

GAHC010069912026



2026:GAU-AS:9301

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

Case No. : WP(C)/1996/2026

NASIRA BEGUM CHOUDHURY
W/O MD. NAJIM UDDIN CHOUDHURY, R/O VILLAGE- BHEDOUATI, P.O-
JUNGLE BLOCK, P.S- JAMUNAMUKH, DIST- HOJAI, ASSAM, PIN- 782428

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF EXTERNAL AFFAIRS, NEW DELHI- 001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSAM
HOME (PASSPORT) DEPARTMENT
DISPUR
GUWAHATI- 06

3:THE REGIONAL PASSPORT OFFICER
GUWAHATI
A DEE TOWER
2ND FLOOR
OPP. NIDHI BHAWAN
LALMATI
GUWAHATI- 29

4:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI- 07

5:THE SUPERINTENDENT OF POLICE
HOJAI
DIST- HOJAI

ASSAM
PIN- 782435

6:THE OFFICER-IN-CHARGE
JAMUNAMUKHI POLICE STATION
DIST- HOJAI
ASSAM
PIN- 78242

Advocate for the Petitioner : MR. M U MAHMUD, MR. M ALI,MR. J UDDIN

Advocate for the Respondent : DY.S.G.I., MR. B DEKA (C.G.C.),GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 24-06-2026

Heard Mr. M.U. Mahmud, learned counsel for the petitioner; Mr. B. Deka, learned CGC for the respondent nos. 1 & 3; and Mr. H. Sarma, learned Additional Senior Government Advocate, Assam for the respondent nos. 2, 4, 5 & 6.

2. The petitioner herein is the wife of one Mohammed Najim Uddin Chowdhury, who was issued Passport no. N6858433, valid up to 27.01.2026. The passport issued to Mohammed Najim Uddin Chowdhury was an ordinary Passport, as described under Section 4[1][a] of the Passports Act, 1967 [‘the Passports Act’] on 28.01.2016 and its period of validity was 10 years from the date of issue of the Passport.

3. It is stated in the writ petition that after issuance of the Passport, Mohammed Najim Uddin Chowdhury migrated to Saudi Arabia to earn his

livelihood and he has been staying in Saudi Arabia since October, 2019 and has been working there for gain. As the validity of the Passport was to expire on 27.01.2026, Mohammed Najim Uddin Chowdhury submitted an application on 04.12.2025 at the Consulate General of India, Jeddah [CGI, Jeddah] for renewal of the Passport. On receipt of the application for renewal, the same is being processed vide File no. SBI075900566225 against Passport no. N6858433, which was originally issued by the Regional Passport Office, Guwahati on 28.01.2016.

4. As after submission of the application for renewal on 04.12.2025, the respondent Passport Authorities did not finalize the process before 27.01.2026, the validity of the Passport expired. When even after elapse of more than two months from 27.01.2026 no final decision was taken by the Passport issuing authorities, the petitioner has preferred the present writ petition on 01.04.2026.

5. The petitioner has contended that Mohammed Najim Uddin Chowdhury in the application for renewal had disclosed all the details about him and as the Passport was issued earlier on 28.01.2016 with ten years validity period, Mohammed Najim Uddin Chowdhury as a valid Passport holder was expecting renewal of his Passport as he had neither criminal antecedents at the time of issuance of the Passport on 28.01.2016 nor acquired any such disability under the provisions of the Passports Act to refuse to renew the Passport.

6. In the writ petition, the petitioner has stated that proceedings were initiated against four brothers of Mohammed Najim Uddin Chowdhury, namely, [i] Kutub Uddin Choudhury, [ii] Md. Tazim Uddin Choudhury @ Raju Choudhury,

[iii] Md. Aftar Uddin Choudhury @ Bolai and [iv] Md. Moin Uddin Choudhury @ Moni Choudhury before the Foreigners' Tribunal. After Opinions were rendered by the Foreigners' Tribunal against those four brothers, they as writ petitioners have assailed those Opinions of the Foreigners' Tribunal before the High Court by filing three writ petitions. The three writ petitions are W.P.[C] no. 7213/2018, W.P.[C] no. 7946/2022 and W.P.[C] no. 1953/2022 and those three writ petitions are pending as on date.

7. An affidavit-in-opposition has been filed by the respondent nos. 1 & 3 on 11.05.2026. In the said affidavit-in-opposition, the fact of pendency of the afore-mentioned three writ petitions is mentioned. As on date, the writ petitioners therein, who are the brothers of Mohammed Najim Uddin Chowdhury, are on bail. In addition, it is mentioned that during processing of the application of Mohammed Najim Uddin Chowdhury by the Passport Issuing Authority [PIA], that is, the Consulate General of India, an 'Adverse' Police Verification Report was received from the Police Authority wherein the remarks [in verbatim] state : 'FT Case no. FT-D-1640-2017 opined as Case is filed vide order dated 08.06.2018'. On the basis of such Police Verification Report, it is submitted that the citizenship of Mohammed Najim Uddin Chowdhury has not been confirmed as Indian and therefore, the application for renewal of Passport of Mohammed Najim Uddin Chowdhury could not be processed further by the CGI, Jeddah. It is mentioned that issuance or renewal of a Passport is ordinarily subject to receipt of a clear Police Verification Report and in cases where adverse Police Verification Report is received, the same is governed by the applicable rules.

