

MAHAMUDUL HASSAN

A

v.

UNION OF INDIA & OTHERS
(Writ Petition (Crl.) No. 109 of 2010)

OCTOBER 08, 2010

B

[MARKANDEY KATJU AND T.S. THAKUR, JJ.]

Constitution of India, 1950:

Articles 32 and 161 – Writ petition challenging the order passed under the Foreigners Act whereby a Bangladesh national was sentenced for illegally entering India – HEI D: The petitioner has a right to appeal to High Court on judicial side – He can also approach the executive authority concerned u/s 432 CrPC or to the Governor under Article 161 of the Constitution – Supreme Court being a judicial Court has no such powers – Writ petition dismissed – Foreigners Act, 1946 – Code of Civil Procedure, 1973 – s.432.

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CRIMINAL ORIGINAL JURISDICTION : Writ Petition
(Criminal) No. 109 of 2010.

E

Petition Under Article 32 of the Constitution of India.

Shanti Ranjan Das (for Sarla Chandra) for the Petitioner.

The following order of the Court was delivered

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O R D E R

Heard learned counsel for the petitioner.

This is a petition under Article 32 of the Constitution making various prayers.

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Petitioner, who is a Bangladesh national, has been convicted by the Additional Sessions Judge, Dakshin Dinajpur

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A at Balurghat, West Bengal under the Foreigners Act for illegally entering India and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rupees ten thousand.

B In our opinion, if the petitioner has a grievance against that judgment, he has a right of appeal to the High Court on the judicial side. He can also approach the concerned executive authority under Section 432 Cr.P.C. or to the Governor under Article 161 of the Constitution of India. This is a judicial Court and hence this Court has no power which the executive has under Section 432 Cr.P.C or which the Governor has under Article 161 of the Constitution.

C With these observations, the Writ Petition is dismissed.

R.P.

Writ petition dismissed.