

GAHC010005922023



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

Case No. : WP(C)/226/2023

APARNA MONDAL@APARNA BACHER
W/O- PANKAJ KUMAR MANDAL,
R/O- SASSOTO BHAWAN, HOTEL SAMRAT CAMPUS, WARD NO-9, GTB
ROAD, DHUNRI,
P.O, P.S AND DIST- DHUBRI, ASSAM, PIN-783301

VERSUS

THE ELECTION COMMISSION OF INDIA AND 7 ORS
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA, NIRVACHAN
SADAN, ASHOKA ROAD, NEW DELHI-110001

2:THE STATE ELECTION COMMISSION
ASSAM
REP. BY STATE ELECTION COMMISSIONER OF ASAM
HOUSEFED COMPLEX
GUWAHATI-06

3:THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
ASSAM
GHY-06

4:THE DISTRICT ELECTION OFFICER
DHUBRI
P.O
P.S AND DIST- DHUBRI

ASSAM
PIN- 783301

5:THE ELECTORAL REGISTRATION OFFICER
23 DHUBRI LEGISLATIVE ASSEMBLY CONSTITUENCY
P.O
P.S AND DIST- DHUBRI

ASSAM
PIN- 783301

6:THE ELECTORAL REGISTRATION OFFICER
29 BILASIPARA EAST CONSTITUENCY
P.O- BILASIPARA
DIST- DHUBRI
ASSAM
PIN-783348

7:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN-783301

8:THE DEPUTY COMMISSIONER
DHUBRI
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN-78330

Advocate for the Petitioner : MR. J ABBAS

Advocate for the Respondent : SC, ECI

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 18.01.2023

Heard Mr. J. Abbas, learned counsel for the petitioner. Also heard Mr. A. Ali, learned standing counsel for the Election Commission of India, respondent nos.1, 3, 4, 5 and 6, Mr. R.K. Dubey, learned standing counsel for the

respondent no.2 and Mr. R. Talukdar, learned Govt. Advocate appearing for the respondent nos.7 and 8.

2. The case of the petitioner is that in the voters list of 2005 of No.23 Dhubri LAC, the name of the petitioner was marked with the letter "D" and thereupon the petitioner had approached the concerned respondent authorities for removal of the tag "D" in her name from the voters list.

3. As the concerned respondent authorities had failed to do so, the petitioner is before this Court under Article 226 of the Constitution of India for an appropriate direction that the letter "D" tagged with the name of the petitioner in the voters list be removed.

4. Whether a person is a "D" voter or not is a matter of factual determination and the appropriate forum to do the same is the concerned Foreigners Tribunal. This Court in exercise of its powers under Article 226 of the Constitution of India would not have the competence to decide such a question which depends on the evidence that may be produced.

5. In the circumstances, this Court therefore directs the respondent No.7 i.e., the Superintendent of Police (Border), Dhubri to verify as to whether the petitioner has already been referred to the concerned Foreigners Tribunal and if upon verification it is found that the petitioner has not been referred to the concerned Foreigners Tribunal, this Court further directs the said respondent No.7 to refer the case of the petitioner as regards the mark "D" in the voters list in respect to 23 No. Dhubri LAC to a competent Foreigners Tribunal, Dhubri district for an appropriate adjudication as regards the status of the petitioner as "D" voter in the concerned voters list. Reference be made within a period of 2

(two) months from the date of receipt of a certified copy of this order. Upon such reference being made, the petitioner may participate in such proceedings and establish her case.

6. If the case of the petitioner, as per the records, had already been referred to the relevant Foreigners Tribunal there would be no requirement to make any further reference and the detailed information of the earlier reference be communicated to the petitioner.

7. With the above directions and observations, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant