

GAHC010019572018



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

Case No. : WP(C)/624/2018

SAMIDA KHATUN
W/O AMAR ALI @ OMAR ALI
VILL- MARKULA, P.O. MARKULA
P.S. BAGUAN
DIST. GOALPARA, ASSAM
PIN - 783120

VERSUS

THE UNION OF INDIA AND 5 ORS
REP.BY THE MINISTRY OF HOME AFFAIRS,
NEW DLEHI-110001.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM PIN - 783101

4:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
ASSAM
PIN - 783101

5:THE ELECTION COMMISSION OF INIDA
NEW DELHI- 110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BANGAGARH

GUWAHATI- 781032

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

JUDGMENT

Date : 15-03-2023

(AM Bujor Barua, J)

Heard Ms. P. Ghosh, learned counsel for the petitioner. Also heard Mr. S. Boruah, learned counsel for the respondent No.1 being the Union of India, Ms. L. Devi, learned counsel for the respondent No.6 being the authorities under the NRC, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam being the respondent No.2 and 4, Mr. A.I. Ali, learned counsel for the respondent No.5 being the Election Commission of India, and Ms. K. Phukan, learned Government Advocate for the respondent No.3 being the Deputy Commissioner, Goalpara.

2. The petitioner, namely, Samida Khatun on being referred to the Foreigners' Tribunal No.4, Goalpara for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T. Case No.(G-4) 448/2016.

3. On 30.12.2017, the Foreigners' Tribunal No.4, Goalpara rendered an opinion in F.T. Case No.(G-4) 448/2016, which was against her and being aggrieved by the said opinion, this Writ Petition was instituted by the petitioner.

4. In the Writ Proceeding, the petitioner relied upon the Voters List of 1970 of Village Darirpar, under Lakhipur Police Station in Goalpara District, which contains the name of Soleman Hussen, Son of Tarif Uddin at Sl. No.1. The petitioner also refers to the Voters List of 1985 of Village 155 Dairpar under Lakhipur Police Station in Goalpara District, which contains the name of Abdul Kashem, Son of Soleman at Sl. No.70. The petitioner also refers to the

Kabin Nama at page-30 of the Writ Petition, wherein the name of the bride is shown as Samedia Khatun, daughter of Kashem Ali, resident of Village Darirpar. If the aforesaid three information are correct and the documents are authentic, prima facie a link may be established to satisfy that she is a citizen of India.

5. In the circumstance, the matter is remanded back to the Tribunal to appreciate the evidentiary value of the Voters Lists of 1970 and 1985 of Village Darirpar, under Lakhipur Police Station in Goalpara District as well as the Kabin Nama, available at page-30 of the Writ Petition, which indicate that Samida Khatun is the daughter of Abdul Kashem of Village Darirpar and thereupon pass a reasoned order.

6. The petitioner to appear before the Tribunal on 18.04.2023. In the event, a reasoned order is passed in favour of the petitioner, the same would prevail over the order dated 30.12.2017, passed by the Foreigners' Tribunal No.4, Goalpara in F.T. Case No.(G-4) 448/2016 and if it is against her, the implications under the law may follow.

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

8. The petition stands allowed as indicated above.

9. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant