

GAHC010016992021



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

Case No. : WP(C)/732/2021

NASIMA ZINNAT SARKAR
D/O- HADI HUSSAIN SARKAR, (W/O- AMJAD ALI), R/O- VILL-
JHAPASABARI, P.S. AGOMONI, DIST.- DHUBRI (ASSAM), PIN- 781330

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECY. TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-1

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

3:THE DY. COMMISSIONER OF DHUBRI
P.O. AND DIST.- DHUBRI
ASSAM
PIN- 781330

4:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
P.O. AND DIST.- DHUBRI
ASSAM
PIN- 781330

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-1

6:THE STATE CO-ORDINATOR OF NRC OF ASSAM
BHANGAGARH

GHY-

Advocate for the Petitioner : MR. A R SIKDAR

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

06.06.2023

(AM Bujor Barua, J)

Heard Mr. A R Sikdar, learned counsel for the petitioner. Also heard Mr. G Sarma, learned counsel for the Commissioner & Secretary to the Home Department, Dispur, Guwahati as well as The Superintendant of Police (Border), Barpeta, Ms. L Devi learned CGC appearing on behalf of respondents in the Union of India as well as for the respondents in the NRC, Ms. K Phukan, learned counsel for the Deputy Commissioner Barpeta and Mr. AI Ali, learned standing counsel for the Election Commission of India.

2. The petitioner, namely, Nasima Zinnat Sarkar had been referred to the Foreigners Tribunal No. 9th, Dhubri for rendering an opinion as she is a person who entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T-9/152/GKJ/2018 wherein the Tribunal rendered an opinion dated 10.12.2020 declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, reliance is placed on the voters' list of 1966 of village Geramari Part-1, in the Dhubri distirict, which contains the name of Hadi

Hussain Sarkar son of Jahiruddin at serial No. 494. It is claimed that Hadi Hussain Sarkar is the father of the petitioner. The name of Hadi Hussain Sarkar also appears in the voters' list of 1970 of village Geramari Part-1. Reference is also made to the voters' list of 1997 of village Geramari Part-1 which contains the name of Hadi Hussain Sarkar son of Jahiruddin at serial No. 546, that of Begum Rezia wife of Hadi Hussain at serial No. 547 and that of Hafiza Zinnat Sarkar daughter of Hadi Hussain at serial No. 548. It is claimed that Begum Rezia is the mother of the petitioner. Reliance, thereafter, is placed on the voters' list of 2005 of village Geramari Part-1 which contains the name of Hadi Hussain Sarkar son of Jahiruddin at serial No. 686, Begum Rezia wife of Hadi Hussain Sarkar at 687, Rezaul Hussain Sarkar son of Hadi Hussain Sarkar at serial No. 688 and that of Nasim Zinnat Sarkar son of Hadi Hussain Sarkar at serial No. 691.

4. It is claimed that Nasima Zinnat Sarkar of the 2005 voters' list of village Geramari Part-1 is the petitioner herself. It is noticed that her name appears along with Hadi Hussain Sarkar and Begum Rezia as well as Rezaul Hussain Sarkar, where the names of Hadi Hussain Sarkar, Begum Rezia and Rezaul Hussain Sarkar also appears in the voters' list of 1993 of the village Geramari Part-1. Further, the name of Hadi Hussain Sarkar appears in the voters' list of village Geramari Part-1 of 1966 and 1971.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the Home Department to examine the voters' list of 1966, 1971, 1993 and 2005 of Geramari Part-1. The respondents in the Home Department to also make their own verification and submit a report before the Tribunal and after doing the needful, the Tribunal shall pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 10.12.2020 and if it goes against the petitioner, consequence as per law shall follow.
7. The petitioner shall appear before the concerned Foreigners Tribunal on 11.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.
8. The writ petition is allowed as indicated above.
9. Send back the LCR immediately.

JUDGE

Comparing Assistant