

GAHC010005852023



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

Case No. : WP(C)/466/2023

ANJUBALA RAY@ANJUBALA RAI
D/O- LATE SATISH SARKAR (FATHER) AND SURADHINI SARKAR @ SUKI
SARKAR (MOTHER),
W/O- NIRANJAN RAY,
VILL- NEOLDOBA, P.S. BOKO,
DIST- KAMRUP, ASSAM,
PIN- 781136.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS,
SHASTRI BHAWAN, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

HOME DEPARTMENT

DISPUR
GUWAHATI-6.

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN BHAWAN
ASHOK ROAD

NEW DELHI- 110001.

4:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)

ASSAM
BHANGAGARH
GUWAHATI- 781005.

5:THE DEPUTY COMMISSIONER
KAMRUP
DISTRICT- KAMRUP
AMINGAON

ASSAM
PIN- 781031.

6:THE SUPERINTENDENT OF POLICE (B)
KAMRUP
DIST.- KAMRUP
AMINGAON

ASSAM
PIN- 781031

Advocate for the Petitioner : MR. S AHMED

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

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

JUDGMENT & ORDER (ORAL)

Date : 01-02-2023
(A.M. Bujor Barua)

Heard Mr. S Ahmed, learned counsel for the petitioner. Also heard Ms. B Sarma, learned CGC appearing on behalf of respondents in the Union of India, Mr. T Pegu learned counsel for the Election Commission of India, Mr. J Payeng, learned counsel for the authorities under the Home Department, Government of Assam and the Superintendent of Police, (B), Kamrup, Ms. U Das learned

Government Advocate for the Deputy Commissioner, Kamrup and Ms. L Devi, learned counsel for the authorities under the NRC.

2. The petitioner Anjubala Ray @ Anjubala Rai was referred to the Foreigners' Tribunal No. 2, Kamrup at Boko for an opinion as to whether she is a person who entered the State of Assam subsequent to 25.03.1971, resulting in the registration of B.F.T. Case No. 1480/2016. Before the Tribunal she took the stand that she is the daughter of Satish Sarkar, S/O Bankadhar whose name appears at Sl. No. 43 of the voters' list of 1966 of village Ambari. The petitioner also exhibited the voters' list of 1970 also of village Ambari wherein at Sl. No. 47 the name of Satish Sarkar, S/O Bankadhar and at Sl. No. 48 the name of Chuki Sarkar, W/O Satish appears.

3. The petitioner also adduced the evidence of Suradhani Sarkar @ Suki Sarkar, W/O Satish Sarkar whose name purportedly appears as Chuki Sarkar in the voters' list of 1970 of village Ambari. Suradhani Sarkar @ Suki Sarkar as DW2 has deposed that the petitioner Anju Bala Ray is her daughter.

4. In this writ petition the petitioner also relies upon a jamabandi which is dated subsequent to the date of the opinion rendered by the Tribunal to show that the petitioner Anjubala Roy@ Anjubala Rai has also inherited the ancestral property from Satish Sarkar.

5. The evidence of DW2 was rejected by the Tribunal by arriving at its conclusion that the Exhibit E the citha did not contain the name of DW2 Suradhani Sarkar @ Suki Sarkar and as such disbelieved that the DW2 is the mother of the petitioner. But however, there is also an electoral photo identity card which shows that the DW2 Surodhani Sarkar is the wife of Satish Sarkar of village Ambari.

6. Considering the matter in its entirety, we remand the matter to the Tribunal for a further examination as to the authenticity of the jamabandi of Kheraj Myadi Patta No. 134 of Dag No. 409 of village Ambari Paam and as to whether it indicates that the petitioner is the daughter of Satish Sarkar of the same village. The Tribunal also to re-examine the evidence of DW2 Suradhani Sarkar @ Suki Sarkar vis-à-vis the voters' list of 1970 of the same village, the electoral photo identity card and the other relevant materials that the petitioner may produce. The petitioner to appear before the Tribunal on 28.02.2023 for the further proceeding. As the matter is remanded back, the opinion dated 07.09.2019 in B.F.T. Case No. 1480/2016 passed by the Foreigners' Tribunal No. 2, Kamrup at Boko is set aside.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant