

GAHC010010802021



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

Case No. : WP(C)/375/2021

SURJYA BHANU
D/O LATE INTAZ ALI,
W/O MUKTAR ALI
R/O VILLAGE DOMONI, PS AND DIST BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HOME
DISPUR GUWAHATI 6

3:THE DEPUTY COMMISSIONER
BARPETA

BARPETA
ASSAM

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA ASSAM

5:ELECTION COMMISSION OF INDIA

THROUGH ITS SECRETARY NIRBACHAN BHAWAN
NEW DELHI 1

6:THE STATE CO ORDINATOR

NATIONAL REGISTER OF CITIZENS (NRC) BHANGAGARH. GUWAHATI 5
ASSA

Advocate for the Petitioner : MR M AHMED

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

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

ORDER

Date : 27.03.2023
(AM Bujor Barua, J)

Heard Mr. M Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC, respectively, Mr. G Sarma, learned counsel for the respondents no. 2 and 4 being the authorities under the Home Department of the Government of Assam, Ms. K Phukan, learned counsel for the respondent no. 3 being the Deputy Commissioner, Barpeta and Mr. T Pegu, learned counsel for the respondent no. 5 being the Election Commission of India.

2. The petitioner Surjya Bhanu had been referred to the Foreigners' Tribunal No. III, Barpeta 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 FT Case No. 2035 (III) of 2016. An opinion dated 23.02.2017 had been rendered declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the voters' list of 1965 of

village Jakhlibil Pather Mouza Gobardhana in the present Barpeta district which contains the name of Intaz Ali, S/O Ahed at Sl. No. 125 as well as the voters' list of 1970 of village Jakhali Bilar Pathar which contains the name of Intaz Ali, S/O Ahed at Sl. No. 141 and that of Shamela Bhanu, W/O Intaz at Sl. No. 142. The voters' list of 1985 of village Jakhali Bilar Pathar contains the name of Entaz Ali, S/O Ahed at Sl. No. 91 and that of Samala Khatun, W/O Entaz at Sl. No. 92 and that of Firoza Begum, also W/O Entaz at Sl. No. 93.

5. Shamela Khatun had deposed before the Tribunal that the proceedee Surjya Bhanu is her daughter who was born at village Jakhilbil and was later on, married to Muktar Ali of village Domani. Shamela Bhanu deposed that she has only one daughter i.e. the petitioner proceedee although she has one step mother namely Firoja who has two sons and two daughters namely Nobi Hussain, Manowar Hussain, Rima, Khadima Khatun and further that the petitioner proceedee is the eldest amongst all of them.

6. As Shamela Bhanu whose name appears along with Intaz Ali in the voters' list of 1971 of village Jakhali Bilar Pathar had deposed that the petitioner is her daughter and her father is Intaz Ali, we remand the matter back to the Tribunal to enable State authorities to cross examine Shamela Bhanu in the veracity of the evidence she had already rendered. Upon Shamela Bhanu being cross examined, the Tribunal to pass a reasoned order.

7. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 23/02/2017 passed in FT Case No. 2035 (III) of 2016 and if against, consequence under the law is applicable to the petitioner.

8. The petitioner to appear before the Tribunal on 04.05.2023.

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

petitioner.

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant