the other party, the court shall refer the same for further scrutiny to the concerned Board and the Board shall, after examination of the person alleged to have a mental illness either by itself or through a committee of experts, submit its opinion to the court.”*

In the records, it is reflected that the petitioner had not taken recourse to the said provision during the proceeding before the learned Tribunal.

16. It is further provided under Section 4 of the said Act that every person, including a person with mental illness, shall be deemed to have the capacity to make decisions, if he has the ability to understand the proceeding and can take a decision for personal assistance. Section 4 of the said Act is quoted herein below-

“4. Capacity to make mental healthcare and treatment decisions.—

(1) Every person, including a person with mental illness shall be deemed to have capacity to make decisions regarding his mental healthcare or treatment if such person has ability to—

(a) understand the information that is relevant to take a decision on the treatment or admission or personal assistance; or

(b) appreciate any reasonably foreseeable consequence of a decision or lack of decision on the treatment or admission or personal assistance; or

(c) communicate the decision under sub-clause (a) by means of speech, expression, gesture or any other means.

(2) The information referred to in sub-section (1) shall be given to a person using simple language, which such person understands or in sign language or visual aids or any other means to enable him to understand the information.

(3) Where a person makes a decision regarding his mental healthcare or treatment which is perceived by others as inappropriate or wrong, that by itself, shall not mean that the person does not have the capacity to make mental healthcare or treatment decision, so long as the person has the capacity to make mental healthcare or treatment decision under sub-section (1).”

It is seen that the petitioner had never apprised the Tribunal that he requires personal assistance or the other decisions, as referred in the said section. He had simply relied on the prescription given by the doctor of the mental health hospital and his wife had exhibited the said prescription.

17. Mental illness is defined under the said Act, more specifically, under Section 3 of the Act. It is provided that mental illness will be determined in accordance with such nationally or internationally accepted medical standards, as may be notified by Central Government. It is further provided that mental illness of a person shall not be determined on the basis of factors not directly relevant to mental health status and it is also provided that past treatment or

hospitalization in a mental health establishment shall not, by itself, justify the determination of a person's mental illness.

18. In the instant case, only a prescription is relied upon, which is not sufficient to hold that the proceedee is a psychiatric patient. A bare perusal of the medicines also does not reflect the said position and at best, the medicines show treatment for 'Parkinson's disease'. Parkinson's disease is a progressive nervous system disorder that effects movement and worsens over time. The same has no relation with mental illness and in the instant case, the projection is of mental illness of the petitioner, which, however, is not the case here. As such, it cannot be said that the petitioner is a mental patient and that his statements cannot be believed. It is clarified that what is stated above in this paragraph is not to be considered as a finding of the court, but only a passing observations.

19. Further, there appears many contradictions between the statements of the petitioner and his projected wife. The petitioner stated that his father died in the year 1986 and that his mother died when he was a child and further, that he has one brother elder to him, whereas, his projected wife stated that her father-in-law died in the year 1997 and that her mother-in-law is still alive. She had also stated that her husband had 4 brothers, by naming all of them.

20. The discrepancy also appeared with regard to the land owned by the father of the petitioner, to the effect that the projected wife of the petitioner stated that although, her father-in-law had a land property, but it was never vested on her husband. The discrepancy is not one in number, but there are many discrepancies between the statements given by the petitioner and by his projected wife and the same has raised suspicion with regard to the identity of

the petitioner as well as the relation between the petitioner and DW-2.

21. Further, the certificate of the village Gaonburha, which was relied on by the petitioner is not admissible in the present case in as much as the issuing authority was not examined as a defence witness. Further, reliance on the certificate issued by the President of Datialbori Gaon Panchayat is also not relevant in the instant case, in view of the non-examination of the issuing authority and the same analogy is also applicable to the School certificate produced by the petitioner. It has been held in ***Romila Khatun Vs. Union of India***, reported in **(2018) 4 GLT 373**, in the following words -

“20. It is trite that documentary evidence would have to be proved on the basis of the record and the contemporaneous record must substantiate and prove the contents of the document. Proof of document is one thing and proof of contents is another. Not only the document would have to be proved but its contents would also have to be proved. That apart, the truthfulness of the contents of the document would also have to be established from the record. A document or the contents of the document cannot be proved on the basis of personal knowledge...”

22. Further, the Voter list relied on by the petitioner also does not establish the link between him and his projected father. In the Voter list of 1966, the projected father of the petitioner, namely, Abdul Jabbar was shown as a single voter, without the names of other relatives. Same is the case of the 1971 Voter list. In subsequent Voter list of 1993, although, the name of the petitioner was shown as a voter, but, he was shown as the son of A. Jabbar. The petitioner has not placed any Voter list wherein, his name is shown along with his father's name.

23. By calculation, it is found that the petitioner might have been born in the year 1953 and he would become eligible to vote in the year 1974-75. It was stated by the petitioner that his father died in the year 1986 and that his projected wife stated that her father-in-law died in the year 1997. As such, there should have been a Voter list of the petitioner along with his projected father, which is, however, not present in the instant case. As such, the link of the petitioner along with his projected father is not established in the present case.

24. In view of the same, the Sale Deed relied upon by the petitioner, which was executed on 14.10.1957, by which, the projected grandfather of the petitioner is shown to have purchased the land, can also not be treated as an evidence in favour of the petitioner. The link of the petitioner with his projected father is not established and on that count, it can be safely held that his link with the projected grandfather is also not established.

25. It is no longer res integra that written statement is the basic document which is supposed to lay down the foundation of the case of the proceedee and the written statement in the instant case lacks details and is wholly vague as stated above. There is no date of birth of the petitioner nor there is any statement with respect to the petitioner's siblings. In this connection, the observations made by the Hon'ble Supreme Court in the case of ***Sarbananda Sonowal -vs- Union of India***, reported in ***(2005) 5 SCC 665***, may be referred herein below -

"17. There is good and sound reason for placing the burden of proof upon the person concerned who asserts to be a citizen of a particular country. In order to establish one's citizenship, normally he may be required to give evidence of (i)

his date of birth (ii) place of birth (iii) name of his parents (iv) their place of birth and citizenship. Some times the place of birth of his grand parents may also be relevant like u/s 6-A(1)(d) of the Citizenship Act. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State. After he has given evidence on these points, the State authorities can verify the facts and can then lead evidence in rebuttal, if necessary. If the State authorities dispute the claim of citizenship by a person and assert that he is a foreigner, it will not only be difficult but almost impossible for them to first lead evidence on the aforesaid points. This is in accordance with the underlying policy of Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him...."

26. It is also no longer res integra that the burden of proof as laid down in Section 9 of the Foreigners' Act of 1946, is solely upon the proceedee and the said burden never shifts. In the said Section, there is non-obstante clause which suggest that the provisions of Indian Evidence Act would not be appliable. Section 9 is extracted below –

"9. Burden of proof.-

If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person. "

27. The Hon'ble Supreme Court had observed in case of ***Fateh Mohd. Vs. Delhi Administration***; reported in ***AIR 1963 SC 1035*** that the burden of proving that a person is not a foreigner or is not a foreigner of such particular class or description, lies upon such person only. In the said decision, the principles laid down by the Constitution Bench in the case of ***Ghaus Mohammad -vs- Union of India***; reported in ***AIR 1961 SC 1526*** was relied on. The relevant extract from Fateh Mohd. (supra) is quoted herein below -

“By reason of S. 9 of the Foreigners Act whenever a question arises whether a person is or is not a foreigner, the onus of proving that he is not a foreigner lies upon him. The burden is therefore upon the appellant to establish that he is a citizen of India in the manner claimed by him and therefore he is not a foreigner. This court in Union of India v. Gyaus Mohammad, (1962) 1 SCR 744 (AIR 1961 SC 1526), accepted this legal position and laid down at p. 748 (of SCR), thus: "It does not seem to have realised that the burden of proving that he was not foreigner, was on the respondent and appears to have placed that burden on the Union. This was a wholly wrong approach to the question." Rightly throwing the onus on the appellant the Magistrate considered the evidence and came to the conclusion that the appellant had failed to prove that he was a citizen of India and therefore not a foreigner. The learned Additional Sessions Judge after noticing that the onus was on the appellant considered the evidence, both oral and documentary and came to the conclusion that the appellant had failed to discharge the onus. It cannot be and indeed is not suggested that the said finding is vitiated by any error of law, but it is contended that the Additional Sessions Judge was not justified in ignoring the evidence of respectable witnesses who spoke to the fact that the appellant was born in India and continued to reside in India at the date of the commencement

of the Constitution and thereafter. The learned Additional Sessions Judge as a Judge of fact considered the evidence in the light of probabilities and the documentary evidence and rejected the same as unworthy of credence. The High Court in revision refused to interfere with that finding. We do not see any permissible ground for interference with that finding in an appeal under Art. 136 of the Constitution.”

28. Furthermore, while adjudicating the issue involved in the instant petition, we are reminded that a writ Court in exercise of jurisdiction under Article 226 of the Constitution of India should confine its powers only towards examination of the decision making process. In the present case, the Tribunal had given its findings based on facts, and it is a trite law that findings of facts are not liable to be interfered with, by a writ Court under its certiorari jurisdiction. The Hon'ble Supreme Court after discussing the previous case laws on the jurisdiction of a Writ Court with regard to the Writ of Certiorari had held in *Central Council for Research in **Ayurvedic Sciences and Another -vs- Bikartan Das***; reported in **AIR 2023 SC 4011**, as follows:-

“49. Before we close this matter, we would like to observe something important in the aforesaid context: Two cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more particularly when it comes to issue of writ of certiorari.

50. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal

purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

51. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

29. In ***T.C. Basappa v. T. Nagappa and Another***, reported in ***AIR 1954 SC 440***, the Hon'ble Apex Court had laid down the essential features of a writ of certiorari. In the said decision, it has been exhaustively explained by B.K. Mukherjea, J that writ in the nature of certiorari could be issued in 'all appropriate cases and in appropriate manner so long as the broad and fundamental principles are kept in mind. It was held as follows:-

“7. In granting a writ of 'certiorari', the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous, but does not substitute its own views for those of the inferior tribunal.....

8. The supervision of the superior court exercised through writs of certiorari goes on two points, as has been expressed by Lord Sumner in King v. Nat Bell Liquors Limited [(1922) 2 AC 128, 156]. One is the area of inferior jurisdiction and the qualifications and conditions of its exercise; the other is the observance of law in the course of its exercise.....

9. Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction.”

As such, we observe herein that the certiorari jurisdiction of the writ Court being supervisory and not appellate jurisdiction, this Court would refrain from reviewing the findings of facts reached by the Tribunal although for the ends of justice, some exercise has been done to the said effect.

30. In the instant case, it is clear from the above that the prescription placed by the petitioner and exhibited by his projected wife can, by no stretch of reasoning, can conclude that the petitioner was a mental patient and as such, the discrepancy which had appeared in his evidence cannot be held to be non-demolishing.

31. The link was also not established by the petitioner to his projected father by way of valid documents before the learned Tribunal. As such, this Court is of

the view that the Opinion dated 28.03.2017, passed by the learned Member, Foreigners Tribunal-5th, Morigaon, Assam in F.T. (D) Case No. 563/2016 (New Number), F.T. (D) 1233/2012 (Old Number), arising out of D/N Case No. 1601/98 dated 22.06.1998, does not call for any interference.

32. The writ petition stands dismissed. The interim order passed earlier stands vacated. The actions consequent upon the opinion rendered by the learned Tribunal would follow in accordance with law.

33. The records of the learned Tribunal be returned forthwith, along with a copy of this order.

JUDGE

JUDGE

Comparing Assistant