

GAHC010002692023



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

Case No. : WP(C)/182/2023

SAHERA KHATUN@SAHERA BEGUM
D/O- LATE ABDUL KUDDUS, W/O- KERAMAT ALI,
R/O- VILLAGE BILASHIPARA GAON,
P.O- BILASHIPARA BAZAR,
MOUZA- GOBARDHANA,
P.S- BARPETA ROAD, DIST- BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SASTRI BHAWAN, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S ROAD.
BHANGAGARH

GUWAHATI-05
DIST- KAMRUP (M)

5:THE DEPUTY COMMISSIONER
BARPETA

P.O AND DIST- BARPETA
ASSAM
PIN-781301

6:THE SUPERINTENDENT OF POLICE (B)
BARPETA

P.O AND DIST- BARPETA
ASSAM
PIN-781301

7:THE OFFICER IN CHARGE
OF BARPETA ROAD POLICE STATION

P.O - BARPETA ROAD
DIST- BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.06.2023

[A.M.Bujor Barua, J.]

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent nos. 1 and 4; Mr. G. Sarma, learned counsel for the respondent nos. 2, 6 & 7; Mr. A.I. Ali, learned counsel for the respondent No. 3; and Ms. U. Das, learned counsel for the respondent

no. 5.

2. The petitioner Sahera Khatun @ Sahera Begum had been referred to the Foreigners' Tribunal, No. 2, at Barpeta district for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of F.T. [2nd] Case No. 217/2018, wherein an opinion dated 11.08.2022 had been rendered declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1965 of village Kuchiyakhanda under Sorbhog Police Station presently in the Barpeta district, which contains the name of Abdul Kadduch son of Kalimuddin at serial no. 100. It is claimed that Abdul Kadduch is the father of the petitioner and to substantiate the same reliance is placed on a copy of the Jamabandi in respect of a plot of land at village Kuchiyakhanda, wherein as per the order of the Circle Officer dated 31.08.2018, land was mutated in favour of Sahera Begum in place of A. Kaddus Miya. Accordingly, it is claimed that as the land in the name of A. Kuddus Miya had been mutated in favour of the petitioner of village Kuchiyakhanda and the name of Abdul Kadduch appears in the Voters' List of 1965 of the same village, the petitioner had discharged the burden under section 9 of the Foreigners' Act, 1946.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 2 at Barpeta district to examine the Voters' List of 1965 of village Kuchiyakhanda as well as the other subsequent lists of the same village, which the petitioner to produce in complete before the Tribunal and the Jamabandi of a plot of land of village Kuchiyakhanda including the order of the Circle Officer dated 31.08.2018 and thereupon pass a reasoned order. The respondents in Home Department to make their own verification as to whether the petitioner

Sahera Khatun and Sahera Begum appearing in the Jamabandi are one and the same person.

5. The petitioner to appear before the Tribunal on 25.07.2023.

9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant