

GAHC010004672023



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

Case No. : WP(C)/258/2023

SHUBURA KHATUN @ SABURA KHATUN
D/O- IDU SHEIKH, W/O- ARDOSH ALI, VILL- CHENGPATA (DARIRPAR)P.O-
MARKULA, P.S- BAGUAN, DIST- GOALPARA, PIN- 783120

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, DEPTT OF HOME, NEW
DELHI- 1

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT OF ASSAM
DEPTT OF ASSAM
DEPTT OF HOME
DISPUR
GUWAHATI- 06

3:THE DEPUTY COMMISSIONER
GOALPARA
PIN- 783101

4:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
PIN- 783101

5:THE ELECTION COMMISSION
GOVT OF INDIA
NEW DELHI- 01

6:THE STATE COORDINATOR OF NRC
ASSAM
GUWAHATI- 781032

7:FOREIGNERS TRIBUNAL NO.4
GOALPARA
REP. BY THE SC
FOREIGNERS TRIBUNAL
PIN- 78310

Advocate for the Petitioner : MR. A ROSHID

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

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

ORDER

Date : 20.03.2023

(A.M. Bujor Barua, J)

Heard Mr. A. Roshid, learned counsel for the petitioner and Ms. P. Swargiary, learned counsel for the respondent No. 1, being the Union of India. Also heard Ms. A. Verma, learned counsel for the respondents No. 2, 4 and 7, being the authorities in the Home Department; Ms. K. Phukan, learned counsel for the respondent No. 3, being the Deputy Commissioner, Goalpara; Mr. A. Ali, learned counsel for the respondent No. 5, being the Election Commission of India and Ms. L. Devi, learned counsel for the respondent No. 6, being the State Co-ordinator of NRC.

2. The petitioner Shubura Khatun @ Sabura Khatun was referred to the Foreigners' Tribunal No. 4, Goalpara for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. FT(G-4) 846/16 was registered. The Tribunal rendered its opinion dated 30.11.2022 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam

on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Batabari, P.S. Lakhipur in the Goalpara district wherein at Sl. No. 638 the name of Idu Sheikh son of Balai Sheikh appears. The petitioner claims that Idu Sheikh son of Balai Sheikh is her father. Before the writ proceeding to substantiate the claim that the father of the petitioner is Idu Sheikh of the voters' list of 1966 of village Batabari, reliance is placed on the kabin nama in respect of the marriage of the petitioner. In the kabin nama it is stated that Sabura Khatun is the daughter of Idu Sheikh of village Batabari in the Goalpara district.

4. If the information contained in the kabin nama is correct, the petitioner may have established that she is the daughter of Idu Sheikh son of Balai Sheikh whose name appears in the voters' list of 1966 of village Batabari, P.S. Lakhipur in the Goalpara district.

5. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 4, Goalpara to examine the authenticity and correctness of the voters' list of 1966 of village Batabari, P.S. Lakhipur in the Goalpara district which contains the name of Idu Sheikh son of Balai Sheikh at Sl. No. 638. The Tribunal to also examine the authenticity and acceptability of the kabin nama relied upon by the petitioner which contains the information that Sabura Khatun is the daughter of Idu Sheikh of village Batabari in the Goalpara district. Upon such examination, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 30.11.2022 in F.T. Case No. FT(G-4) 846/16 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 25.04.2023. Till the reasoned order is passed, no coercive action

be taken against the petitioner.

Writ petition stands disposed of as indicated above.

JUDGE

JUDGE

Comparing Assistant