

GAHC010016242018



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

Case No. : WP(C)/491/2018

KULSUMA BEGUM
R/O- VILL- BALIRAM GAON, WARD NO.3, P.S. JAMUNAMUKH, P.O.
JAMUNAMUKH, DIST- HOJAI/NAGAON (ASSAM), PIN-782428

VERSUS

THE UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE DEPUTY COMMISSIONER
HOJAI
DIST- HOJAI (ASSAM)
PIN-782435

4:THE CHIEF ELECTION OFFICER
OF THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

5:THE OFFICE OF THE STATE CO-ORDINATOR OF NATIONAL
REGISTRATION (NRC) ASSAM
REP. BY ITS COORDINATOR
1ST FLOOR ACHYUT PLAZA
BHANGAGARH

GHY-5

6:THE SUPERINTENDENT OF POLICE (BORDER)
HOAJI
DIST- HOJAI (ASSAM)
PIN-782435

7:THE OFFICER-IN-CHARGE
JAMUNAMUKH POLICE STATION
DIST- HOJAI (ASSAM)
PIN-78243

Advocate for the Petitioner : G UDDIN

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

BEFORE

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

O R D E R

10.03.2023

(A.M. Bujor Barua, J)

Heard Mr. G Uddin, learned counsel for the petitioner. Also heard Mr. PS Bhattacharyya, learned CGC appearing on behalf of respondents in the Union of India, Mr. J Payeng, learned Government Advocate for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India, Ms. L Devi, learned counsel for the authorities under the NRC and Ms. U Das, learned counsel for the Deputy Commissioner, Goalpara.

2. The petitioner Kulsuma Begum was referred to the Foreigners Tribunal No. 10, Nagaon at Sankardev Nagar, Hojai for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in registration of FT(D) Case No. 88/2015.

The Foreigners Tribunal by the opinion dated 30.10.2017 opined that the petitioner is a foreigner who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. The petitioner relies upon a voters list of 1966 of village Changmajhi Mikir Pathar, Mouza Jamunamukh, police station Jamunamukh in the Nagaon district which contains the name of Kuti Miya son of Mamod Ali at serial No. 111. The petitioner claims that Kuti Miya son of Mamod Ali of the voters list of 1966 of village Changmajhi Mikir Pathar is her father. To substantiate her claim, the petitioner refers to the transfer certificate issued by the Headmaster/Secretary of the Changmajhi ME School, which contains the school information that Kulsuma begum is the daughter of late Kuti Miya and Toslima Begum of village Changmajhi Mikir Pathar. But, however, the Headmaster of the school had not been examined as required under the law as rendered in WP(C) No. 3056/2018 (Anima Das vs- Union of India and others).

4. In view of the above, the matter is remanded back to the Tribunal to enable the petitioner to examine the Headmaster of Changmajhi ME School along with the school records to establish the information contained in the transfer certificate, which is annexed at Annexure-1 page 9 to the writ petition. Upon examination of the Headmaster, the Tribunal may pass a reasoned order. The petitioner may also be allowed to produce any further material, if so advised.

5. If the reasoned order is in favour of the petitioner, the same would prevail over the earlier opinion rendered by the Foreigners Tribunal No. 10, Nagaon at Sankardev Nagar, Hojai and if the reasoned order goes against the petitioner, consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 10, Nagaon at Sankardev Nagar, Hojai on 11.04.2023.

7. Till the reasoned order is passed by the Tribunal, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant