

GAHC010013252017



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

Case No. : WP(C)/973/2017

MALEKA BIBI @ MALEHA BEGUM
W/O- MD. SHAHED ALI, VILL.- SARIYAHTOLI, P.O.- MILANPUR, P.S. and
DIST.- NALBARI, ASSAM.

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, NEW DELHI- 1.

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT.OF ASSAM
HOME DEPTT.
DISPUR
GHY- 6.

3:THE DY. COMMISSIONER
NALBARI
DIST.- NALBARI
ASSAM.

4:THE SUPERINTENDENT OF POLICE
NALBARI
DIST.- NALBARI
ASSAM.

5:THE OFFICER-IN-CHARGE
NALBARI POLICE STATION
NALBARI
DIST.- NALBARI
ASSAM

Advocate for the Petitioner : MR.R PEGU

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 20.02.2023

(A.M. Bujor Barua, J)

Heard Mr. R. Ali, learned counsel for the petitioner and Mr. P.K. Medhi, learned counsel for the respondent No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 4 and 5, being the authorities in the Home Department and Ms. U. Das, learned counsel for the respondent No. 3, being the Deputy Commissioner, Nalbari.

2. The petitioner Maleka Bibi @ Maleha Begum was referred to the Foreigners' Tribunal No. 1, Nalbari for an opinion as to whether she is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 and accordingly F.T.(Nal) Case No. (N) 4518/2006 was registered. The petitioner refers to the voters' list of 1966 of village Dabaliapara, Mouza Ghilajari wherein at Sl. No. 565 the name of Hatem Ali son of Atab Ali appears. The petitioner also relies upon the kabin nama of her marriage wherein she is shown as the daughter of Hatem Ali of village Dabaliapara, Mouza Ghilajari which prima facie indicates that she is the daughter of Hatem Ali of the voters' list of 1966 of village Dabaliapara, Mouza Ghilajari. The petitioner also refers to the copy of the jamabandi of the land of village Dabaliapara wherein her name along with others had been mutated in place of Hatem Ali which again may be an indication that she is the daughter of Hatem Ali.

3. For the interest of justice, we remand the matter back to the Foreigners'

Tribunal No. 1, Nalbari to examine the voters' list of 1966 of village Dabaliapara, Mouza Ghilajari which contains the name of Hatem Ali son of Atab Ali at Sl. No. 565 and the kabin nama of the petitioner wherein the name of her father is shown to be Hatem Ali of village Dabaliapara, Mouza Ghilajari as well as the jamabandi where having deleted the name of Hatem Ali, the name of the petitioner along with others were mutated. The petitioner may also produce the order of the Circle Officer regarding the mutation. Upon examining the aforesaid materials, 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 11.11.2016 in F.T.(Nal) Case No. (N) 4518/2006 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 27.03.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant