

GAHC010020012017



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

Case No. : WP(C)/2305/2017

SIDDIKA BEGOM

D/O- MD ABDUL KADIR, W/O- MD DILOWAR HUSSAIN, VILL- HATIMURIA,
P.O AND P.S- MOIRABARI, DIST- MORIGAON, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.

REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER and SECRETARY TO THE GOVT
OF ASSAM

HOME DEPTT. DISPUR

GHY-6

3:THE SUPERINTENDENT OF POLICEB

MORIGAON

ASSAM

4:THE DEPUTY COMMISSIONER

MORIGAON

DIST- MORIGAON

5:THE OFFICER-IN-CHARGE

MORIGAON POLICE STATION

DIST- MORIGAON

ASSA

Advocate for the Petitioner : MS.S DAS

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

20.03.2023

(A.M. Bujor Barua, J)

Heard Mr. FU Borbhuiya, learned counsel for the petitioner. Also heard Ms. P Swargiary, learned CGC appearing on behalf of respondents in the Union of India, Mr. G Sarma learned counsel for the State respondents in the Home Department of Government of Assam, Ms. L Devi, learned counsel for the respondents in the NRC, Mr. AI Ali, learned counsel for the Election Commission of India and Ms. K Phukan, learned counsel for the Deputy Commissioner, Morigaon.

2. The petitioner Siddika Begom had been referred to the Foreigners Tribunal No. 5, Morigaon for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of FT(D) Case No. 373/2015 (New), corresponding to FT(D) Case No. 1188/2012 (Old), wherein an opinion dated 28.03.2017 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Sonaibera, police station Rupahihat in the Nagaon district, which contains the name of Saiyob Ali son of Zahir at serial No. 262 and that of Abdul Jabbar son of Saiyab Ali at serial No. 263. The petitioner also relies upon the voters list of 1970 of village Sonaibera of police station Rupahihat in the Nagaon

district, which contains the name of Saiyad Ali son of Jahir at serial No. 254. Thereafter, the petitioner relies upon the voters list of 1977 of village Sonaibera, police station Rupahihat in the district of Nagaon which contains the name of Abdul Kadir son of Saiyab Ali at serial No. 572. The petitioner thereupon refers to the deposition of Abdul Kadir as DW-2, wherein he deposed that the petitioner Siddika Begom is his daughter. In cross examination also, the DW-2 Abdul Kadir had stated that the proceedee Siddika Begom was born at village Sonaibera and that she was subsequently married to Dilowar Hussain son of late Abdul Rahman of village Hatimuria. The petitioner also relies upon the school certificate from the Headmistress of Hatimuria Colony LP School, wherein the information contained is that Siddika Begom is the daughter of Abdul Kadir of village Sonaibera. The Headmistress also deposed before the Tribunal as DW-3, wherein she stated that the information contained in the certificate is as per the records maintained by the school.

4. The aforesaid information prima-facie may lead to a conclusion that the petitioner is a citizen of India inasmuch as Abdul Kadir is the son of Saiyob Ali, whose name appears in the voters list of 1965 and 1970 of village Soneibari. Further, there is also a Passport being issued in the name of Abdul Kadir, resident of Soneibari, which again establishes that Abdul Kadir would be a citizen of India. When Abdul Kadir himself deposed before the Tribunal that the petitioner Siddika Begom is his daughter, no cross-examination is available on record by which the State respondents may have controverted the said evidence. Further, the information contained in the school certificate, which again is corroborated by the deposition of the Headmistress as DW-3, also establishes that the petitioner is the daughter of Abdul Kadir.

5. In the circumstances, the matter is remanded back to the Tribunal to pass

a reasoned order upon examining the aforesaid materials and if the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 28.03.2017. If the reasoned order goes against the petitioner, consequence as per law shall follow.

6. Before the Tribunal, the petitioner may produce the complete voters list of the aforesaid years, which has been

7. The petitioner shall appear before the Foreigners Tribunal No. 5, Morigaon on 28.04.2023.

8. The writ petition is allowed as indicated above.

9. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant