

GAHC010004452023



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

Case No. : WP(C)/716/2023

MAMIRAN NESSA
D/O- LATE IBRAHIM ALI,
W/O- RAMJAN ALI ,
R/O- VILLAGE MAIRAJAR PATHAR,
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 REGISTER 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
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

Date : 15.02.2023
(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. J. Sarma, learned counsel for the respondent No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 6 and 7, being the authorities in the Home Department; Mr. A. Ali, learned counsel for the respondent No. 3, being the Election Commission of India; Ms. L. Devi, learned counsel for the respondent No. 4, being the Assam State Co-ordinator of NRC

and Ms. K. Phukan, learned counsel for the respondent No. 5, being the Deputy Commissioner, Barpeta.

2. The petitioner Mamiran Nessa, daughter of late Ibrahim Ali, wife of Ramjan Ali of village Mairajar Pathar, PS Barpeta Road in the Barpeta district was referred to the Foreigners' Tribunal No. 9 at Barpeta for an opinion as to whether she is a person who had entered the State of Assam subsequent to 25.03.1971 and accordingly, F.T. 9th (BPT) Case No. 651/2018 corresponding to S.P. Ref. IM(D)T Case No. 6911/98 was registered against the petitioner. Before the Tribunal, the petitioner took the stand that she is the daughter of Ibrahim Ali son of Afsar where the name of Ibrahim Ali appears at Sl. No. 418 of the voters' list of 1965 of village Bilashipara, Mouza Gobardhana, Sub-Division Barpeta (Sadar). The petitioner also refers to the kabin nama as regards her marriage wherein the name of the bride is Mamiran Nessa daughter of Ibrahim Ali, resident of Bilashipara.

3. If the name of Ibrahim Ali of village Bilashipara appears in the voters' list of 1965 and as per the information contained in the kabin nama the petitioner is the daughter of Ibrahim Ali of village Bilashipara, prima facie it is established that the petitioner would be a citizen of India and not a person who entered the State of Assam subsequent to 25.03.1971.

4. Accordingly, the matter is remanded back to the Foreigners' Tribunal No. 9 at Barpeta to examine the aforesaid aspect and pass a reasoned order thereon. If the reasoned order to be passed is in favour of the petitioner, same shall prevail over the earlier opinion dated 27.01.2022 in F.T. 9th (BPT) Case No. 651/2018 corresponding to S.P. Ref. IM(D)T Case No. 6911/98 and on the other hand, if the reasoned order to be passed is against the petitioner, implications under the law would follow. The petitioner to appear before the Tribunal on

22.03.2023. If for the purpose the petitioner desires to produce any further material, the petitioner would be at liberty to do so. On the other hand, if the State authorities are of the view that the petitioner Mamiran Nessa daughter of Ibrahim Ali of village Bilashipara and Ibrahim Ali of the voters' list of 1965 also of village Bilashipara are two different persons, the State authorities would be at liberty to bring in their evidence to controvert materials that the petitioner may produce. No coercive action be taken against the petitioner till the reasoned order of the Tribunal is passed.

Writ petition stands disposed of as indicated above.

J U D G E

J U D G E

Comparing Assistant