

GAHC010013992023



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

Case No. : WP(C)/437/2023

MOJIA BEWA @ MOJJYA KHATUN
W/O- ARABUDDIN SARKAR, D/O- MOBARUDDIN, VILL.- SINGIMARI, P.S.
GOALPARA R.P.S., P.O. MORNOL, DIST. GOALPARA, PIN- 783101.

VERSUS

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

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
GOALPARA
PIN- 783101.

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

5:THE ELECTION COMMISSION
GOVT. OF INDIA
NEW DELHI-1.

6:THE STATE CO-ORDINATOR OF NATIONAL REGISTRATION (NRC)
ASSAM
GUWAHATI-781032.

7:FOREIGNERS TRIBUNAL NO. 4
GOALPARA
REPRESENTED BY THE STANDING COUNSEL
FOREIGNERS TRIBUNAL
PIN- 783101

Advocate for the Petitioner : MR. A ROSHID

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

01.02.2023

(A.M. Bujor Barua, J)

Heard Mr. A Roshid, learned counsel for the petitioner, Ms. B Sarma, learned counsel for the respondent No. 1 being the authorities in the Union of India, Mr. J Payeng, learned counsel for the respondents No. 2 and 4 being the authorities in the Home Department of the Government of Assam, Ms. U Das, learned counsel for the respondent No. 3 being the Deputy Commissioner, Goalpara, Mr. T Pegu, 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 authorities in the NRC. The respondent No. 7 is deleted from the array of respondents.

2. The petitioner Mojia Bewa @ Mojiya Khatun claims to be the daughter of Mobaruddin Sheikh, son of late Farojullah, whose name appears at Serial No. 32 of the voters list of 1966 of village Bherbheri, Mauza Matia in the Goalpara district and for the purpose had exhibited the said voters list. The petitioner claims that in order to establish that she is a person who had not entered the

State of Assam subsequent to 25.03.1971, she had handed over certain original documents to her lawyer, who again handed it over the Advocate's clerk and the Advocate's clerk had filed the documents in the form of Firisty before the Tribunal. The petitioner filed a petition before the Tribunal being petition No. 7961 stating that the documents were wrongly filed in the form of a Firisty instead of it being exhibited through evidence.

3. The Tribunal by its order dated 27.07.2022 rejected the said prayer of the petitioner by providing that the documents referred were not even mentioned in the written statement submitted.

4. Considering the matter in its entirety and for the interest of justice, we are of the view that if the petitioner is of the view that she can prove her citizenship through the aforesaid documents she had already filed; the petitioner may be given an opportunity to do so.

5. In view of the above, the Tribunal may return back the original documents to the petitioner to enable the petitioner to bring the same on record in the appropriate manner required under the law. Upon such documents being brought on record by following the procedure of law, the Tribunal may take the same into consideration while passing any order in the reference case against the petitioner. We are clarifying that we are not observing anything on merit either in favour or against the petitioner in respect of her claim as regards her citizenship and it is for the Tribunal to pass its own order as per the materials available on record.

6. Accordingly, the order dated 27.07.2022 passed by the Foreigners Tribunal No. 4, Goalpara in FT Case No. (G-4)/134/2018 is set aside. The Tribunal may pass the final order in the reference case against the petitioner within a period

of two months from today.

The writ petition is allowed to the extent as indicated above.

JUDGE

JUDGE

Comparing Assistant