8. The matters of issuance, renewal or re-issuance of Passports are governed and regulated by the provisions of the Passports Act, 1967 [‘the Passports Act’ for ‘the Act’, for short]. It is an Act to provide for the issue of Passports and travel documents, to regulate the departure from India of citizens of India and for other persons and for matters incidental or ancillary thereto.

9. Section 5 of the Passports Act provides for application for issue of Passports under the Act. Sub-section [2] of Section 5 of the Passports Act has provided that on receipt of an application under section 5 of the Passports Act, the Passport Authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of the Act, by order in writing :-

[a] issue the passport or travel documents with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or

[b] issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or

[c] refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.

10. As per Section 5[3], where the Passport Authority makes an order either issuing or refusing a passport on the application of any person, it shall have to record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the

Passport Authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India and security of India, or in any other reasons stated therein.

11. As regards refusal of passport, etc., it is the provision contained in Section 6 which is of relevance. In sub-section [1] of Section 6, four grounds under which the Passport Authority can refuse to make an endorsement for visiting a country have been outlined. It is made specific therein that other than those four grounds, the Passport Authority cannot refuse to make an endorsement on any other ground. Sub-section [2] of Section 6 of the Passports Act has delineated the grounds on which the Passport Authority can refuse to issue a passport for visiting any foreign country under Section 5 and those grounds.

12. For ready reference, Section 6[2] is quoted herein below :-

[2] Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause [c] of sub-section [2] of section 5 on any one or more of the following grounds, and on no other ground, namely: -

[a] that the applicant is not a citizen of India.,

[b] that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,

[c] that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

[d] that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

[e] that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

[f] that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

[g] that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

[h] that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

[i] that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

Other than the grounds from [a] to [i], a Passport Authority cannot refuse to issue a Passport on any other ground.

13. Notification no. GSR 570[E] dated 25.08.1993 and Notification dated 10.10.2019 of the Ministry of External Affairs, Government of India have been placed before the Court. On perusal, it is noticed that the Notification no. GSR 570[E] dated 25.08.1993 was issued under Section 22 Clause [a] of the Passports Act in public interest and to exempt citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India. The second Notification dated 10.10.2019 is in essence, in continuation of the previous Notification no. GSR

570[E] dated 25.08.1993.

14. In those Notifications, it has been clarified that Section 6[2][f] of the Passports Act has prescribed that the Passport Authority shall refuse to issue a Passport to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a criminal court in India and those Notifications are issued to give relief to such applicant against whom criminal proceedings is pending before any Court of law in India but who may need to travel abroad for some urgent business.

15. In respect of Mohammed Najim Uddin Chowdhury, whose application for renewal of the Passport is the subject-matter in this writ petition, nothing has been brought on record to the effect that Mohammed Najim Uddin Chowdhury is involved in any criminal offence or any criminal case is pending before a criminal court in India against him. In such view of the matter, the Notifications dated 25.08.1993 and dated 10.10.2019 are not found applicable to the case in hand.

16. As per the respondent nos. 1 & 3, a Police Verification Report has been received wherein it is mentioned that the proceedings under the Foreigners Act are presently pending against four brothers of Mohammed Najim Uddin Chowdhury. The provisions of Section 5 and Section 6 of the Passports Act is suggestive of the fact that the matter of issuance, renewal or re-issuance of passport is person specific, not family specific.

17. The Hon'ble Supreme Court in **Mahesh Kumar Agarwal vs. Union of**

India and another, 2025 INSC 1476, has reiterated that the right to travel abroad and the right to hold a Passport are facets of the right to personal liberty under Article 21 of the Constitution of India. Any restriction on that right must be fair, just and reasonable, and must bear a rational nexus with a legitimate purpose. A Passport is a civil document that enables its holder to seek a visa and, subject to other laws and orders, to cross international borders. The Passports Act contemplates passports that 'continue in force' for a prescribed period. It does not create a separate disability for applicants whose earlier passports have lapsed. Re-issue after expiry is a routine occurrence. The only relevant question remains whether any of the statutory grounds of refusal under Section 6[2] continue to apply or not.

18. It is a mandate under Section 5[2] of the Passports Act for the Passport Authority to pass an Order either issuing a Passport under Clause [a] or Clause [b], or refusing a Passport under Clause [c]. In either case, the Passport Authority after making such enquiry, if any, has to record in writing a brief statement of its reasons for making such order. The Passport Authority also has the discretion under Section 7 of the Passports Act to issue, renew or re-issue a Passport for any period up to 10 years.

19. As the processing of the application submitted by Mohammed Najim Uddin Chowdhury on 04.12.2025 has not yet been brought to its logical conclusion by an Order under Section 5[2] of the Passports Act till date, this writ petition is disposed of with a direction to the respondent authorities in the Ministry of External Affairs, Government of India including the respondent no. 3, to process the application for renewal and for that matter, re-issuance of the Passport to

Mohammed Najim Uddin Chowdhury by passing an Order under Section 5[2] of the Passports Act, within a period of 4 [four] weeks from the date of submission of a copy of this Order by the petitioner before the respondent no. 3. It is, however, within the discretion of the respondent authorities if the Passport is renewed or re-issued, to pass an Order under Section 7 of the Passports Act as regards validity period of such renewed or re-issued Passport.

20. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant